
Appeal Reference:	2022/A0167
Appeal by:	Mr Paul Black
Appeal against:	The refusal of full planning permission
Proposed Development:	Single storey cottage and associated site works for tourism purposes
Location:	Site 15m south of 57 Ballyvennaght Road, Ballycastle
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	LA01/2021/1093/F
Procedure:	Written representations and Commissioner's site visit on 15 th October 2024
Decision by:	Commissioner Laura Roddy, dated 7 th November 2024

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development would be acceptable in principle in the countryside as a tourism development and if it would have an adverse effect on natural heritage.
3. Section 45(1) of the Planning Act requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. As Causeway Coast and Glens Borough Council has not, as yet, adopted a Plan Strategy for the district, the Northern Area Plan 2016 (NAP) acts as the local development plan for the area in which the appeal site is located. In it, the appeal site lies in the countryside outside of any settlement limit. It is also in the Antrim Coast and Glens Area of Outstanding Natural Beauty (AONB). The NAP has no plans or policies that are relevant to the appeal proposal.
5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will apply until a local authority has adopted a Plan Strategy for its council area. The SPPS retains certain existing Planning Policy Statements (PPSs) including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21), Planning Policy Statement 16: Tourism (PPS16) and Planning Policy Statement 2: Natural Heritage (PPS2). There is no conflict between the provisions of the SPPS and those of retained policy regarding

issues relevant to this appeal. Therefore, in accordance with the transitional arrangements set out in the SPPS, the appeal should be determined in accordance with the retained policies of PPS21, PPS16 and PPS2.

6. Policy CTY1 of PPS21 states that there are a range of types of development which are acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It states that planning permission will be granted for non-residential development in the countryside in specific circumstances and includes tourism development in accordance with the TOU Policies of the Planning Strategy for Rural Northern Ireland (PSRNI). These policies have been superseded by the policies of PPS16. It follows that compliance with any of the policies in PPS16 would mean that the principle of tourism development in the countryside has been established in accordance with Policy CTY 1 of PPS 21.
7. The aim of PPS 16, as set out at Paragraph 3.0, is to manage the provision of sustainable and high quality tourism development in appropriate locations within the built and natural environment. The Council consider that the appeal proposal would be contrary to Policy TSM 5 of PPS16 which relates to self-catering accommodation in the countryside and Policy TSM7 which provides additional criteria for tourism development.
8. Policy TSM 5 specifically relates to self catering accommodation in the countryside. It states that planning approval will be granted for self-catering units of tourist accommodation in any of three circumstances. Criterion (a) permits one or more new units all located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park.
9. The appellant argues that the proposal complies with criterion (a) as the proposal is within the grounds of and adjacent to two semi detached holiday units which is a self-catering complex. The policy does not contain a definition of a 'self-catering complex'. The two holiday units were approved under planning permission E/2009/0127/O and E/2014/0048/RM and, according to the appellant, they are retained in tourism use and not used for permanent residential accommodation.
10. The Council consider that the term 'complex' in the policy suggests a sizable number of buildings operating as one complex. In relation to the surrounding buildings, they state that the adjacent building (No. 57c) which is under construction is a dwelling and is not approved for holiday accommodation. Although they refer to the dwellings at 57a and 57b Ballyvenagh Road as 'an existing pair of holiday cottages' throughout their evidence, they go on to state that there is no evidence in support of any existing self-catering use. The Council state that an internet search for the self-catering cottages yields no results, rather an extract from the internet shows that no. 57a is currently being marketed by a local estate agent to rent as a 'stunning 3 bedroom semi-detached home'. The Council consider that this suggests the building is not used for holiday accommodation. They also consider the appeal site is identified by its own defined curtilage with separate parking, separated from the semi-detached cottages by the existing agricultural lane.
11. The appeal site is a grass field which sits to the west of Ballyvenagh Road and is served by a private laneway. The site is on the southern side of the private laneway. It is generally rectangular in shape, although the red line boundary

extends to include the access. The northern boundary of the site (adjacent to the private laneway), eastern boundary and western boundary are defined by a post and wire fence. The appeal site slopes to the south, with the southern boundary undefined.

12. The private lane also serves other buildings to the west of Ballyvennaght Road. On the opposite side of the laneway, to the north, there is a dwelling under construction. This was approved under planning permission E/2008/0002/RM for a single storey dwelling and domestic garage and is referred to as no. 57 Ballyvennaght Road. At the time of my site visit the baseplate for the house and part of the eastern gable were in situ. The site for this dwelling is defined by a low brick wall along its southern boundary, adjacent to the laneway, and along its eastern boundary, adjacent to the neighbouring semi-detached cottages.
13. To the northeast of the appeal site, also on the opposite side of the laneway, is a pair of semi-detached cottages. These were granted under planning permission E/2014/0048/RM which was approved on 5th August 2014 for 'the erection of 2 no. semi-detached cottages (one and a half storey for tourism purposes with auxiliary parking and landscaping)'. The curtilage of the cottages is defined by a grey dashed render finished boundary wall with pedestrian and vehicular entrances denoted by capped pillars. The wall surrounding the cottages separates them from the private laneway, Ballyvennaght Road and the adjacent site which is under construction. The cottages have parking to the front and private amenity space to the rear.
14. Policy TSM5 permits new self catering units of tourist accommodation within the grounds of an existing or approved self catering complex. Policy does not define a 'self catering complex'. While the appellant considers that the semi-detached cottages should be considered to be a self catering complex, they have provided no such evidence to demonstrate that the cottages are in tourism use. While the cottages were approved 'for tourism purposes' in 2014, the only evidence I have been provided with in relation to their use is an internet extract showing one of the cottages was being marketed for rent for residential purposes in June, although the year of the advert is not included. At my site visit I did not notice any signs of tourism use, there was no tourist signage such as directional signage or signage at the cottages which would be typical for tourist accommodation. Further, the appellant has not provided any evidence to demonstrate that the cottages are in use as tourist accommodation such as advertisements on a booking platform or receipts or invoices for self catering accommodation.
15. Furthermore, the appeal site has its own well defined boundaries (with the exception of the southern boundary) and is not within the grounds of any self catering complex. Even if I were to accept that the cottages at 57a and 57b Ballyvennaght Road were in tourist use, or amounted to a 'self catering complex', their curtilage is clearly defined on the ground by the wall surrounding it. Policy TSM5 requires the new self catering unit to be '***within the grounds*** of an existing or approved self catering complex' (my emphasis). The proposed single storey cottage is not within the grounds of the holiday cottages.
16. While the appellant makes the point that the appeal site, the cottages (no. 57a and 57b) and the dwelling under construction (no. 57) are all under their ownership and all served by the same private access lane and sewage and water facilities, this

does not amount to the lands contained within the blue line boundary as being a 'self catering complex'. Each of these sites have their own well defined and individual curtilages as set out above. Policy TSM5 is clear that in the event self catering accommodation is approved under the policy, permanent residential use should be deterred and to this end permitted development rights for plot boundaries will be removed. This is clarified in the justification and amplification to the policy which states that plot divisions between units by means of fences or walls will be prevented through the removal of permitted development rights. To my mind this demonstrates that multiple individual plots with their own defined boundaries would be seen as individual dwellings and could not be considered to be a self catering complex as envisaged by the policy.

17. In addition, the Council have raised concerns that the design of the proposal would not deter permanent residential use. Policy TSM5 requires that the overall design of the self catering scheme, including layout, the provision of amenity open space and the size and detailed design of individual units, must deter permanent residential use. The appeal proposal is for a single storey dwelling some 158sqm in size. It would have an open plan kitchen/dining/living area, three bedrooms (one of which would have an en-suite), a main bathroom, utility room and cloak room. A level access patio is proposed externally. A dedicated parking space is proposed adjacent to the private laneway and a new boundary wall is proposed between the site and laneway.
18. While a condition could be used to prevent the dwelling being used as permanent residential accommodation, Policy TSM5 is explicit that the design must also deter such use. The appeal proposal, at almost 160sqm, with three bedrooms, an ensuite and facilities such as a cloak room, utility room, private external amenity space and a dedicated parking space could easily accommodate a permanent family dwelling. I agree with the Council that it has not been designed to deter permanent residential use. For the reasons stated, the appeal proposal would fail to comply with Policy TSM5 of PPS16 and the Council's second reason for refusal is sustained.
19. The Council also refused permission due to concerns regarding natural heritage. The refusal on natural heritage is grounded in Policy TSM7 of PPS16 and Policy NH5 of PPS2. Criterion (i) of Policy TSM7 requires that tourism proposals do not adversely affect features of natural heritage. Policy NH5 of PPS2 relates to habitats, species or features of natural heritage importance. It states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to certain known habitats, species or features listed. The Council contend that it has not been demonstrated that the appeal proposal would not have an adverse effect on habitats, species or features of natural importance. From the evidence submitted, the Council's concerns relate to the Carey Valley Area of Special Scientific Interest (ASSI) which abuts the site and the Carey Valley Site of Local Nature Conservation Interest (SLNCI) which the site is wholly within.
20. The Council's evidence includes a completed NI Biodiversity Checklist which was prepared by an ecologist. It indicates, as already stated, that the site is within 100m of a nationally or internally designed site, being the Carey Valley ASSI and is wholly within a local site of nature conservation interest being the Carey Valley SLNCI. The checklist indicates that the proposed works may have an impact on

protected and priority species including bats, otters, badgers and birds and concludes that a Preliminary Ecological Appraisal (PEA) is required. No PEA was forthcoming during the processing of the planning application.

21. Per the biodiversity checklist, there is a watercourse some 28m to the south of the site and species rich grassland within the Carey Valley ASSI some 33m to the south. The checklist indicates that a hydrological connection is likely to exist to downstream areas of these designated sites via the agricultural drainage network, the watercourse located approximately 28m to the south and the Carey River. Without appropriate mitigation measures, pollution could potentially enter the ASSI.
22. Although all trees on site are proposed for retention, the checklist notes that there is the possibility of works including the pruning of trees and works within the root zone of existing trees which may have bat roosting potential and are likely to also be used by breeding birds. The checklist indicates that favourable habitat exists for badgers and otters in the local area the proposed works may have an impact upon protected and priority species. It recommends the submission of a PEA. The appellant argues that all the criteria of TSM7 are met but did not clarify how they think criterion (i) has been met.
23. Given the information contained in the NI Biodiversity Checklist and, due to the site's location within the Carey Valley SLNCI and proximity to the ASSI, there is clearly potential for the appeal proposal to adversely affect features of natural heritage. Without a PEA I have insufficient evidence to demonstrate that the appeal proposal would comply with Policy TSM7 of PPS16 or NH5 of PPS2. The Council's third and fourth reasons for refusal are therefore upheld.
24. The appeal proposal would not comply with Policies TSM5 or TSM7 of PPS16 and is therefore not a type of development which is acceptable in principle in the countryside. For this reason, it is also contrary to Policy CTY1 of PPS21. As insufficient evidence has been presented to demonstrate there would be no adverse effects on the Carey Valley ASSI, SLNCI or habitats and species of natural heritage importance, the appeal proposal also fails to comply with Policy NH5 of PPS2. All of the Council's reasons for refusal are sustained and accordingly the appeal fails.

This decision relates to the following drawings:-

Drawing No.	Title	Scale	Date Received by Council
01	Location Map	1:1250	7 th September 2021
03A (01B)	Proposed Block Plan & Section AA	1:200 & 1:100 @ A1	8 th March 2022
04A (02A)	Proposed Ground Floor Plan and Roof Plan & Elevations	1:100 @ A1	8 th March 2022

COMMISSIONER LAURA RODDY

List of Documents

Planning Authority:-	Statement of Case by Causeway Coast and Glens Borough Council Rebuttal Comments by Causeway Coast and Glens Borough Council
Appellant(s):-	Statement of Case by CMI Ltd on behalf of Mr Paul Black