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| Title of Report: | Planning Committee Report – LA01/2019/0641/O |
| Committee Report Submitted To: | Planning Committee |
| Date of Meeting: | 27th October 2021 |
| For Decision or For Information | For Decision |

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| Linkage to Council Strategy (2021-25) | |
| Strategic Theme | Cohesive Leadership |
| Outcome | Council has agreed policies and procedures and decision making is consistent with them |
| Lead Officer | Senior Planning Officer |

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| Budgetary Considerations | |
| Cost of Proposal | Nil |
| Included in Current Year Estimates | N/A |
| Capital/Revenue | N/A |
| Code | N/A |
| Staffing Costs | N/A |

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|-------------------------------|----------------------------------------------------------------------------------------|-----|-------|
| Screening Requirements | Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals. | | |
| Section 75 Screening | Screening Completed: | N/A | Date: |
| | EQIA Required and Completed: | N/A | Date: |

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|------------------------------------------|------------------------------|-----|-------|
| Rural Needs Assessment (RNA) | Screening Completed | N/A | Date: |
| | RNA Required and Completed: | N/A | Date: |
| Data Protection Impact Assessment (DPIA) | Screening Completed: | N/A | Date: |
| | DPIA Required and Completed: | N/A | Date: |

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| <u>No:</u> LA01/2019/0641/O | <u>Ward:</u> Greysteel |
| <u>App Type:</u> Outline Planning | |
| <u>Address:</u> Site adjacent to and west of 34a Dunlade Road, Greysteel | |
| <u>Proposal:</u> Site for dwelling within existing cluster of development, (infilling of gap site) | |
| <u>Con Area:</u> n/a | <u>Valid Date:</u> 17.05.2019 |
| <u>Listed Building Grade:</u> n/a | |
| Agent: Lee Kennedy, 2 Templetown Park, Maydown, L'Derry, BT47 6TZ | |
| Applicant: Ms Aisling O'Kane, 34A Dunlade Road, Derry, BT47 3EF | |
| Objections: 2 | Petitions of Objection: 0 |
| Support: 0 | Petitions of Support: 0 |

Executive Summary

- The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- There is no overriding reason why this development is essential in this rural location and could not be located in a settlement.
- It has not been demonstrated that the proposed site / cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads, that it can be absorbed through rounding off and consolidation. It will significantly alter the existing character, and visually intrude into the open countryside.
- The proposal creates or adds to a ribbon of development.
- The proposal is a prominent feature in the landscape and therefore would not visually integrate into the surrounding landscape.
- The proposal if approved would result in a detrimental change to the rural character of the countryside.
- It has not been demonstrated that the development would not be harmful to habitats, species or features of natural heritage importance.
- Two objections from the same address have been received in relation to this application.
- The proposal is contrary to the relevant planning policies including the Northern Area Plan, SPPS, PPS 2 and PPS 21.
- The application is recommended for refusal.

Drawings and additional information are available to view on the Planning Portal - <https://epicpublic.planningni.gov.uk/publicaccess/>

1 RECOMMENDATION

1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** planning permission for the reasons set out in section 10.

2 Site Location and description

2.1 The site is an irregular shaped plot of land measuring 0.4 hectares in a rural area. The site is located 40 metres from the Dunlade Road. The main view of the site is from Dunlade Road when travelling south and from the shared access laneway. The topography of the land is relatively flat with a slight drop in gradient in the north western corner. The field the site is located in drops from the site to Dunlade Road where a mature hedge acts as a boundary with Dunlade Road. This hedge along Dunlade Road is 42 metres from the undefined western boundary of the site. The site is accessed off a shared concrete lane which currently serves 4 dwellings and 4 associated outbuildings / garages which are located in a row to the north east of the site on the same side of the lane. The proposed access is on the southern side of the existing lane from another concrete lane. The site is currently an agricultural field.

2.2 There are 2 dwellings which bound the site to the south and the applicants dwelling bounds the site to the east. There is pooled water in the south east corner of the site. The northern boundary with the shared lane is defined by a 1.8 metre high embankment and 0.5 metre high trimmed hedge. The western site boundary towards Dunlade Road is undefined. The eastern boundary adjacent the applicants dwelling is defined by a 1 metre high dashed wall. The southern boundary is defined by mature trees and hedges ranging to 6 - 7 metre high and partly by a 1 metre high close boarded timber fence.

2.3 The local area is characterised by agricultural farm land with a row of houses to the north east and a group of houses to the south and west on Dunlade Road.

2.3 The site is located outside any settlement limit in a rural area as shown in the Northern Area Plan 2016.

3 RELEVANT HISTORY

3.1 No relevant planning history

4 THE APPLICATION

4.1 This application seeks permission for “Site for dwelling within existing cluster of development, (infilling of gap site)”.

5 PUBLICITY & CONSULTATIONS

5.1 External

All neighbours identified for notification within the terms of the legislation where notified on 18th June 2019 and 9th October 2020. The application was advertised on 26th June 2019 and 18th October 2020.

Two objections, from the same person, have been received objecting on the grounds of the Ownership Certificate, this relates to the access lane.

5.2 Internal

Environmental Health: No objection to the proposal.

Northern Ireland Water: No objection to the proposal

DFI Roads: No objection to the proposal.

DAERA – Natural Environment Division: Require further information (A preliminary ecological appraisal)

DAERA – Drainage and Water: No objection to the proposal.

6 MATERIAL CONSIDERATIONS

6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

Northern Area Plan 2016

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a

new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the relevant policies in the development plan.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 2 (PPS 2) Natural Heritage

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

8.1 The main consideration in the determination of this application relate to the principle of development, existing cluster of development, ribbon development, integration, rural character, sewerage disposal, natural heritage, access, movement and parking, Habitat Regulation Assessment and representations.

Principle of Development

8.2 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.

8.3 The application was submitted for a new dwelling in an existing cluster and as a gap site, this is considered below under policy CTY 2a and CTY 8 of PPS 21.

Existing cluster of development

- 8.4 The SPPS and PPS 21, Policy CTY 2a makes provision 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.” The policy requires that all of the policy criteria for new dwellings in existing clusters of development are met.
- 8.5 The site lies within an agricultural field. There is a row of 4 houses (34, 34A, 34B and 34C Dunlade Road) to the north east of the site on the shared lane, and a group of houses to the south and west on Dunlade Road. There are a group of more than 4 dwellings located in close proximity to the site. The first criteria is met.
- 8.6 The nearby dwellings are grouped close together, and when viewed from different view points they do appear as a visual entity. The second criteria is met.
- 8.7 The site fails to comply with the third criteria, in that the cluster is not associated with a focal point such as a social/community building/facility, or is located at a cross roads.
- 8.8 Appeal 2017/A0035 provides clarification on a focal point being an identifiable entity used by the community for gatherings or activities with social interactions. The site is not associated with any such focal point.
- 8.9 Document DOC 01 states that there is a cross roads that in the past led to an old flax mill / sluice. This is in fact 2 narrow private lanes off Dunlade Road, one a partly tarmaced lane leading west to a dwelling at No 33 Dunlade Road and another narrow stoned lane leads eastwards to agricultural land. The 2 lanes are not maintained by DFI Roads and are private with no through road or pubic access over. This location on Dunlade Road where 2 private lanes meet would not be a focal point as it is not a cross roads. The crossroads cited by the applicant are private narrow lanes which intersect with Dunlade Road which terminate at a dwelling house and the other at agricultural farm land. The planning application LA01/2020/0678/O that was before Committee in August 2021 is similar to the proposal
- 8.10 The agent submitted some precedent examples such as LA01/2016/0526/F which was a renewal of C/2010/0683/F. This application is an example of an approved dwelling that was located at a focal point which was a commercial premises, this is outdated and more

recent examples by the PAC have given recent advice in 2017/A0035 that the focal point should act to serve the wider community rather than a business. 2017/A0095 is not relevant as it is for an Industrial Development in Banbridge that was withdrawn. LA11/2016/0217/O, LA11/2016/1006/O, LA11/2015/0584/O and A/2014/0421/O (decision by former planning authority the DOE) are outside Causeway Coast and Glens Borough Council area so no information is available to check if they are comparable or not. The proposal fails to comply with criteria 3 of CTY2a.

- 8.11 Turning to criteria 4, the site is bounded on 2 sides with other development, to the north east is 34A Dunlade Road and to the rear of the site to the south by other dwelling houses at 36A and 38 Dunlade Road. However, it is bounded to the north and west by open countryside so is not framed by other development to a satisfactory level being at the end of a row of 4 dwellings. A suitable degree of enclosure has not been achieved. The proposal fails to comply with criteria 4.
- 8.12 The site is not considered to be rounding off and consolidation with an existing cluster. Development of the site would alter the existing character of the area as it intrudes into open countryside. The proposal fails to comply with criteria 5.
- 8.13 The proposal is outline, therefore conditions could be attached to any decision for design purposes relating to size, scale, massing and design that would mitigate adverse impact on residential amenity. Criteria 6 is met.
- 8.14 The proposal is contrary to Policy CTY 2a because it is not associated with a focal point such as a social/community building/facility, or is located at a cross-roads. The site does not have a suitable degree of enclosure, is not considered to be rounding off and consolidation due to its location and the development of the site would alter the existing character of the area as it intrudes into the open countryside by extending into this agricultural field.

Ribbon Development

- 8.15 The SPPS paragraph 6.73 and CTY 8 of PPS 21 applies and states planning permission will be refused for a building which creates or adds to a ribbon of development. The proposed site is located adjacent to a row of 4 detached dwellings (34, 34A, 34B and 34C Dunlade Road) which share a common frontage onto the access lane off Dunlade Road. The supporting document DOC 01 requests that CTY 8 is considered

however the site is not located in a gap, it is located at the end of the continuously built up frontage.

8.16 The supporting statement states that the substantial and built up frontage commences at No 44 Dunlade Road which is a dwelling to the south west with an access directly onto Dunlade Road and extends to No 34 Dunlade Road on the shared lane. However, paragraph 5.33 of the justification and amplification section of CTY8 states they must have a common frontage or they are visually linked. The site is accessed from its access lane and shares a common frontage with the 4 other detached dwellings on that lane, but does not share a common frontage with the row of houses accessing directly onto Dunlade Road to the south west furthermore the site is not visually linked with the dwellings fronting onto Dunlade Road.

8.17 Appeal 2016/A0224 provides appeal precedent clarification on what constitutes a substantial and continuously built up frontage. For the purposes of policy CTY 8 the appeal site is near a junction of 2 roads. It shares a common road frontage with one road, it does not front onto two roads. Similar to Appeal 2016/A0224, for the current application the dwellings on the lane share a common road frontage with each other as they face onto the lane and the dwellings on the main Dunlade Road share a common frontage but do not share a common frontage with the 4 dwellings up the lane, as those 4 dwellings and the appeal site face the lane not the main Dunlade Road. The appeal 2016/A0224 was dismissed and as it is similar to the proposal it reinforces the current position.

8.18 The proposal would result in adding to a ribbon of development and the build up of development along Dunlade Road and would adversely impact on the visual amenity of the area.

8.19 The proposal is contrary to policies CTY 2a and CTY 8 of PPS 21 therefore the proposal is also contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Integration

8.20 Policy CTY 13 and CTY 14 of Planning Policy Statement 21 are material considerations. Policy CTY 1 of PPS 21 and paragraph 6.70 of

the SPPS state that all proposals must be sited and designed to integrate into its setting, respect rural character, and be appropriately designed.

- 8.21 Policy CTY 13 states that 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.
- 8.22 The site characteristics have been detailed in section 1 of the report. Critical views of the site are from the north west from Dunlade Road because the site is elevated above Dunlade Road and from the shared lane. As a result any proposed dwelling would have critical views along Dunlade Road from the north west. Views of the site from the south west are limited on Dunlade Road due to screening from the adjacent existing dwellings and mature vegetation.
- 8.23 When viewed from critical viewpoints a new dwelling would be a prominent feature within the landscape due to its elevated nature when viewed from the north west on Dunlade Road and the north east on the lane. The overall development would not visually integrate and would be a prominent feature in the landscape. The proposal fails to comply with Policy CTY 13.

Rural Character

- 8.24 CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where:
- 8.25 (a) it is unduly prominent in the landscape; or (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or (d) it creates or adds to a ribbon of development.
- 8.26 The proposal is unduly prominent in the landscape as demonstrated above under section CTY 13 consideration. The proposal when viewed with existing buildings cumulatively will result in a build up of development detrimental to the rural character of this area. The proposal adds to a ribbon of development due to its siting alongside the row of 4 dwellings on the laneway off Dunlade Road. The proposal fails to comply with criteria 'a' 'b' and 'd' so it will erode rural character so fails to comply with Policy CTY 14 and paragraph 6.70 of the SPPS.

Sewerage disposal

- 8.27 Policy CTY 16 of PPS 21 – Development Relying on non-mains sewerage is a material consideration. Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.28 Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.
- 8.29 In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.
- 8.30 The applicant proposes to discharge to a septic tank. Environmental Health and DAERA Drainage and Water have been consulted and are content subject to standard conditions and informatives therefore the proposal complies with this policy.

Access, Movement and Parking

- 8.31 Policy AMP 2 of PPS 3 Access, Movement and Parking is a material consideration. Access to Public Roads: Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:
- 8.32 a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.
- 8.33 DFI Roads have been consulted and on 8th July 2019 they confirmed they had no objection to the proposal. Dunlade Road is not a protected route. As DFI Roads are content the proposal complies with Policy AMP 2 of PPS 3 – Access, Movement and Parking.

Natural Heritage

- 8.34 PPS 2 Policies NH2 – Species Protected by Law and NH5 – Habitats, Species or Features of Natural Importance are a material consideration and state that planning permission will only be granted for a

development proposal that is not likely to harm a European protected species or is not likely to result in the unacceptable adverse impact on habitats, species or features of Natural Importance.

8.35 The site includes mature trees in the south eastern area of the site. Natural Environment Division were consulted and they requested a preliminary Ecological Appraisal to include the bat roost potential of any trees that are to be removed. As it has not been demonstrated that the development would not be harmful to habitats, species or features of natural heritage importance the principle of development is not acceptable. The proposal is contrary with policies NH 2 and NH 5 of PPS 2 in that it has not been demonstrated that the proposal is not likely to harm any European protected species, Habitats, Species or Features of Natural Importance.

Habitats Regulations Assessment

8.36 Habitat Regulations Assessment Screening Checklist - Conservation (natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2015: The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

8.37 Shared Environmental Services were emailed and in their reply dated 1st August 2019 they confirmed that the proposal had a 150 metre land buffer to the nearest watercourse and as a result no formal consultation was required. The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Representations

8.38 Two objections, from the same person, have been received objecting on the grounds of the Ownership Certificate challenge in relation to the access lane. The ownership certificate was amended to Certificate C on 27th October 2020 to reflect the correct ownership. The 2 objections have been fully considered.

9 CONCLUSION

9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan and other material considerations, including the SPPS and Planning Policy Statements 2, 3, and 21. Consultee responses and representations have been fully considered. The applicants supporting statement has been fully considered. As the proposal has not complied with various planning policies it is unacceptable, and refusal is recommended.

10 Refusal Reasons

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Paragraph 6.73 of the SPPS and policy CTY 2a of PPS 21 in that it has not been demonstrated that the proposed site / cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads, that the identified site provides a suitable degree of enclosure, it can be absorbed through rounding off and consolidation and will not significantly alter the existing character, or visually intrude into the open countryside.

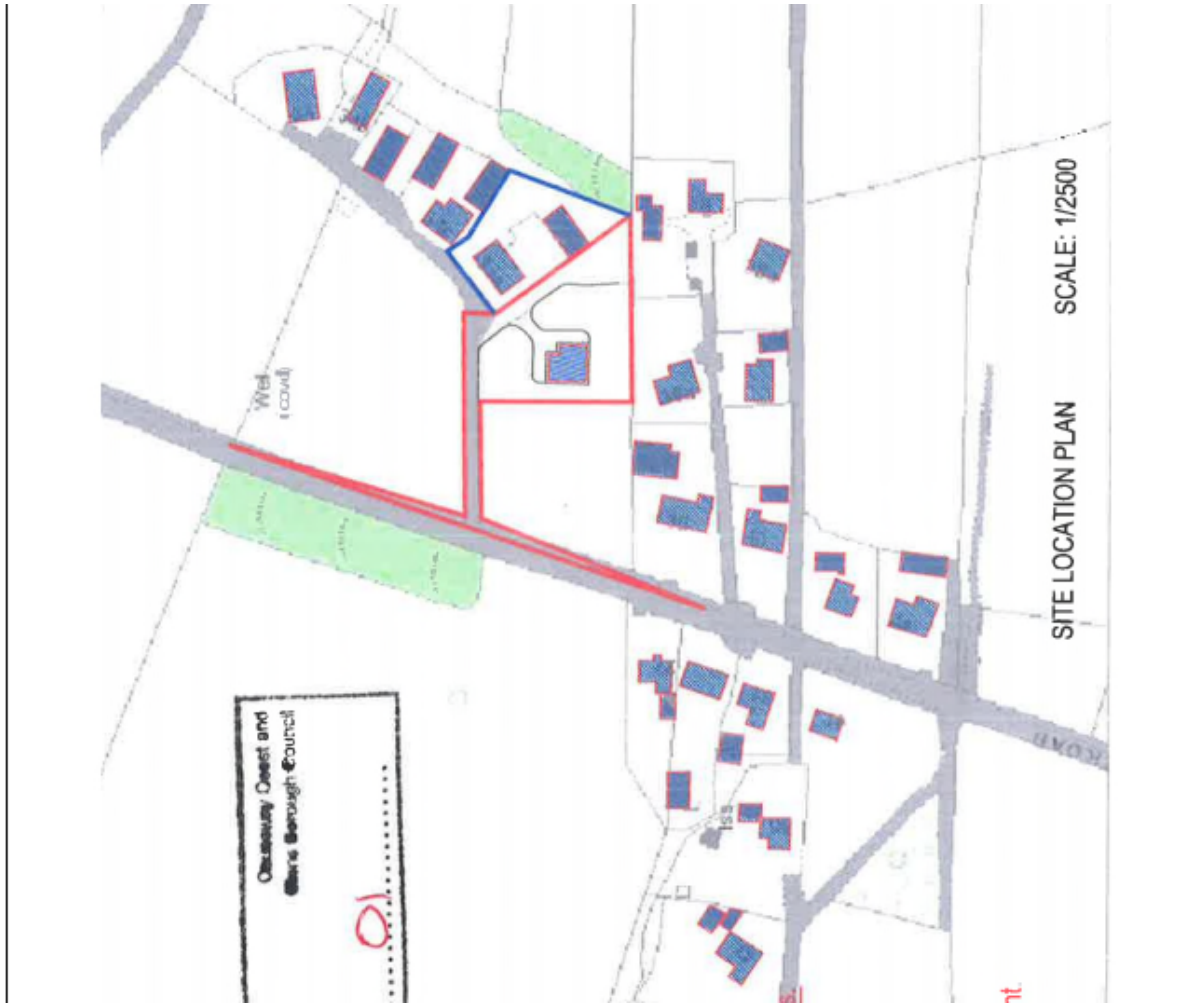
3. The proposal is contrary to Paragraph 6.73 of the SPPS and CTY 8 of Planning Policy Statement 21 in that the proposal creates or adds to a ribbon of development.

4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is a prominent feature in the landscape and therefore would not visually integrate into the surrounding landscape.

5. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, adds to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

6. The proposal is contrary to paragraph 6.192 of the SPPS and policies NH 2 and NH 5 of PPS 2 as it has not been demonstrated that the development would not be harmful to habitats, species or features of natural heritage importance.

Site Location Map



Addendum

LA01/2019/0641/0

1.0 Update

- 1.1 The Planning Advice Note : Implementation of Strategic Planning Policy on Development in the Countryside was issued on 2nd August 2021. The purpose of this PAN is to re-emphasise fundamental aspects of existing strategic planning policy on Development in the Countryside, as contained in the SPPS; and, clarify certain extant provisions of it. It does not add to or change existing policy or guidance.
- 1.2 Paragraph 20 of the PAN states that the SPPS (and extant PPS 21 Policy CTY 8) provides the opportunity for the development of a small gap site in an otherwise substantial and continuously built up frontage. The policy states that “Planning permission will be refused for a building which creates or adds to a ribbon of development.”
- 1.3 Paragraph 24 states that the SPPS (and extant PPS 21 Policy CTY 2a) makes provision 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.”
- 1.4 The policy requires that all of the policy criteria for new dwellings in existing clusters of development are met. Not applying the extant policy as intended may result in new dwellings being approved without meeting all of the listed criteria, hence undermining the policy intent. The PAN adds that in order to ensure the intention of the policy is not undermined; to maintain the integrity of the planning system; and, to ensure that sustainable development is achieved, it is important that, when preparing plans and taking decisions, all criteria are applied as the policy requires, unless

there are clear overriding material considerations for not doing so, in which case these should be clearly set out.

- 1.5 Paragraph 14 and 15 reinforces paragraph 6.77 of the SPPS and states that “all forms of development in the countryside must therefore integrate in to their setting and ensure that there is no adverse impact on the rural character of the area”.

2.0 Assessment

- 2.1 The PAN does not add to or change existing policy or guidance but re-emphasises fundamental aspects of strategic Planning Policy. Officials would refer members to the Planning Committee report which explains in detail that the proposed development is contrary to the SPPS and policies CTY1, 2a, 8, 13, 14 of PPS21 and Policies NH2 and NH5 of PPS2.

3.0 Recommendation

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.