

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference: 2010/A0202
Appeal by: Billy Henderson Properties Limited against the refusal of full planning permission.
Development: One and a half storey dwelling and detached garage.
Location: 20 metres south-east of 21 Curryfree Road, Creevedonnell, Londonderry.
Application Reference: A/2009/0214/F
Procedure: Written Representations and Accompanied Site Visit on 20th April 2011.
Decision by: Commissioner Julie de-Courcey, dated 27th April 2011.

Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions set out below.

Reasons

2. The main issues in this appeal are whether the proposed buildings are acceptable in principle in the countryside and their effect on the area's character, appearance and neighbours' residential amenity.
3. Policy CTY 1 of Planning Policy Statement 21 (PPS 21) identifies a dwelling sited within a cluster of buildings in accordance with Policy CTY 2a of that document as being one of the types of development that, in principle, are considered to be acceptable in the countryside. Policy CTY 2a sets out six criteria that a proposal must comply with in order for planning permission to be granted for a dwelling at an existing cluster of development. I note the appellants' Ordnance Survey evidence about the historical existence of a cluster at this location, that the alleged former forge (now within the curtilage of No.25 Curryfree Road) was a community facility that was a local focal point and that the T junction of public roads to the south of the appeal site was historically a cross-roads with a public right of way leading eastwards across the river valley to a ford, school, mill, cricket ground and farm holdings. However, whether the site comes within an existing cluster of development falls to be assessed in the contemporary context.
4. The appeal site adjoins three detached houses with their respective garages. It shares a party boundary with the house to the south-west and those to the north-west and north are separated from it by the shared drive that serves all three

dwelling. This drive would also serve the proposed buildings. To the south are detached bungalows at Nos. 22 and 24 Curryfree Road. To the south-west are a range of buildings associated with the two storey house at No. 25 Curryfree Road. There is a detached cottage to the east of the appeal site on the opposite side of the road. What appears to be a shed/outbuilding that the appellants identify as a dwelling/replacement, does not read as part of this loose cluster. Notwithstanding, the other buildings form a loose cluster around the T junction of the part of Curryfree Road running north-east to south-west and the branch that leads eastwards to Rushall Road. On this basis, the proposal satisfies the first and second criteria of Policy CTY 2a of PPS 21 as the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings) of which at least three are dwellings, and the cluster appears as a visual entity in the local landscape.

5. The proposed buildings would be seen when travelling in both directions on Curryfree Road. However, as they would be seen in the context of the three dwellings and garages that surround the site on two of its three sides, they would not be prominent from this vantage. Whilst there are trees on the party boundary with the dwelling to the south-west and behind the roadside fence, the site is not enclosed by long established natural boundaries. Notwithstanding, adjoining buildings, the shared drive and the site's existing boundary definition provide it with a suitable degree of enclosure so that it is not at odds with the second criterion of Policy CTY 13 of PPS 21. Imposition of a condition securing retention of existing vegetation in addition to the supplementary planting proposed would safeguard the current situation.
6. The proposed dwelling would present its rear elevation to the public road with its front elevation orientated north-westwards to take advantage of the panoramic views across the river valley. It would present a long ridge line to the road. However, as the ridge line would be broken up by changes in height, orientation and coping stones, it would not have a uniform appearance. In the context of the scale and design of the three adjoining dwellings, in terms of scale, form and massing. There would be a lower proportion of solid to void on the front elevation, an area of full height glazing and a variety of window sizes. However, this would not be seen from Curryfree Road and the Department did not identify a critical view from the shared drive. The view of the proposed buildings from the neighbouring dwellings is not a critical view as defined by paragraph 5.60 of PPS 21.
7. The Department directed me to longer range views from Killymallaght Road and Trench Road on the opposite side of the river valley, which it considered to be critical. From those vantages the proposed buildings would be seen in the context of the three immediately adjoining it with a backdrop of vegetation and topography. The wind turbines on the hill top to south-west dominate the landscape. From some stretches of those views, the proposed dwelling's front elevation would be partially obscured by the middle of the three new houses. Its context and distance would ensure that the amount and style of glazing on the front elevation would not be prominent or inappropriate. As the proposed buildings would integrate into the landscape in compliance with both the fourth

criterion of Policy CTY 2a and Policy CTY 13 of PPS 21, the Department's second reason for refusal is not sustained.

8. The disposition, design and boundary treatment associated with the three adjoining dwellings has resulted in a suburban style of build-up. Development of the site could be absorbed into the existing cluster through rounding off and consolidation and would not cause a detrimental change to or further erode the area's character. As already set out in the preceding paragraph, the proposed buildings would not be unduly prominent in the landscape. As such, the proposal is not at odds with Policy CTY 14 and would comply with the fifth criterion of Policy CTY 2a of PPS 21. Accordingly, the Department's third reason for refusal is not sustained.
9. No. 21 Curryfree Road presents its rear elevation to the shared drive. As it is set below the level of the public road there are views into its rear area. Vehicles going to/from the house to the south-west of the appeal site pass its point of access at a level 2.6m higher than No.21's finished floor level (FFL). Given the dwelling's orientation, its private amenity space is to the side and front. At their nearest point, the proposed dwelling's front elevation would be 19.5m from the rear elevation of No. 21. The existing dwelling's FFL would be 3.6m lower than that of the proposed house. No. 21 has a two storey projecting rear wing with two windows at ground floor level serving the utility room and kitchen respectively. Each of these rooms have a second window on the side elevation. There is one window at first floor level serving a bedroom. There would be three roof lights at first floor level on the front elevation of the proposed dwelling serving a family/games room. "Creating Places advocates a separation distance of around 20m or greater between opposing rear first floor windows but provides no guidance on a situation such as this where it is the front and rear elevations of dwellings that would be facing. Notwithstanding the dwellings' respective FFLs, given the separation distance, I am not persuaded that the residential amenity of the occupants of No.21 would be harmed to the extent that would merit dismissing the appeal on the basis of the Department's concerns about overbearing impact. Imposition of a condition removing permitted development rights for the extension or alteration of the proposed dwelling would give the Department control over any future additions as they might reduce the separation distance between it and No.21. On this basis, the proposal is not at odds with paragraph 52 of Planning Policy Statement 1 nor the sixth criterion of Policy CTY 2a of PPS 21.
10. The third criterion of Policy CTY 2a requires that the cluster is associated with a focal point such as a social/community building/facility or is located at a cross-roads. I have no evidence that what the appellants refer to as a "right of way" is a legally asserted public footpath/right of way. As such, the junction to the south of the appeal site is not a cross-roads. There is no social/community building/facility currently in the vicinity of the appeal site. There is merit in the appellants' point that the criterion is not exclusive in its definition of a focal point and that stated examples of such is not an exhaustive list. Notwithstanding, the term "focal point" suggests a single entity and not an existing cluster of development otherwise the third criterion would add nothing to the policy in the

round and be extraneous. The appeal decision referred to by the appellant was decided in a different policy context to this proposal and dealt with a reason for refusal that is not pertinent in this instance. Consequently, the proposal does not satisfy this third criterion of Policy CTY 2a.

11. Whilst the proposal fails the third criterion of Policy CTY 2a of PPS 21, it complies with the policy's broad overall intent in that it would round off and consolidate an existing cluster of development without changing to the area's character. In this respect, there are a number of site-specific characteristics that I find so compelling as to outweigh the fact that the cluster is not associated with a focal point. These are as follows:

- The site comprises a mown grassed area with a suburban style ranch fence marking its boundary with the public road. Fencing posts have been erected on top of the retaining wall along its boundary with the shared drive and there are stone pillars on either side of the entrance off the drive;
- It is visually associated with the adjoining dwellings and has the appearance of domestic curtilage;
- Given its size and relationship with adjoining dwellings, the site is unsuited to agriculture;
- It is bounded by residential development on two of its three sides; and
- It is a small gap site within an otherwise substantial and continuously built-up frontage that extends for 240m along this side of Curryfree Road.

As the proposal is not at odds with the spirit of Policy CTY 2a of PPS 21 in the round, it is one of the types of housing development that is acceptable in the countryside in accordance with Policy CTY 1 thereof. Accordingly, the Department's first and fourth reasons for refusal are not sustained and the appeal is allowed.

Conditions

1. The development shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the provisions of Article 2(3)(a) and Schedule 1, Parts A, B and C of the Planning (General Development) (Amendment) Order (Northern Ireland) 2011 (or any legislation revoking that Order and re-enacting those provisions) the dwelling shall not be enlarged, improved or extended without the Department's prior permission.
3. Notwithstanding the landscaping details shown on Drawing Reference 0927 003 Revision A, existing vegetation on the site's roadside and south-western boundaries shall be retained.

This decision relates to Drawing Reference 0927 001 Location Map, Drawing Reference 0927 003 Revision A Site Layout Plan, Drawing Reference 0927 004 Proposed Elevations and Plans and Drawing Reference 0927 006 Proposed Garage Elevations and Plans.

COMMISSIONER JULIE DE-COURCEY

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2017/A0222
Appeal by:	Mark Adamson
Appeal against:	Refusal of outline planning permission
Proposed Development:	Dwelling in a cluster with access from Craigdarragh Road
Location:	Between 59, 61 and 63 Craigdarragh Road, Helen's Bay.
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2017/0179/O
Procedure:	Written Representations
Decision by:	Commissioner Helen Fitzsimons 6 th June 2018.

Decision

1. The appeal is allowed subject to conditions.

Reasons

2. The main issues in this appeal are:-
 - the appropriate Local Development Plan(LDP) context;
 - whether development is acceptable in principle in the countryside
 - the impact of the development on the environment; and
 - if it would prejudice road safety.
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the LDP, so far as material to the application, and to any other material considerations. The adopted Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful by the Court of Appeal on 18th May 2017. As a result of this, the North Down and Ards Area Plan 1984 – 1995 (NDAAP) operates as the LDP for the area with draft BMAP (dBMAP) remaining a material consideration.
4. Both the NDAAP and dBMAP identify the appeal site as being outside any settlement limits. In NDAAP the appeal site is located in what is termed 'the rural remainder'. dBMAP identifies the area within which the appeal site lies as the Seahill Local Landscape Policy Area SL06 and the Seahill Rural Landscape Wedge ND 08. The council did not give me any indication of the likelihood of dBMAP being adopted or even if it was the likelihood of those policies being included in the adopted plan. Even if it was to be adopted and those draft policies were retained the essential characteristics of the LLPA set out in SL06 would not be detrimentally impacted upon by the proposed development. Given the

juxtaposition of the appeal site to the existing adjacent dwellings it would not offend the objectives of the designation of Seahill Rural Landscape Wedge ND 08. The seventh and eighth reasons for refusal are not sustained.

5. Given my conclusions above and that the appeal site is located in the countryside as designated by NDAAP the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) are the main material considerations in this appeal.
6. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a new dwelling in an existing cluster under Policy CTY 2a. The Council's objections to the proposed development are that it does not meet the requirements of criterion 2 that the cluster appears as a visual entity in the landscape; criteria 3 that it should be located at a focal point such a social /community building/facility or is located at a crossroads; and criterion 4 that the identified site provides a suitable degree of enclosure.
7. The appellant identified what he considers to be the extent of the existing cluster, as Nos 44 – 69 Craigdarragh Road which span both sides of the road. This was not disputed by the Council who concur that there is 'loose cluster' of development in this location. Notwithstanding the mature vegetation that defines this part of Craigdarragh Road and that some of the dwellings are screened by said vegetation, there is a strong awareness of the cluster and because of relatively undeveloped lands either side of it the cluster appears as a visual entity in the landscape. Criterion two of Policy CTY 2a is met.
8. In regard to criterion 4 the Council's only identified critical viewpoint is from the railway line, which lies on lower ground than the appeal site. Mature vegetation defines the railway embankment when seen from the appeal site. Evidence submitted by the appellant taken on a moving train is not of itself persuasive as it is impossible to verify where the photograph was taken from. However, it reinforces my own experiences that when travelling on a moving train where the tracks are bounded by mature vegetation little of the surrounding countryside is visible. I therefore conclude that lack of definition on the northern boundary of the appeal site is not critical to the provision of enclosure and criterion 4 is met.
9. The introduction of the proposed development would lie into the cluster being sited between Nos 59 and 61 and to the rear of No 63, and it would not encroach into open countryside. The proposal meets the other five requirements of Policy 2a and can be said to comply with the overall thrust of the policy which is to round off and consolidate an existing cluster of development without changing the overall character of an area. This being the case I do not find it a determining failing that the cluster is not located at a focal point or a crossroads. Policy CTY 2a is met in the round and the proposed development is acceptable in principle in the countryside under this policy. The Council has not sustained its third reason for refusal.

10. Policy CTY 8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it also includes the exception that development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage will be permitted. For the purposes of this policy the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. Paragraph 5.33 advises that for the purposes of this policy a road frontage includes a footpath or private lane.
11. There is a private lane which currently serves No 61 and is for its sole use. However, No 63 does have frontage onto this lane and must be taken into account for the purposes of this policy. I agree with the Council that the extent of the private laneway ceases upon entering the curtilage of No 61 and consequently the boathouse cannot be taken into account as a building fronting a road. There is no substantial and continuously built up frontage in this location. The appeal proposal fails to meet the requirements of Policy CTY 8 of PPS 21.
12. Notwithstanding my conclusions in paragraph 11 above as the proposed development meets the requirements of Policy CTY 2a it also meets the requirements of the SPPS and Policy CTY 1 of PPS 21 and is acceptable in principle in the countryside.
13. Policy CTY 13 of PPS 21 'Integration and Design of Buildings in the Countryside' sets out a number of instances where a new building will be unacceptable in the countryside. The Council raised objections under (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. As I have already concluded that the proposed development meets the requirements of criterion 4 of Policy CTY 2a when viewed from the critical viewpoint it also meets the requirements of Policy CTY 13. The Council's reason for refusal five is not sustained. The objector's concerns regarding impact on the environment are not upheld.
14. Policy CTY 14 of PPS 21 'Rural Character' also sets out circumstances where a new building will be unacceptable in the countryside. The Council raised objections under (a) it is unduly prominent in the landscape; and (b) it results in a suburban style build-up of development when viewed with existing and approved buildings. As I have found the new dwelling to be acceptable under policy CTY 13 it would not be unduly prominent in the landscape. The proposed development meets the requirements Policy 2a the thrust of which is to round off and consolidate clusters without changing the character of an area, and it does not offend criterion bullet (b) of Policy CTY 14 either. The Council has not sustained its sixth reason for refusal. The objector's concerns on the environment are not upheld.
15. Regarding the objector's other concerns as visibility splays of 2.4m x 90m at the access point with the road have been shown by the appellant can be provided and they meet Transport NI requirements; that bend referred to is some distance from the appeal site; and that a 40m.p.h speed restriction has been imposed on Craigdarragh Road, I am not persuaded that road safety issues would arise by dint of the proposed development. The objector referred in general terms to the

impact of the proposed development on flora and fauna but gave me no evidence as to what flora and fauna exists in and around the appeal site or what such impacts would be. The objectors other concerns are not determining in this appeal.

16. As none of the council's reasons for refusal have been sustained and the objector's concerns do not carry determining weight the appeal succeeds.
17. A landscaping condition is required to ensure the proposal would further integrate into the countryside in the interests its general visual amenities. The appeal site is located behind No 63 Craigdarragh Road a substantial two storey dwelling, which sits at road level. The appeal site is some 4m above road level. Consequently a ridge height restriction is necessary to ensure that the proposed new dwelling would not be perceived as a prominent feature within the local landscape.

Conditions

1. Except as expressly provided for by Conditions 2 and 3 the following reserved matters shall be as approved by the Planning Authority – the siting, design and external appearance of the dwelling and the means of access thereto.
2. Before buildings works commence visibility splays of 2m x 90m shall be laid out in both directions at the junction of the appeal site access with Craigdarragh Road shall be thereafter permanently retained.
3. The ridge height of the dwelling shall not exceed 7.45m above the existing lowest ground level within its footprint.
4. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing the vegetation to be retained along the eastern, western and southern boundaries of the appeal site, new native species planting on the northern boundary of the appeal site and the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting as finally approved shall be carried out during the first planting season after any of the dwellings are occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.
5. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
6. Application for approval of the reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision

This decision is based on the following drawings referred to in the decision notice . The 1:1250 scale site location plan numbered SBP02 and the 1:200 scale access detail drawing numbered SBP02v.03.

COMMISSIONER HELEN FITZSIMONS

2017/A0129

List of Documents

Planning Authority: - C1 Written Statement and Appendices
C 2 Comments

Appellant: - A 1 Written Statement and Appendices
A2 Comments



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Architect
North Down
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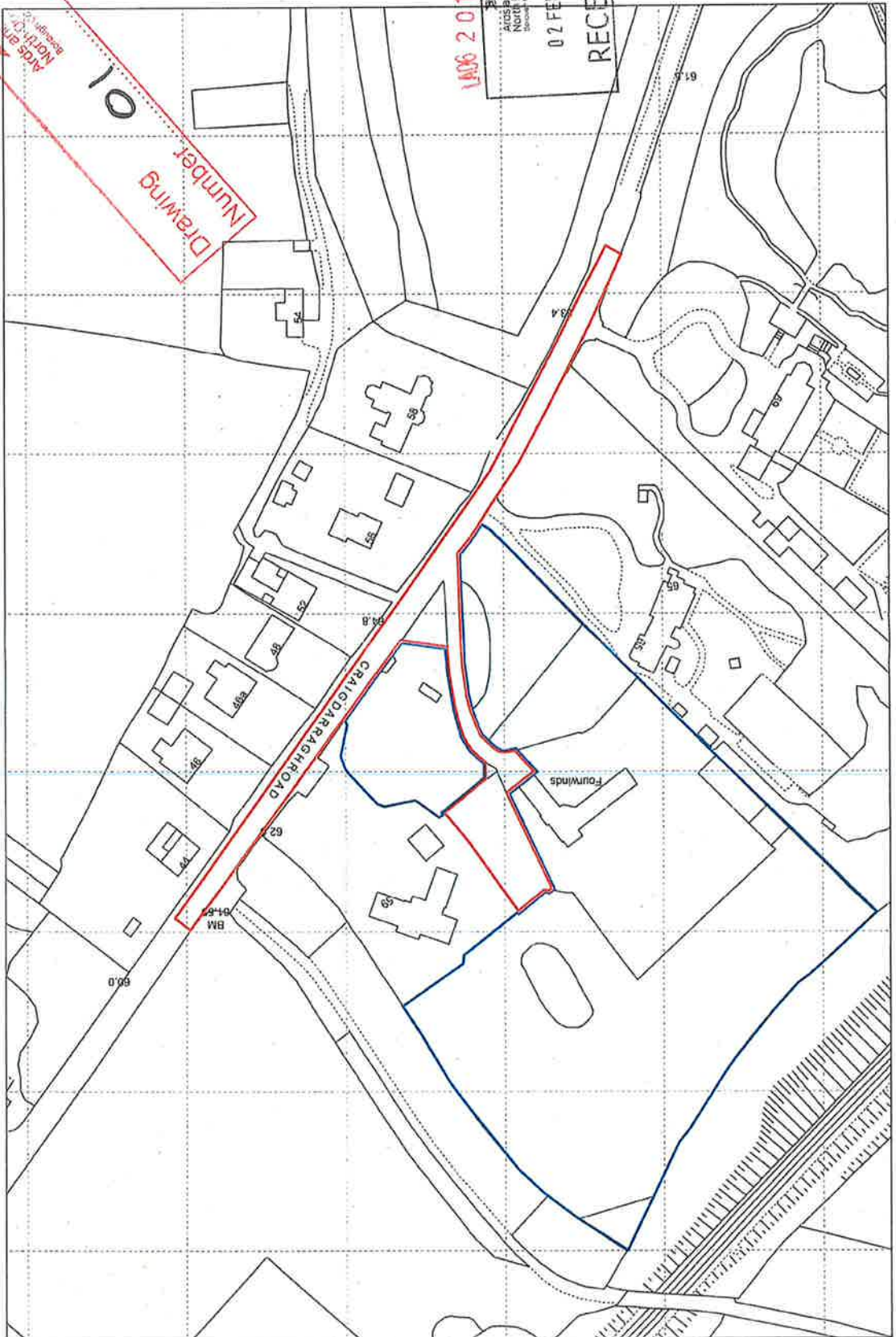
nullan chartered architects
 1. 134a Upper Lisburn Road, 1st Floor, Belfast, BT10 9BB;
 2. 028 9043 1010
 3. 077 4318 1524
 4. info@nullan-architects.com
 5. www.nullan-architects.com

Client: M. Adams
 Proposed Dwelling to site adjacent to
 59 Craigdarroch Road
 Helens Bay
 BT19 1UB
 Site Location Plan
 Date: Jun 17
 Scale: 1:1250
 Drawn: J.P. 101
 Checked: J.P. 101
 Approved: J.P. 101
 Date: Jun 17

nullan chartered architects
 134a Upper Leburn Road, 1st Floor, Belfast, BT10 0HE
 028 9043 1810
 077 4318 1826
 info@nullan-architects.com
 www.nullan-architects.com

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DATE	SCALE	SHEET	DESIGNER	PROJECT
1/1/17	A3	1/1	J.P.	59 Craigourragh Road
Proposed Dwelling to site adjacent to				
M. Adamson				
Site location Plan				

Appeal Reference:	2017/A0035
Appeal by:	Miss Cherry Hill
Appeal against:	The refusal of full planning permission
Proposed Development:	New dwelling with landscaping and upgrading of existing access and associated site works
Location:	No 4 Beechmount Road, Carryduff, Castlereagh, Belfast
Planning Authority:	Lisburn & Castlereagh City Council
Application Reference:	LA05/2016/0291/F
Procedure:	Informal Hearing on 5 October 2017
Decision by:	Commissioner Pamela O'Donnell, dated 9 November 2017

Decision

1. The appeal is dismissed.

Preliminary Point

2. The Appellant submitted an amended plan at appeal stage showing a reduced application site. The parties were in agreement that the amended plan was admissible. Taking into account the relevant case law and the applicable legal tests, I concur. The amended plan therefore forms part of the appeal proposal.

Reasoning

3. The main issue in the appeal is whether the proposal is acceptable in principle in the countryside.
4. The Planning Act (Northern Ireland) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. The Belfast Metropolitan Area Plan 2015 (BMAP) was declared unlawful in May 2017. Therefore, the Carryduff Local Plan 1988 – 1993 (CAP) currently operates as the statutory LDP for the area where the appeal site is located. The draft BMAP is also a material consideration in the appeal. Both place the appeal site outside any settlement limit and within the countryside. The CAP shows the site within a Green Belt. However, given the changes in regional policy, that designation is no longer relevant. There are no Plan policies for the type of development proposed.
5. Paragraph 1.5 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) states that its provisions must be taken into account in the preparation of LDPs and are material to all decisions on individual planning applications and appeals. Paragraph 1.10 states that a transitional period will operate until such

times as a Plan Strategy for the council area has been adopted. During this transitional period, i.e. presently, planning authorities will apply existing policy contained in specified Planning Policy Statements (PPS) and other documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. Where the SPPS introduces a change of policy direction and/or provides a policy clarification that would be in conflict with the retained policy, the SPPS should be accorded greater weight. However, it goes on to say that where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies, this should not be judged to lessen the weight afforded to the retained policy.

6. The SPPS has a subject policy entitled 'Development in the Countryside' which allows for new dwellings in existing clusters subject to certain criteria. One is that provision should be made for a dwelling at an existing cluster of development associated with a focal point. There is no clarification as to what a focal point could be in the SPPS. Retained policy, in respect of development in the countryside, is provided within PPS21. Policy CTY1 thereof indicates that there are types of development acceptable in principle in the countryside. One is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. This latter policy states that planning permission will be granted for a dwelling at an existing cluster of development provided all six of its criteria are met. The third criterion requires that the cluster is associated with a focal point "*such as a social/community building/facility, or is located at a cross-roads*". The SPPS introduces no discernible change of policy relevant to this appeal and is less prescriptive than the provisions of the retained PSS21 with regard to new dwellings in existing clusters. Thus retained policy applies and is relevant to the assessment of the proposal in accordance with the transitional arrangements. The 'Building on Tradition' document provides supplementary design guidance to PPS21. It indicates that social/community facilities are a significant ingredient in identified focal points.
7. The appeal site is within the private rear garden of a large detached dwelling at No 4 Beechmount Road. A recently constructed stable block is located to the south of the site. A tall band of conifer trees define the western site boundary while the northern site boundary is also defined by vegetation. Access to the proposed dwelling would be taken from the existing access onto Beechmount Road. Carryduff Boarding Kennels and Cattery is located along the road frontage around the junction where Beechmount Road meets Manse Road. It is comprised of a number of agricultural type buildings which are set around a large concrete apron.
8. Policy CTY2a does not define what a cluster of development is but the first three criteria give an indication of its intended meaning. Both parties were satisfied that the proposal complied with the first two criteria and the Appellant conceded that the alleged cluster was not at a cross-roads. Thus the critical issue to determine is whether 'the cluster' is associated with a focal point such as a social/community building/facility. On this matter, the Appellant argued that 'Carryduff Boarding Kennels and Cattery' represented a focal point for the purpose of the policy.
9. I was told that the above private business has been established some 17 years; that it is busy and that it provides jobs for the local community, including young people undertaking work experience. I was also informed that it would be well

known in the area, perhaps partly as a result of the controversy surrounding its application for planning permission. However, this private business serves a specific market as it is used exclusively by dog and/or cat owners. While the third criterion of the policy is not specific or exhaustive in its definition of a focal point, the example given in the policy infers, in my judgment, that a focal point is an identifiable entity used by the community for gatherings or activities with social interactions. To this end, I would concur with the Council that a focal point could be a church, community hall or school building i.e. an entity that serves as a focus for much wider community involvement and social interaction than a specialised business carried out in a number of agricultural type buildings would.

10. Regarding what could constitute possible focal points, the Appellant made reference to shops and sports facilities and argued that the commercial nature of a facility need not be an impediment to satisfying this aspect of the policy. However, in both examples, it would principally depend on the overall nature of the facility and the evidence presented to determine if either could be regarded a focal point. In any event, these particular examples are different to the appeal business and do not assist the Appellant's case.
11. In support of his position, the Appellant also provided national statistics of the percentage of households that own dogs and cats – some 24%. Conversely, this information illustrates that the majority of households do not keep such pets. This reinforces the above findings regarding the niche market of the subject business. It does not demonstrate that it is a focal point. Each case falls to be determined on its own merits and one cannot directly compare the subject business with random sports facilities or shops. The Appellant made reference to paragraph 4.7 of the SPPS, but that paragraph must be read in the context in which it was written. That particular section of the SPPS refers to networks of green spaces, not dwellings in existing clusters. It says that green spaces can provide opportunities for social interaction by serving as a focal point for recreation and community activities. The subject business is not a green space and this part of the SPPS does not therefore assist. The contents of the Ministerial Statement of July 2013 in regard to this issue are noted. However, the evidence forwarded by the Appellant does not persuade me that the facility serves as a focal point for the reasons stated.
12. As outlined above, I find that the proposal does not comply with the third criterion of Policy CTY2a. While it is accepted that policy need not be 'slavishly' adhered to, given that this criterion is one of three critical to determining what a cluster of development is and that the policy requires all stated criteria to be met, the proposal fails to comply with the policy. In appeal 2010/A0202 the Commissioner set aside the policy requirement as there were compelling site specific circumstances not repeated here including that the site was considered a small gap site within an otherwise substantial and continuously built up frontage. It therefore satisfied another policy of PPS21. For this reason, appeal decision 2011/A0007 does not assist. The more recent appeal decision 2016/A0095 was taken in its own evidential context and the stance of the Planning Authority in that appeal has not been replicated in this case. The two other decisions referenced by the Appellant namely LA07/2015/0135/O and LA08/2015/0056/F are from Armagh City, Banbridge and Craigavon Borough Council and Newry, Mourne and Down District Council respectively. They are not decisions from this particular Council. The appeal decisions are distinguishable for the reasons stated and a total of two

decisions from separate council areas do not persuade me that inconsistency in decision making has been demonstrated.

13. As the proposal is not at an existing cluster of development, it does not represent one of the types of housing development considered acceptable in principle in the countryside. Policy CTY1 goes on to say that other types of development will only be permitted where there are overriding reasons why it is essential and could not be located in a nearby settlement. No overriding reasons were advanced to demonstrate how the proposal is essential and why it could not be located in a settlement. The proposal is therefore also at odds with Policy CTY1 of PPS21.
14. Compliance with planning policy is a matter of acknowledged importance and in not complying with policy; this particular proposal would result in demonstrable harm for the reasons stated.
15. The reasons for refusal are sustained. Accordingly, the appeal must fail

This decision is based on the Proposed Site Location Plan (Drawing No 100-01) @ 1:1250 submitted at appeal and Proposed Site Plan (Drawing No SK-04) 1:500 @ A3, Proposed Floor Plans (Drawing No 100-03) 1:100 @ A3, Proposed Elevations 1 (Drawing No 100-04) 1:100 @ A3, Proposed Elevations 2 (Drawing No100-05) 1:100 @ A3, Landscape Proposals (Drawing No 15-024 L101), Proposed Access Layout (Drawing No DC – GA C 03 Revision A) @ 1:200 and Existing Access Layout (Drawing No DC – GA C 01 Revision A) stamped refused by the Council on 31 January 2017.

COMMISSIONER PAMELA O'DONNELL

List of Appearances

Planning Authority: - Ms M Manley (Lisburn & Castlereagh City Council)

Appellant(s):- Mr S Turbitt (BL instructed by Pragma Planning)
Mr D Worthington (Agent - Pragma Planning)
Ms Hill (Appellant)
Mr Hill (Appellant's father)
Mr C Dempsey (Architect)

List of Documents

Planning Authority: - "A" Statement of Case

Appellant(s):- "B" Statement of Case

