

ADDENDUM 2

LA01/2020/0631/O

1.0 Update

- 1.1 Attached are additional relevant PAC Decisions for consideration.
- 1.2 The below PAC decisions highlight that CTY 3 of PPS21 is clear in providing incidents where the replacement of a redundant non-residential building with a single dwelling can be accepted, namely – the redevelopment would bring significant environmental benefits, and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance, or character of the locality.
- 1.3 Paragraph 4 of PAC decision 2011/A0104 emphasises that it is demonstrable ‘significant’ environmental benefits that are required to satisfy the policy.
- 1.4 Paragraph 5 of PAC decision 2010/A0224 detailed the building as being structurally sound and noted that its replacement would not bring any environmental benefits, yet alone significant environmental benefits.
- 1.5 Paragraph 7 of PAC decision 2013/A0042 acknowledges a variety of sustainable proposals such as a green roof and use of traditional vernacular design, however, dismisses them as not bringing significant environmental benefits.
- 1.6 These examples are not exhaustive and affirm the policy requirement for any replacement of a non-residential building with a single dwelling to bring significant environmental benefits. It has not been demonstrated that the replacement of 168 Agivey Road would bring any environmental benefits, yet alone significant environmental benefits.

2.0 Recommendation

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to REFUSE the application in accordance with Sections 1 and 9 of the Planning Committee report.

Appeal Decision

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Appeal Reference: 2011/A0104
Appeal by: John McQuillan (Contracts) Ltd against the refusal of outline planning permission.
Development: Replacement dwelling plus 1 new dwelling to replace the existing domestic outbuildings.
Location: 45 Budore Road, Dundrod.
Application Reference: S/2009/0984/O
Procedure: Written Representations with Commissioner's Site Visit on 23 May 2012.
Decision by: Commissioner S G O'Hare, dated 28 May 2012.

Decision

1. The appeal is dismissed and outline planning permission is refused.

Reasons

2. The main issue in this case is whether the existing outbuildings warrant replacement with a new dwelling.
3. The appeal site is occupied by a vacant dwelling house and some outbuildings. It is located in the countryside just to the east of Dundrod. The relevant planning policy context is set by Planning Policy Statement 21 Sustainable Development in the Countryside (PPS 21). Policy CTY 1 – Development in the Countryside of that document identifies a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Among this range is a replacement dwelling in accordance with Policy CTY 3. This policy states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. The appeal site is occupied by a 2-storey building which clearly was a dwelling and exhibits all the essential characteristics of a dwelling but is currently vacant with its windows and doorways blocked up. The Department has accepted that this building warrants replacement and planning permission was previously granted for a replacement dwelling on this site on this basis on 8 April 2009 (Department's ref. S/2008/1034/O). The application which is the subject of this appeal was for a further dwelling on the site to replace the existing outbuildings. The written submissions from both the Department and the

appellant relate to the merits of a proposal for an additional dwelling and my consideration is also on this basis.

4. On behalf of the appellant reference was made to a provision of Policy CTY 3 of PPS 21 which states that favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. There was no issue in this case in regard to the latter part of this provision: the appellant relied on the former. On his behalf it was argued that the replacement of these buildings would bring environmental improvements. There are two buildings, other than the former dwelling house, on the site. Both have rendered block work walls and pitched corrugated metal roofs. These buildings together with the former dwelling house sit in a relatively low lying position surrounded by a substantial amount of trees and bushes. They do not have an obvious visual presence in the local landscape and are fairly well screened by the surrounding vegetation and the topography. While most of the openings of the outbuildings have been closed up with block-board and they are for the most part vacant, I do not agree that they have an unsightly appearance. Rather I would accept the Departments contention that they are no different from lots of other such buildings throughout the countryside. On behalf of the appellant it was argued that their replacement would have environmental benefits but importantly it was not argued that they would have "significant" environmental benefits, as required by policy. I do not accept that their replacement would bring environmental improvement, let alone significant environmental benefits. In such circumstances the proposal does not satisfy this aspect of Policy CTY 3.
5. Furthermore the third condition of the outline planning permission for a dwelling on this site requires that the proposed replacement dwelling shall not be occupied until the existing dwelling and buildings coloured green on the approved plan are demolished, all rubble and foundations removed and the site restored. The buildings coloured green relate to these outbuildings. This provision alone will ensure the environmental benefits, referred to on behalf of the appellant, are achieved without the need to approve a further dwelling on this site.
6. A further provision of Policy CTY 3 states that buildings designed and used for agricultural purposes such as sheds or stores will not be eligible for replacement under this policy. On behalf of the appellant it was contended that the subject building was used as commercial kennels: it was not made clear whether the subject building referred to either one or both of the existing outbuildings on the site. Other evidence was provided that the building was used as dog kennels but the contended use was not supported by a Certificate of Lawfulness. While I was not able to enter all their interiors, these outbuildings do appear to be agricultural in their design and form. On my inspection one half of one of the outbuildings was not blocked up and appeared to have been used for housing animals. If that were the case it would not be eligible for replacement. Nonetheless in view of my conclusions in paragraph 4 above, the issue of the use of buildings is not determining.

7. In all these circumstances I am satisfied that the proposal is not in accordance with the provisions of Policy CTY 3 of PPS 21. There were no overriding reasons submitted why the development is essential and could not be located in a settlement and so the proposal also fails the provisions of Policy CTY 1. The refusal of planning permission has been justified.

This decision refers to the location map, block plan, and site layout plans stamped received by Planning Service on 5 October 2009 and 8 December 2010 and marked 01, 02, 03 and 04.

COMMISSIONER S G O'HARE

Appeal Decision

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Appeal Reference: 2010/A0224
Appeal by: Ms Anne McCammon against the refusal of outline planning permission.
Development: Replacement of redundant non-residential building with a single dwelling.
Location: 302m south-west of 68 Craiganee Road, Magheramorne.
Application Reference: F/2009/0234/O
Procedure: Written Representations with Commissioner's site visit on 26 July 2011.
Decision by: Commissioner S G O'Hare, dated 1 August 2011.

Decision

1. The appeal is dismissed and outline planning permission is refused.

Reasons

2. The appeal site is occupied by an existing rectangular building with a mono pitch corrugated metal roof. The existing walls are a combination of stone work, block work and concrete and are partially rendered. The building has two existing openings, an existing doorway in the eastern elevation and a large vehicular type entrance in its southern elevation. The building is in a reasonable state of repair and currently houses a substantial amount of timber, some agricultural machinery and three large animal feeding troughs. The building is located within a large field, set well away from the road and with no existing access to the structure from the public road.
3. Policy CTY 3 of Planning Policy Statement 21 provides, in certain specified circumstances, for the replacement of existing buildings with a new dwelling. The policy also states "Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy."
4. On behalf of the appellant it was not expressly stated in the application or in the written submissions that the existing building has not been designed and used for agricultural purposes. Given its nature and form, its current usage and its position within a large agricultural field set well back from the road with no existing access to the public road it is reasonable to assume that it has been constructed and used for agricultural purposes. This being the case the building

would not be eligible for replacement under Policy CTY 3 as contended by the Department.

5. On behalf of the appellant it was argued that the third paragraph of Policy CTY 3 applies. This states that planning permission will be given for the replacement of a redundant non residential building with a single dwelling where the redevelopment proposed would bring significant environmental benefits. The existing building is structurally sound and currently in use. It is visible from stretches of Craiganee Road but it is set well back from the road and seen against a backdrop of mature trees along the southern and western boundaries of the site. The existing building sits neatly into the landscape and is in no way an offensive feature. I do not consider its replacement by the construction of a new vehicular access and dwelling house would bring any environmental benefits, not alone significant environmental benefits. Even should the building be found to have not been designed and used for agricultural purposes, it would not find favour with this other aspect of Policy CTY 3. In all the circumstances I am satisfied that the Department's refusal of planning permission has been justified.

This decision refers to the site location map received with the planning application.

COMMISSIONER S G O'HARE

Appeal Reference:	2013/A0042
Appeal by:	Martina Black against the refusal of outline planning permission.
Development:	Replacement of Cafe to dwelling.
Location:	Approx. 70m West of 99a Glen Road, Glenariffe, Ballymena.
Application Reference:	E/2012/0095/O
Procedure:	Written Representations with Accompanied Site Visit on 26 September 2013.
Decision by:	Commissioner Mark Watson, dated 10 October 2013.

Decision

1. The appeal is dismissed and outline planning permission is refused.

Reasoning

2. The main issue in this appeal is the acceptability in principle of the development. The site lies in the countryside and Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) applies to the development. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a replacement dwelling in accordance with Policy CTY3. It follows that if the development complies with Policy CTY3 it will comply with Policy CTY1 of PPS21.
3. The site comprises an area of land situated to the rear and west of a group of buildings that front along Glen Road. The buildings comprise several dwellings and a garden furniture workshop / business. The site is maintained as an area of garden containing various ornamental features. The river that runs along the eastern site boundary separates the site from the buildings, with access afforded by a wooden pedestrian bridge at the northern end of the site. Pedestrian access is also available at the southern end of the site from the public road adjacent to the Callisnagh Bridge. The western boundary is defined by a rocky escarpment, whilst views of the site from the road are obscured by intervening vegetation or the existing built development. At the south-western corner of the site is the structure to be replaced. It is a wooden structure with a low angle pitched roof. It is built on a brick and concrete base. According to information from the Appellant the structure was previously used as a café / tearoom. The interior design and layout

would support this as there is a kitchen section at the rear of the structure divided from the remainder of the interior by a counter unit. A fireplace with a brick built chimney is built into the southern wall. The windows are glazed with single pane glass. It was stated that the site was used for wedding party photographs and occasionally still is.

4. Policy CTY3 of PPS21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. The appeal structure is not a dwelling, however, the policy goes on to state that favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling where the proposed redevelopment would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. Whilst the Department accepted that the structure was not listed and did not make an important contribution to the heritage, appearance or character of the locality, it considered that there were no significant environmental benefits to be brought about by redevelopment of the structure. The Department also challenged the applicability of the policy to the structure in the first instance in that it considered the structure to be of temporary construction, a type of building not considered eligible for replacement under Policy CTY3. I shall address this matter first.
5. Although the structure is predominantly built of wood, it is mounted on and attached to a concrete and brick plinth. It has had water and electricity available to it. A brick built fireplace / chimney structure is also evident on the southern wall of the structure. Whilst the wooden flooring was recently lifted due to woodworm infestation, exposing the concrete sub-floor, the walls were in sound condition. Whilst I make no definitive judgement on the length of time the structure has occupied the site, I accept that it has been there for some period of time and that when taken together with my above observations, I consider that the structure is not of temporary construction. I find that the structure does not fall outside of eligibility under Policy CTY3 by reason of its construction. I shall now look at whether the proposed redevelopment would bring about significant environmental benefits.
6. The Appellant considered that redevelopment would bring about several significant environmental benefits. It was stated that the structure is no longer financially viable and would be left to fall into disrepair, resulting in a visually unattractive structure. It was considered that a new dwelling would result in visual betterment over what existed on the site. Notwithstanding the site's location within the Antrim Coast and Glens Area of Outstanding Natural Beauty, the site is well enclosed, with no public views of the structure. I am not persuaded that even if the structure was left to go to ruin, there would be any perception of it from views on Glen Road. I do not agree that the structure in its present form is dilapidated as time and effort has been spent in maintaining it to the standard it is in. I am not persuaded that the replacement of the structure with a new dwelling, particularly with no public views of the site, would represent a significant environmental benefit.
7. Whilst the replacement of the existing structure with a new dwelling would avoid an additional building in the countryside, this would not represent a

significant environmental benefit. Whilst the use of sustainable building practices and energy efficient materials / features including a green roof, along with good vernacular design are suggested in the event of the development gaining planning permission, these are laudable design aspirations but they do not represent significant environmental benefits. Nor am I persuaded that the suggestion of additional planting to the southern side of the site would represent a significant environmental benefit.

8. It was also suggested that the redevelopment would improve the existing access used by the two existing dwellings, improving road safety. Whilst this may be so, there is no reason why such improvements could not be made as it stands if they were considered to be necessary. I am not persuaded that an improved access for the existing dwellings in question can be considered as a significant environmental benefit.
9. Several letters of support suggested further benefits that would arise from the approval of the development, namely:
 - the site could be used as a meeting point to assist in promoting awareness for red squirrels which are known to frequent the site, as well as allow for the access for installation of feeding stations and viewing of the squirrels;
 - allowing the display of handcrafted furniture within the area in question;
 - providing a pleasant garden setting for visiting customers; and
 - providing benefits to tourism and the economy.The use for a meeting point for promoting red squirrels, and for access for installing feeding stations and observation of any red squirrels could occur on the site as it stands. I am not persuaded that these activities would be dependent on redevelopment of the structure for a new dwelling or that they would amount to a significant environmental benefit. The other suggested benefits are economic in nature rather than environmental and I am not persuaded by the evidence provided that they would be significant.
10. Whilst the Appellant's representative stated that the policy did not define what constituted a significant environmental benefit and that his request for guidance on this matter from the Department had not been forthcoming, I nonetheless consider that the proposed redevelopment would not bring significant environmental benefits and as such this requirement of Policy CTY3 of PPS21 is not met.
11. It was suggested that the Appellant had a fallback position in that the use as a tearoom / café could be resumed with only a few internal renovations. It was stated that this would again generate significant levels of traffic including on-road parking from visitors to the tearoom, was this use to be resumed. According to supporting evidence in the Design Concept Statement that accompanied the planning application, the structure was first erected as an office showroom for the garden furniture business in 1987. It then over time became a tearoom and was used not only by customers but passing tourists. From the evidence before me, the use ceased in 2003. Even if rates had been paid on the building for a period of time between 1988 and 2003/04, there is no record of planning permission having been granted for a tearoom / café on the site. This was not disputed by the Appellant. Whilst an application for a Certificate of Lawfulness of Existing Use or Development (CLUD) was submitted in respect of the structure, it was withdrawn before any decision was issued. The submission of a CLUD is the appropriate

means by which to ascertain the legal status of the structure. There is no CLUD in respect of the structure and notwithstanding this, the fallback argument presented contradicts the Appellant's statement that the structure is dilapidated and no longer financially viable. I am not persuaded that there is a lawful fallback position in this case that would justify the granting of permission contrary to policy.

12. I find that the development fails against Policy CTY3 of PPS21. Whilst it was indicated that the Appellant considered that other development options existed on the site under other policies, no evidence was provided in respect of these, nor were they pursued through this appeal. The fact the site and existing structure already avail of services would not justify the granting of permission contrary to policy. Whilst the Appellant may wish to return to live and work in the area, there are no overriding reasons why this development is essential. I also find that the development does not comply with Policy CTY1 of PPS21. The Department's reason for refusal has been sustained and is determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Map	1:1250	06.04.12
02	Site Analysis Drawing	NTS	06.04.12

COMMISSIONER MARK WATSON