

Appeal Decision

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Appeal Reference:	2022/A0015
Appeal by:	Mr Mark Anderson
Appeal against:	The refusal of outline planning permission
Proposed Development:	Site for dwelling under PPS 21 Policy CTY2A
Location:	50m south of 12A Kilcorig Road, Lisburn
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2021/0072/O
Procedure:	Written representations and Commissioner's site visit on 20 th January 2023
Decision by:	Commissioner Gareth Kerr, dated 26 th January 2023

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle the countryside, whether it would detrimentally change the rural character of the area and whether it would visually integrate into the surrounding landscape.
3. The Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Court of Appeal declared the adoption of the Belfast Metropolitan Area Plan 2015 (BMAP) unlawful on 18th May 2017. This means the previous Lisburn Area Plan 2001 (LAP) acts as the LDP for this area. The draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, is a material consideration. In both LAP and dBMAP, the site is located in the countryside and is zoned as green belt. However, as the green belt policy of the LDP is now outdated having been overtaken by regional policy, no determining weight can be attached to it. There are no other provisions in the LDP that are material to the determination of the appeal.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). The SPPS is no more prescriptive than PPS 21 on the issues raised in this appeal. Thus the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.

Supplementary planning guidance is found in 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' (BOT).

5. Policy CTY1 of PPS 21 states that there are 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. The first of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. 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.
6. Policy CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
 - the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
 - the cluster appears as a visual entity in the local landscape;
 - the cluster is associated with a focal point such as a social / community building / facility, or is located at a cross-roads;
 - the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
 - 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; and
 - development would not adversely impact on residential amenity.
7. The appeal site slopes gently from north to south and comprises the western portion of an agricultural field and part of a shared laneway which serves existing dwellings to the north at 12 and 12A Kilcorrig Road. These dwellings are part of a cluster of development on the eastern side of Kilcorrig Road historically known as Grahamstown. The cluster includes dwellings at 12, 12A, 14, 16, 16A, 18, 18A and 18B Kilcorrig Road and a number of ancillary buildings. The appellant referred to stables approved under application LA05/2018/0387/F on a site approximately 130m north of the dwelling at 18B. The stables are now built. Given their distance from the existing buildings in the cluster, I do not consider them to be within it. A pending application (LA05/2022/0422/O) for an infill dwelling between 18B Kilcorrig Road and the stables is not relevant to the consideration of this appeal. St. Joseph's Roman Catholic Church is located approximately 100m south west of the nearest of the abovementioned buildings on the opposite side of Kilcorrig Road and with frontage onto a minor road called Horse Park.
8. Both parties accept that a cluster of development that appears as a visual entity in the local landscape exists at Grahamstown. The appellant has provided historical Ordnance Survey maps to demonstrate that Ballyellough School was formerly located in buildings at the southern end of the appeal site which are now demolished. All that remains is a tarmacked entrance used for the storage of farm machinery. It is argued that the church and school were a community focal point for many years and that the cluster developed around the school buildings. There is no evidence regarding when the use of the school ceased or the buildings were demolished. The former school cannot be taken account of as it no longer exists. In any case, most of the existing buildings in the cluster are relatively recent and could not therefore have been erected for their proximity to the school.

9. The Council does not dispute that the church may be considered a focal point within the terms of the Policy. However, the Council is of the view that the appeal site is not suitably enclosed, is not bounded on at least two sides with other development in the cluster and that the proposed development would visually intrude into the open countryside. It considers that the church is too far removed from the application site to provide any sense of enclosure. The appellant argues that the appeal proposal and another similar one on the land to the east (under appeal reference 2022/A0014) would together consolidate a gap in the cluster between the buildings at 12 and 12A and St. Joseph's Church.
10. Policy CTY2A provides for the erection of a dwelling at an existing cluster of development (my emphasis). It is different from, for example, Policy CTY8 which provides an exception for up to two dwellings in a gap site. Policy CTY2A does not envisage the rounding off or consolidation of a cluster with two dwellings. Therefore, each of the appeals must be considered as a stand-alone proposal for a dwelling. Given their different locations, there are subtle differences in the issues raised.
11. Although the church is a community focal point which may serve dwellings at Grahamstown and the wider area, there is a significant gap of around 100m between it and the nearest building in the cluster of development. This means that on the ground the church does not read as part of the same visual entity as the main cluster of development to the north of the appeal site. The Policy requires that the cluster is associated with a focal point such as a social / community building (my emphasis). The church can be considered to be associated with Grahamstown being its nearest community building, but in spatial terms, it is not physically within the cluster of development. The cluster at Grahamstown is strongly identified with the eastern side of the Kilcorrig Road. Although recent planning approvals have extended its built form to the north, its southern, eastern and western extents are clearly defined. It does not extend to the south beyond the curtilages of 12 and 12A Kilcorrig Road. Having regard to the juxtaposition of the buildings in the area, I conclude that there is a cluster of development at Grahamstown, but for the purposes of Policy CTY2A, the church is not spatially located within it.
12. The appeal site sits adjacent to the Kilcorrig Road which runs along its western side and is enclosed to the north and west by a ranch-style timber fence. Across the road to the west is an agricultural field. Beyond the shared laneway to the north is a small paddock accessed from the road and then a roadside bungalow at 14 Kilcorrig Road. To the east of the appeal site is the remainder of the host field. Beyond a watercourse which forms the eastern boundary of the field is the curtilage of 12 Kilcorrig Road, a cottage with several ancillary buildings. The shared laneway also serves a two storey dwelling at 12A Kilcorrig Road. The red line just touches the southern corner of its curtilage. To the south of the appeal site is a low-lying wooded area. The appeal site is bounded to the north, east and west by agricultural land and to the south by a wooded area. Even if I were to accept that it bounds the curtilage of 12A to the north, it is not bounded on at least two sides with other development in the cluster.
13. The appellant argues that the appeal site is bound to the south west by the church. I have already found that the church is not spatially located within the cluster of development. Even if I were to accept that the church formed part of the cluster of development, the appeal site does not share a boundary with it. The appeal site is

separated from the church by the junction of Kilcorrig Road and Horse Park. The church's small frontage onto Kilcorrig Road is further south than the appeal site. The only natural screenings that bound the appeal site are the trees to the south, but there would be no sense of enclosure from public viewpoints to the west of the site on Kilcorrig Road. Given the lack of enclosure to the west and that the site is not bounded on at least two sides with other development in the cluster, the proposal would not comply with the fourth criterion of Policy CTY2A.

14. The Council referred to supplementary planning guidance on page 69 of BOT which illustrates sites at the extremity of existing clusters that extend development into the open countryside will not be acceptable. As the proposed development would not abut existing development in the cluster, it would not round off or consolidate the existing cluster but would visually intrude into the open countryside to the south. Such an extension to the existing cluster would alter its character when viewed from Kilcorrig Road and would therefore be contrary to the fifth criterion of Policy CTY2A. The Council has sustained its first reason for refusal.
15. Policy CTY8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY14 of PPS 21 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 any of five criteria are offended including: (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; and (d) it creates or adds to a ribbon of development (cross-referenced with Policy CTY8). Paragraph 5.33 of PPS 21 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage, or they are visually linked.
16. The appeal proposal would extend an existing line of road frontage development further to the south. A dwelling on the appeal site would read visually with those to the north including 12A, 14, 18, 18A and 18B, adding to an existing ribbon of development. It would also add to a build up of development comprising the above dwellings and others to their east including 12, 16 and 16A within the cluster. This would further erode the rural character of the area. Accordingly, the Council has sustained its second and third reasons for refusal based on Policies CTY8 and CTY14.
17. Policy CTY13 of PPS 21 is entitled "Integration and Design of Buildings in the Countryside". It identifies seven instances where a new building will be unacceptable including: (c) where it relies primarily on the use of new landscaping for integration. The only existing natural boundary of the appeal site is the wooded area to the south. Its eastern boundary is undefined and the existing ranch-style fence to the north and west could not provide a suitable degree of enclosure to integrate a new dwelling. Although the trees further to the east would provide a degree of backdrop, the proposal would still rely primarily on new landscaping for integration. Therefore, the Council has sustained its fourth reason for refusal. As all of the Council's reasons for refusal are sustained and determining, the appeal must fail.

This decision is based on drawing No. 2035/A01 – site location map at scale 1:2500 – which was received by the Council on 18th January 2021.

COMMISSIONER GARETH KERR

List of Documents

Planning Authority:-	A	Statement of Case Lisburn and Castlereagh City Council
	B	Rebuttal Statement Lisburn and Castlereagh City Council
Appellant:-	C	Statement of Case Les Ross Planning
	D	Rebuttal Statement Les Ross Planning