
Appeal Reference:	2022/A0127
Appeal by:	Adam Clint
Appeal against:	The refusal of outline planning permission
Proposed Development:	1 no. dwelling with detached garage using existing site entrance
Location:	Site 30m SW of 9a Quarter Road, Cloughey
Planning Authority:	Ards and North Down Borough Council
Application Reference:	LA06/2022/0078/O
Procedure:	Written representations and Commissioner's site visit on 16 th February 2024
Decision by:	Commissioner Cathy McKeary, dated 29 th March 2024

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 and if it would result in a detrimental change to the rural character of the area.
3. Section 45(1) of the Planning Act (NI) 2011 (the Act) 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. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The Ards and Down Area Plan 2015 (ADAP) operates as the relevant LDP where the appeal site is located. In it, the site is in the countryside and outside any designations. As the rural policies set out in the plan are now outdated having been overtaken by a succession of regional policies, no determining weight can be attached to them. I now turn to consider regional policy.
5. The SPPS sets out transitional arrangements that will operate until a Plan Strategy for the Council area is adopted. During the transitional period, the SPPS retains certain existing Planning Policy Statements (PPSs) including PPS21 – 'Sustainable Development in the Countryside' (PPS21). The SPPS sets out the transitional arrangements to be followed in the event of a conflict between it and retained policy. Any conflict between the SPPS and any policy retained under the

transitional arrangements must be resolved in favour of the provisions of the SPPS. No such conflict arises in this instance, so the retained PPS21 applies.

6. Policy CTY1 of PPS21 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 appellant considers that the proposal complies with Policy CTY1 in that it accords with Policy CTY2a which is titled 'New dwellings in existing clusters' and Policy CTY8 which is titled 'Ribbon Development'.
7. The site comprises a roadside field. There are two dwellings at 9a and 9b to the northeast of the site which are accessed by a private laneway. There are other dwellings with associated garages and outbuildings at Nos 9, 7b, 7c and 7d. These lie to the southeast of the site and are separated from the site by the private laneway serving No. 9a and 9b. There is a prefabricated hut used as a pigeon clubhouse located in the field which abuts the northwestern boundary of the site. A dwelling at No. 11 lies approximately 60m to the northwest of the site. Dwellings at 46a and 48 are on the opposite side of the Quarter Road from the appeal site, approximately 50m south and 28m west respectively. The appeal site contains a pair of decorative brick wing walls, some 1m in height which flank two slightly taller pillars. One of the pillars has a sign for 9a fixed to it, denoting the historical entrance to the dwelling at 9a. The appeal site has some mature vegetation on the northwestern boundary and a line of mature conifers to the north eastern rear boundary. The topography is broadly flat notwithstanding any overgrown mounds of soil on the site.
8. Policy CTY2a indicates that planning permission will be granted for a dwelling at an existing cluster of development provided six criteria are met. From the evidence before me, the only criterion in dispute is the third one which requires that the 'cluster' be associated with a focal point such as a social/community building/facility or is located at a cross-roads.
9. There is no justification or amplification text in Policy CTY2a to define what can constitute a 'cluster' of development. However, the first three criteria therein give an indication of the intended meaning. The first criterion requires that *"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."* This suggests that an existing 'cluster' of development is to be formed by buildings. The first clause in criterion three further supports this proposition as the 'cluster' must be associated with a focal point such as a social / community building / facility (if not located at a crossroads) (my emphasis). Additionally, the requirement that the 'cluster' appears as a visual entity in the second criterion, suggests that the grouping of buildings has a distinct physical expression in the local landscape, again reinforcing the interpretation of a 'cluster' of development being formed by buildings.
10. There are more than four qualifying buildings in the immediate area and these lie outside of a farm, namely the dwellings at Nos. 7c, 9, 11, 48 and 46a. This grouping of buildings also appears as a visual entity in the landscape when

travelling in both directions along Quarter Road. Hence the first two criteria of Policy CTY2a are satisfied.

11. As outlined above, the dispute hinges on the third criterion which requires that the cluster is associated with a focal point or located at cross-roads. Whilst there are cross-roads located some 325m to the northwest of the appeal site, there are intervening fields between it and the grouping of buildings. Accordingly, the subject grouping is not located at a crossroads.
12. The appellant considers that the grouping is associated with a community building, namely the prefabricated building which is used as a pigeon club. The Council have indicated that this building is unlawful. Even though the owners are in the process of submitting a planning application, in the absence of evidence of such permission or a certificate of lawful development, I can only conclude that it remains unlawful, regardless of the number of years it may have been on the site. As such, this building cannot be counted as a focal point. As there is no focal point and for the reasons given in the preceding paragraph, the third criterion of Policy CTY2a is not met. There is no dispute regarding the remaining three criteria of Policy CTY2a. However, because the proposal fails to meet the third criterion, it is not in a cluster and thus fails to meet the requirements of the policy read as a whole.
13. Policy CTY8 is titled 'Ribbon Development' and it indicates that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the 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, and provided this respects the existing development pattern along the frontage in terms of size, scale, siting, and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built-up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.
14. Both parties are of the opinion that there is a substantial and continuously built-up frontage comprising of the dwellings at 7c, 9 and 11 Quarter Road. However, the exception in Policy CTY8 applies to development along a frontage, road or lane, (my emphasis). It does not apply to frontages (plural). To achieve the policy requirement of three or more buildings, the appellant must rely on development along two frontages because the Quarter Road is bisected by the laneway that serves the two dwellings at Nos 9a and 9b Quarter Road. Accordingly, I consider that there is no substantial and continuously built up frontage along this section of Quarter Road for the purposes of this element of Policy CTY8.
15. Because there is no substantial and continuously built up frontage there can be no gap site for the purposes of Policy CTY8. Notwithstanding this, even if there were a substantial and continuously built up frontage, the gap would fail to comply with Policy CTY8 in that it would not represent a "small gap site" because the gap (between the buildings at Nos 9 and 11) would accommodate more than two dwellings given the surrounding development pattern. For the reasons given above, the pigeon club building cannot be taken into account as it is not a lawful building.

16. In addition to my findings above, the proposal would share a common frontage with No. 11 and would visually link with Nos. 9 and 11. This means it would add to the existing ribbon of development along Quarter Road when travelling in either direction and fails to meet Policy CTY8 and criterion (d) of Policy CTY14.
17. The impact on rural character in accordance with Policy CTY14 - 'Rural Character' (PPS14) must be considered in the here and now and cannot be assessed in an historical context which no longer exists. The extension to the ribbon of development along this section of the road would be detrimental to the rural character of the area because it would remove some much-needed greenfield relief in what is a built-up area. The visual linkage described above, between the proposal and the existing buildings, even with the proposed planting scheme, would also add to the suburban style build up when travelling in both directions along Quarter Road which is contrary to criterion (b) of Policy CTY14. Overall, the proposal therefore fails to meet both policies CTY8 and CTY14 of PPS21.
18. The proposal does not represent one of the types of development which are considered acceptable in the countryside. Whilst I note the appellant does not own land in the settlement limits, this does not represent an overriding reason why the appeal development is essential. Overall, the proposal is contrary to policies CTY1, CTY2a, CTY8 and CTY14 of PPS21 and the related provisions of the SPPS. The Council's refusal reasons are sustained and the appeals must fail.

This decision is based on the following drawings:-

- 01, scale 1:1250, stamped received by Ards and North Down Borough Council on 27th January 2022
- 02, scale 1:500 stamped received by Ards and North Down Borough Council on 27th January 2022

COMMISSIONER CATHY MCKEARY

List of Documents

Planning Authority:-	Statement of case by Ards and North Down Borough Council Rebuttal by Ards and North Down Borough Council
Appellant:-	Statement of case by Adam Clint Rebuttal by Adam Clint