



Appeal Decision

Appeal Reference:	2017/A0113
Appeal by:	Mr P Mooney
Appeal against:	The refusal of outline planning permission
Proposed Development:	Dwelling
Location:	Adjacent to 33 Gaults Road, Cushendall
Planning Authority:	Causeway Coast and Glens District Council
Application Reference:	LA01/2016/1221/O
Procedure:	Written representations and accompanied site visit on 5 th January 2018
Decision by:	Commissioner A Speirs, dated 10 th January 2018

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are:- whether the proposal is acceptable, in principle, in the countryside; the effect of the proposal on visual amenity in the rural area and Area of Outstanding Natural Beauty (AONB); and whether the proposal would have a detrimental impact on the amenity of an adjoining dwelling.
3. Section 45 (1) of the 2011 Planning Act requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The appeal site is located within the rural area as identified in the Northern Area Plan 2016 (NAP); it is also located within the Antrim Coast and Glens AONB, the boundary of which is shown on the Plan map No.1. The NAP does not contain any policy in respect of the AONB. Neither does it contain any designation or zoning directly affecting the appeal site. The NAP defers to regional planning policy and guidance in respect of applications for residential development in the countryside.
4. Other planning policy context for the proposal is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015. Paragraph 6.73 of the SPPS refers to 'new dwellings in existing clusters' and states that "provision should be made for a dwelling at an existing cluster of development which lies outside a farm provided it appears as a visual entity in the landscape; and is associated with a focal point; and the development can be absorbed into the existing cluster through rounding off and consolidation and will

not significantly alter its existing character, or visually intrude into the open countryside”.

5. The SPPS makes it clear that the provisions of, inter alia, Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and Planning Policy Statement 2: Natural Heritage (PPS2) will continue to apply until such time as a new development plan is in place for the Causeway Coast and Glens area.
6. Policy CTY 1 of PPS 21 lists types of development which are considered to be acceptable in principle in the countryside. These include a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a. Policy CTY 1 indicates that developments other than those listed will be only be permitted where there are overriding reasons why they are essential and could not be located in a settlement. Policy CTY2a indicates that Planning permission will be granted for a dwelling at an existing cluster of development provided criteria contained in six bullet points are met.
7. The tests applied by CTY2a are more prescriptive than those espoused in paragraph 6.73 of the SPPS. Paragraph 1.12 of the latter states that “any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. For example, 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 in the assessment of individual planning applications. However, *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 to be afforded to the retained policy (my emphasis)*”. In the circumstances, the proposal falls to be assessed against policy CTY2a.
8. The Council accepted that the first bulleted criterion in policy CTY2a was met. However, it was argued that the proposal did not meet the remaining criteria. The critical views raised were:-
 - from Gaults Road at, and close to, the entrance to the laneway, and from the road frontage to the northeast of the host field,
 - from the laneway accessing the appeal site.
9. Bullet point two of CTY2a requires that the cluster appears as a visual entity in the countryside. The Council submitted that this is not the case. I agree with the Council that, from the entrance to the laneway serving Nos. 31 and 33, No.33a and the appeal site are largely hidden by existing development. Entering the shared laneway, Nos. 31, 33, 33a, and the old dwelling to the rear on No.31 form a visual entity. Travelling northwards on Gaults Road, Nos. 33 and 33a fall into view on approaching and passing the access to No.33a. Views are open due to the lack of any vegetation along the frontage of the host field. Nos.31 and the old dwelling to its west are not readily apparent from these vantage points.
10. Policy CTY2a, in referring to a visual entity, does not express a requirement that all of the buildings in a cluster be visible from all vantage points. There is no

explanatory text to indicate what exactly the policy requires in terms of a visual presence. The buildings in the cluster are variously perceptible from critical vantage points and, in the circumstances, I consider that the test in bullet point 2 of CTY2a is met.

11. Bullet point 3 of CTY2a requires that the cluster be associated with a focal point such as a social/community building or facility, or be located at a cross-roads. The cluster in this case consists of four dwellings and has no association with any such focal point, albeit that it is locally known as Murroo. The appellant considered the point where the laneway leading to Nos. 31 and 33 meets, and crosses, Gaults Road to be a crossroads; it was submitted that the laneway was the old road to Cushendall and is a public right of way.
12. I agree that policy CTY2a does not indicate that the term crossroads applies only in respect of adopted public roads. However, notwithstanding the meaning of the term 'crossroads', I observed that the cluster of development in question is located to the southwest of the junction cited by the appellant. No. 33 is the closest building to the 'crossroads' in question and is situated some 70m distant. I do not consider that the cluster in question is located at a crossroads and judge that the proposal fails to comply with this policy criterion.
13. The fourth bullet point of CTY2a requires that the site provides a suitable degree of enclosure and is bounded on two sides by other development in the cluster. The fifth bullet point requires that development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
14. CTY2a does not make clear what constitutes 'development' in the context of the fourth bullet point. In this case, the only building directly adjoining the appeal site is the dwelling at No.33. I do not consider that the front garden of No.33a and the laneway to that dwelling represents 'development' in the context of policy CTY2a and I thus disagree with the appellant's submission that the appeal site is bounded on two sides by other development in the cluster.
15. The appeal site has no boundary definition along its north-eastern and south-eastern sides and the boundary with the laneway is defined only by fencing. From the vantage points to the south on Gaults Road, and from the laneway to No.33a, which would be shared with the proposed development, the lack of enclosure for a dwelling would be obvious. The boundary hedge of the host field, to the northeast and east of the site does not ameliorate this. A dwelling on the appeal site would not represent rounding off or consolidation and would extend the cluster of development south-eastwards, into a large open field. I consider that the requirements of the 4th and 5th bullet points of CTY2a are not met.
16. The Council raised concerns in respect of the impact of the proposal on the residential amenity of No.33. I observed that the boundary of this property with the appeal site comprises a tall, mature Leyland Cypress hedge. A carefully designed single storey dwelling located gable end-on to No.33 need not result in overlooking or overshadowing of that property and I do not consider that there is conflict with the last bullet point of CTY2a. There is no evidence that the development would

result in drainage problems or that a suitable means of sewage disposal could not be provided. I am not persuaded that the concerns expressed by the resident at No.33 justify rejection of the proposal.

17. Policy CTY13 of PPS21 is entitled 'Integration and Design of Buildings in the Countryside'. The policy explains that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It goes on to state that a new building will be unacceptable where, inter alia, the proposed building would be a prominent feature in the countryside; 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; or it relies primarily on the use of new landscaping for integration.
18. The host field slopes markedly downwards from south to north. Any dwelling on the site would be seen at a level lower than the main critical viewpoints, with a backdrop of existing buildings and rising land beyond. In my opinion, a modest dwelling of restricted height located on the south-western half of the appeal site would not be seen as a prominent feature in the landscape and the Council's concerns in this respect are not sustained.
19. I have dealt with the issue of screening and enclosure in the preceding paragraphs and I consider that the Council's objections in respect of these matters are sustained. I accept that the visual impact of the proposal could be ameliorated relative to views from Gaults Road and the laneway through suitable planting, including planting associated with the planning approval for the laneway itself; however it would take a number of years for growth to achieve the desired effect. The proposal would rely on new planting to achieve enclosure and integration. I find that the proposal conflicts with policy CTY13. The Council's second reason for refusal is sustained.
20. PPS21 policy CTY14 is entitled 'Rural Character' and states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to rural character. It goes on to state that a new building will be unacceptable in instances where, inter alia, it is unduly prominent in the landscape, it results in a suburban style build-up of development when viewed with existing and approved buildings, or it does not respect the traditional pattern of settlement exhibited in that area. The Council raised concerns in respect of these three issues. I have already concluded that the proposal would not be prominent in the landscape.
21. The Council took the view that single dwellings set-back from the public road represented the predominant type of development in the rural landscape and that the proposal was at odds with this when taken together with Nos.33 and 33a. I agree with the Council's analysis. The proposal, when seen from the viewpoints to the south, would read together with the aforementioned properties; this grouping of modern dwellings would result in a suburban form of development and conflict with the generally dispersed pattern of single dwellings in the rural area. I find that the proposal conflicts with policy CTY14. The Council's third reason for refusal is sustained.

22. Policy NH6 of PPS2 is entitled 'Areas of Outstanding Natural Beauty' and states that planning permission for development within such will only be granted where it is of an appropriate design, size and scale for the locality and various criteria are met. One of these is a requirement that the siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality. As I have found that the proposal conflicts with policies CTY13 and CTY14, it follows that its siting would not be sympathetic to its surroundings, which are located within an AONB. I find that the Council's fourth reason for refusal is sustained.
23. I have found that the proposal conflicts with PPS21 policy CTY2a. As I have not been presented with any evidence that there is an overriding reason why it is essential and could not be located in a settlement, there is also conflict with policy CTY1. The proposal is thus unacceptable, in principle, in the countryside. The proposal also fails against the tests of policies PPS21 policies CTY13 and CTY14, and PPS2 policy NH6. The appellant's desire to provide a dwelling close to home for his son does not alter my conclusions. The Council's four reasons for refusal have been sustained and the appeal must therefore fail.

This decision is based on the Site Location Plan at scale 1:1250, stamped received by the Area Planning Office on 10th October 2016.

COMMISSIONER A SPEIRS