Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2020/A0156.
Appeal by:	Mr Paul McEvoy.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.
Location:	Opposite 29 and adjacent to 56 Darragh Road, Darragh Cross, Crossgar.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2018/0293/F.
Procedure:	Hearing on 12 October 2021.
Decision by:	Commissioner Mark Watson, dated 30 September 2022.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council in a letter dated 11 June 2021 informed the Commission that wording in its first reason for refusal on the decision notice had been omitted in error. The corrected reason was submitted in the letter, clarifying the Council's position in regard to parking provision and impacts on neighbouring residential amenity. The Council stated that it had also informed the Appellant and relevant third parties. I agree that the submission of the corrected reason for refusal would not prejudice any of the parties. Furthermore, the other parties had an opportunity to respond to the amended reason in their rebuttal submissions and at the hearing. I shall consider the amended wording for the first reason for refusal in place of that as contained in the decision notice.

3. The Appellant included an amended Site Layout drawing along with a Site Landscape Plan in his Statement of Case. The amended Site Layout related to extra parking provision for the dwelling on plot 6. The Site Landscape Plan provided further detail on proposed landscaping for the appeal development. There was no disagreement from the Council or Objectors that such amendments were minor in nature and would be admissible under Section 59 of the Planning Act (NI) 2011 (the Act). It was also agreed that no third party unaware of the amendments would be prejudiced. I agree that the proposed amendments are minor in nature. They do not represent new matters as understood against Section 59 of the Act and I agree that their admission would not prejudice any third party unaware of the proposed changes. Both drawings are admissible and shall be considered as part of the appeal development.

4. During the hearing the Appellant suggested removing a small section of proposed public open amenity space and instead incorporating it into the private garden area for the proposed roadside bungalow. This suggested amendment was put forward in order to address concerns from Objectors relating to potential antisocial behaviour occurring on that piece of the site given its proximity to the rear of No. 54 Darragh Road. The Appellant suggested that the Commission could use this alternative if it deemed the Objectors' concerns to have substance. Again, the Council and Objectors accepted, without prejudice, that such an amendment would not represent a new matter in respect to Section 59 of the Act and that there would be no prejudice to any third parties unaware of the proposed amendment. An amended Site Layout drawing showing this land within the private garden area was submitted post-hearing. The Council and Objectors were afforded an opportunity to comment post-hearing on this single amendment.

5. I agree that the amendment is admissible both read against Section 59 of the Act and in respect to any third party unaware of the amendment. I shall consider the appeal development in respect to both iterations of the Site Layout drawing pertaining to the part of the site for use as a public amenity space and alternatively as a private garden area.

Reasons

6. The main issues in this appeal are whether or not the proposed development would:
   - prejudice road safety;
   - respect its surrounding context;
   - adversely impact on neighbouring residential amenity;
   - adversely impact on protected wildlife species; and
   - have adequate means for disposal of sewage.

Policy context

7. The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the location the site lies in. The site lies within the settlement limit for Darragh Cross. Policy SETT1 of the ADAP states that favourable consideration will be given to development proposals within settlement limits including zoned sites provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials; and is in accordance with the requirements and guidance contained in Volumes 2 and 3 of the Plan. The amplification text states that within the settlement limits there exists within the urban fabric incidental parcels of land which are neither built-up nor zoned for a particular use. Any future development proposals on such areas must satisfy prevailing policy requirements.

8. Proposal DCS03 of ADAP states that the Darragh Cross designated Settlement Limit is drawn to allow for the limited extension of a small settlement that has recently witnessed a level of growth out of keeping with its current role and level of facilities. It goes on to state that ADAP considers that Darragh Cross has reached capacity and additional development at this location would be inappropriate. The ADAP states that interim sewage disposal measures or development phasing may be necessary for future housing schemes until such time as the Waste Water Treatment Works serving Darragh Cross is complete and fully operational. I will

address the compliance or otherwise of the appeal development with the ADAP later in this decision.

9. The Strategic Planning Policy Statement for Northern Ireland *'Planning for Sustainable Development'* (SPPS) refers at paragraph 6.137 to the need to deliver increased housing without town cramming and espouses the importance of new development respecting local character and environmental quality. In respect of the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained in Planning Policy Statement 3 – Access, Movement and Parking (PPS3), Planning Policy Statement 7 – Quality Residential Environments (PPS7) and Planning Policy Statement 2 – Natural Heritage (PPS2). PPS3, PPS7 and PPS2 remain the applicable policy documents to consider the appeal development under. Guidance contained in Creating Places – Achieving Quality in Residential Environments (CP), Development Control Advice Note 15 – Vehicular Access Standards (DCAN 15), DCAN 8 – Housing in Existing Urban Areas are also of relevance.

The appeal site and proposed development

10. The appeal site comprises an irregularly shaped piece of land on the eastern side of Darragh Road. It lies several metres below the level of the road and is largely covered in scrub and brush. A watercourse abuts the entirety of the northern and eastern boundaries. A shared laneway which serves several dwellings abounds the northern site boundary. A sewage pumping station is located at the roadside just north of the mouth of the shared laneway. No. 54, a single storey dwelling, lies adjacent and south of the site, although the appeal site, given its irregular shape, also extends along that property's rear, eastern boundary, as well as the rear of No. 56. No. 56 is a one-and-a-half storey dwelling, which sits adjacent and south of No. 54. There is a row of one off detached dwellings of varying design and vintage fronting the opposite side of Darragh Road from the appeal site. The appeal site lies on the northern edge of Darragh Cross, within the 40 miles per hour (mph) speed zone.

11. The appeal development comprises eight new dwellings, of three separate house types. A single bungalow with attached garage (House Type C) is proposed to occupy a roadside position at the western 'front' of the site, adjacent to No. 54 Darragh Road. A detached one-and-a-half storey dwelling (House Type A) would occupy a position to the north-west of the proposed bungalow, but on the opposite side of the internal estate road. The remaining six dwellings would consist of three pairs of semi-detached, one-and-a-half storey dwellings. Each of the house types would have 3 bedrooms. The proposed dwellings would all be finished in a mix of reddish brown brick and smooth white plaster, with black / blue concrete roof tiles. Access would be taken from the site frontage onto Darragh Road, with a 5.5m wide roadway flanked by a 2m footway to each side, serving the new dwellings. The estate roadway would terminate in a hammerhead arrangement. A pumping station is proposed to service the development for sewage disposal into the main line on Darragh Road. Landscaping along the site boundaries is proposed, with a planted buffer to be placed along the northern and eastern boundaries, with new fencing along the boundaries to the existing dwellings at Nos. 54 and 56.

Road safety matters

12. The Council and Objectors considered that the appeal development would prejudice road safety. The Council considered that the proposed access did not

have sufficient visibility splays to provide a safe access. It also pointed to the close proximity of the existing laneway to the proposed access, which it considered would give rise to conflicting vehicle movements. No issue was raised in respect to forward sight distance, as it was available.

13. Policy AMP2 of PPS3 states that 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 two criteria are met; firstly that such access will not prejudice road safety or significantly inconvenience the flow of traffic and secondly, that the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The appeal development is not on a protected route, thus the second criterion is not engaged.

14. Policy AMP2 goes on to state that the acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Department's published guidance. Consideration will also be given to a number of factors including the location and number of existing accesses and the standard of the existing road network, together with the speed and volume of traffic using the adjacent public road and any expected increase. The Department's published guidance in relation to new accesses onto public roads is contained within DCAN15.

15. According to the submitted evidence, the Darragh Road is a C class road which carries less than 1500 vehicles per day. The Council considered that visibility splays of 2.4m x 90m in both directions were required based on the 85%ile road speed observed at the appeal site by the Department for Infrastructure Roads (hereafter referred to as the Department). The Department stated that it had accepted a reduced x-distance of 2.4m rather than 4.5m given the volume of traffic and the type of road, with a 4.5m x-distance normally required to allow two vehicles leaving the access in the same gap in mainline traffic. The Department considered the 85%ile speed to be 40mph, with its justification for the standard of the splays based on observations undertaken using following vehicle surveys in both directions on Darragh Road. As it stands there is a splay of 2.4m x 68m to the nearside, subject to removal of a pole, and 2.4m x 60m to the offside at the position of the proposed access. The Appellant considered that these lower standards were acceptable in terms of the 85%ile roadspeed observed and measured along Darragh Road. The Appellant's consultant had carried out a radar gun survey for that purpose in March 2017 during the period of 10.00 – 12.00.

16. The readings provided by the Appellant's survey indicated an 85%ile speed of 37mph for vehicles leaving the settlement (heading north) and 39mph heading into the settlement (heading south). Although I have no reason to doubt the veracity of the radar gun survey, including its calibration, I nevertheless agree that the readings could have been influenced such as in the example given by the Department where a driver observes a person holding a radar gun and then slows. This in turn would influence other following vehicles to also slow, so only the reading for the first vehicle would be an accurate reflection of the roadspeed. Whilst it was considered that following vehicle surveys are a crude form of measurement compared to tubes counters laid across the road, it does not negate the observations made. I note that the Appellant's survey was undertaken outside of peak traffic times. In any event, I must weigh the Appellant's evidence against

the Department's observations, as well as those during my own visits. I visited the site on three occasions to observe traffic speeds, two of which were during the morning peak period. Weather conditions were dry on two of the three occasions, with moderate rain during the other. My own assessment was based on stationary observations from the appeal site frontage as well as driving behind other vehicles on the road in both directions. From my own observations the 85%ile speed on the Darragh Road in the vicinity to the appeal site was approximately 40 mph in both directions.

17. Having regard to the 85%ile roadspeed and the relevant Table B in DCAN15, in my judgement the appropriate y-distance in this case would be 80m in both directions using an interpolated value, as the 85%ile speed fell between two values in Table B. From the totality of the submitted evidence and my own observations of traffic using the Darragh Road and irrespective of the Appellants' suggested wet weather reduction for the 85%ile roadspeeds, I am not persuaded that a reduced standard of visibility for the y-distance would be acceptable in this case, or that there are any exceptional reasons to justify such a reduction.

18. Although not referred to in either the reasons for refusal or the Council's written submissions, the Department witness raised issue at the hearing with the proposed 6m radii to be used at the entrance, considering that 10m radii would be necessary, but that would have placed the proposed access closer still to the shared laneway. Notwithstanding it is poor practice to introduce an objection at such a late stage in the process, without prejudice to my overall conclusions on road safety, I am satisfied that the proposed radii of 6m would be adequate to serve the proposed development.

19. Objectors also pointed to the potential for danger to pedestrians arising from the appeal development. Whilst it is the case that there is no public footpath along Darragh Road into the centre of Darragh Cross, nor street lighting along that part of the road, the appeal development itself would include a footway along the site frontage, as well as along both sides of the estate roadway. I am not persuaded that the level of traffic generated by the appeal development would give rise to potential safety issues for pedestrians using Darragh Road, as given its present arrangement, those walking the road would be aware of the need for additional caution given the lack of footpaths, even more so during hours of darkness. This matter would not justify the refusal of planning permission.

20. Paragraph 7.2 of DCAN15 states that if a dwelling access is located near a junction, visitors might park their vehicles on the priority road and obstruct junction visibility. To reduce this risk, dwelling accesses should not normally join a priority road within the y-distance of a junction. However, as a relaxation on urban roads (subject to a 30 or 40 mph speed limit), dwelling accesses should not, as far as possible, join a priority road within the first two thirds of the y-distance. I do not accept the proposition that such guidance only relates to individual dwelling accesses rather than an access serving a number of dwellings. The Department stated that the proposed development is required to be determined to an adoptable standard, thus providing a junction access. The issue of potential traffic conflicts arising from parked vehicles potentially blocking junction visibility is all the more important for a development access serving several dwellings. Whilst I accept that the proposed access and the nearby existing shared laneway access do not constitute 'major' accesses as understood against paragraph 7.3 of

DCAN15, that paragraph relates to major accesses and correctly does not apply in the first instance. That however does not in itself negate the provisions of paragraph 7.2, or that sufficient spacing between the proposed access and existing one would still be necessary in the interests of road safety.

21. In this case, the proposed access would fall within the two thirds y-distance of 90m, as the proposed access would be approximately 18m from the shared laneway measured from centre to centre. Whilst the DCAN also advises that a double in-curtilage parking standard could be employed as an alternative, no such level of additional parking is proposed in this case. The Council and Objectors pointed to traffic coming in and out of the adjacent laneway frequently and the potential for conflicting traffic movements between vehicles using that laneway and those using the access to the appeal development. I was told that a business operates from one of the three dwellings along the laneway, with consequent additional traffic generated. The Appellant's witness stated that he observed little traffic using the access and also referred me to the TRICS database which would forecast a total number of daily trips for the shared laneway of 21. During my own visits the vehicles I observed using the shared laneway were of a level generally consistent with that forecast. However, that does not overcome my concerns for conflicting vehicular movements to nevertheless occur given the close proximity of the proposed access to that laneway, even if visitors to the three existing dwellings on that laneway would be unlikely to park along the roadside.

22. The Appellant referred me to several prior examples of residential developments where permission was granted for a new access in proximity to existing accesses, with spacing similar to that between the appeal access and shared laneway access. It was stated that those roads were also much busier than the Darragh Road. Notwithstanding that those developments are in other council areas and each application must be considered on its individual merits, I nevertheless consider the distance between the two accesses in this case to prejudice road safety. The examples given would not alter my judgement in this regard.

23. Objectors considered that the appeal development would add further congestion to an already busy road local network. However, the level of traffic generated by the appeal development, including visitors and deliveries, is not of such a quantum that I agree that the appeal development would significantly inconvenience the flow of traffic on the wider road network, even during peak periods in the morning and evening. This matter would not warrant the withholding of planning permission.

24. In isolation the matter of securing the necessary visibility splays could be addressed through the imposition of a negative condition. However, when taken together with the proximity of the proposed access to the adjacent laneway and potential safety issues arising therefrom, in my judgement the appeal development as proposed would prejudice road safety. Even if the facilitation of the appeal development might improve visibility from the existing laneway through removal of roadside vegetation etc. this would not overcome my general concerns pertaining to vehicular conflicts and inadequate visibility for the appeal development, even if modern vehicle stopping distances have reduced through improved technology and the base levels of traffic are lower than in the other examples raised by the Appellant. I find the appeal proposal contrary to Policy AMP2 of PPS3 and the related provisions of the SPPS. The Council's second and third reasons for

refusal and the related concerns of the Objectors are sustained to the extent specified above.

25. Criterion (f) of Policy QD1 of PPS7 requires that adequate and appropriate provision is made for parking. Having had regard to the parking standards contained in CP for three bedroomed dwellings, I accept that the amended Site Layout provides an adequate level of parking. Whilst the overall layout is, to a degree road dominated, partly as a consequence of this provision, criterion (f) is nonetheless met. This element of the Council's first reason for refusal as amended and the related concerns of the Objectors is not sustained.

Design matters

26. Some design issues were raised by various Objectors, predominantly at application stage. Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It goes on to state that all proposals for residential development must conform to all of a series of criteria. Whilst the proposed layout is as stated earlier, somewhat road dominated, this is partly a consequence of the irregular shape of the site combined with the parking provision, as well as a roadway with footpaths to either side. Nevertheless, the overall design and finish of the proposed dwellings would relate satisfactorily to the established context of this part of Darragh Cross. On balance, the appeal development, subject to implementation of the landscaping scheme, which could be secured by condition in the event of permission being granted, would respect the surrounding context and would be appropriate to the character and topography of the site. Criterion (a) of Policy QD1 of PPS7, as well as the related provisions of the SPPS, are met. The Objectors' concerns on this matter are not sustained.

Residential amenity matters

27. The Council and Objectors considered that the appeal development would adversely impact on the existing residential amenity of several properties. Matters pertaining to potential residential amenity impacts arising from new residential development fall to be considered under criterion (h) of Policy QD1 of PPS7. Criterion (h) states that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on either or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. This assessment of the potential impact on existing residential amenity is a matter of judgement which includes a degree of subjective appraisal.

28. At the hearing the Council withdrew its objection relating to overlooking, but the Objectors maintained their position on the matter. The proposed layout of the appeal dwellings is such that I am not persuaded that the existing dwellings would be adversely affected in terms of overlooking given the separation distances between the proposed and existing dwellings, along with the mature vegetation along the rear boundaries of Nos. 54 and 56 Darragh Road, which could be retained. The erection of the proposed 1.9m closeboard fence along the party boundary of Nos. 54 and 56 would further assist in this regard. The arrangement and design of the proposed dwellings, as well as their relative position to the north of the existing residential properties, is such that I am not persuaded they would give rise to any unacceptable impacts on existing dwellings in terms of overshadowing or a reduction in ambient light levels.

29. Inclusion of an area of public amenity space is not a policy requirement for this number of dwellings. The position of the relevant piece of proposed open space in close proximity to the rear of No. 54 would be such that I accept that there would be potential for some unacceptable impact on the residential amenity of that property as it could become a congregating point for local children. The Objectors stated that this would be highly likely given the lack of any amenities in this part of Darragh Cross. The proposed amenity space does not serve any great function or benefit to the proposed development. Rather it would present as a leftover piece of land within the overall layout. I accept the Appellant's proposition that the alterative option of incorporating this land into the private garden area for the road-fronting bungalow would provide a more satisfactory arrangement overall, as well as avoiding any potential for any unacceptable adverse impact on the residential amenity of No. 54. This alternative would avoid any adverse impacts in this respect and the objections concerning this particular matter are not sustained.

30. As the site lies below the level of the road and main sewer line, as would the proposed new dwellings, it is necessary for sewage to be pumped up into the existing line. The appeal development includes a proposed pumping station (PS) for this purpose. Concerns were raised by the Council and Objectors pertaining to potential noise impacts on the existing dwellings arising from the PS. The Council's Environmental Health Department sought a noise data sheet for the PS.

31. The Appellant's representatives stated that no noise data sheet is available for the proposed PS. They referred me to guidance for such a PS, indicating that for one serving 2 – 25 dwellings, it need only be located 10m from the nearest habitable property. The Appellant also provided a short email statement from an acoustic consultant in respect to the proposed PS. In it the consultant stated that NI Water require a pump noise limit of 85db(A) at 1m from the pump set centre line. Also that such pumps are always submerged within a concrete lined well and heavy duty 'roof' covering. It was his professional opinion that there is 'not much sound to atmosphere transmission from a pump if installed to the NI Water specifications', which would be the case for the proposed PS. The Objectors referred me to the existing PS adjacent to the appeal site and the noise from it. During my site visits I did discern noise from the station when its pump was in operation, although it was only discernible from very close proximity. The level of noise emanating from it when operating diminished substantially from a distance of even several metres from it. Ambient background noises, including from passing traffic, also reduced the overall impression of noise from the existing PS.

32. Whilst it is understandable that concerns have been raised as to the proximity of the proposed PS to nearby residences, the PS would be situated approximately 10m from the rear of the nearest receptor, No. 54 Darragh Road. It was pointed out that the bedrooms are located to the rear of the property. I note from my site inspection of the rear of No. 54 that the oil tank for that property would partially obscure the pumping station from the rear of the dwelling. The proposed 1.9m boundary fence, which could be secured by condition in the event of permission being granted, would also provide both screening and a degree of noise attenuation. Whilst during periods of lower ambient background noise there could be instances where its operation would be discernible, these would likely be short-lived and not warrant the withholding of planning permission. From the submitted evidence and my own assessment on site, I accept that the siting of the proposed

PS would not give rise to any unacceptable adverse impacts on neighbouring residential amenity.

33. In respect of more general privacy concerns I am not persuaded that, in the event of permission being granted, the addition of eight residential units to the periphery of this existing residential environment would bring about an unacceptable impact upon the privacy of existing residents, be that from noise or general activity associated with the everyday use of the appeal dwellings, including vehicular comings and goings. Whilst two of the proposed dwellings would have their rear amenity spaces abutting onto parts of the rear amenity spaces for Nos. 54 and 56 respectively, such an arrangement is not an uncommon feature in residential areas. Despite the rural backdrop to this part of Darragh Cross, the appeal site does lie within the settlement limit and I am not persuaded the disposition of these amenity areas relative to one another would result in any unacceptable adverse impacts on residential amenity of occupants of the existing or proposed dwellings. Objectors also raised the matter of devaluing of their properties arising from the appeal development. There is often a link between the amenity of a property and its value. However, as I have found that the amenity of the adjacent properties would not be adversely affected to any unacceptable degree, I am not persuaded that this matter would be determining.

34. For the reasons given above I am not persuaded that the appeal development would unacceptably adversely affect the residential amenity of any of the properties in the vicinity of the appeal site. The appeal development satisfies criterion (h) of Policy QD1 of PPS7. This element of the Council's first reason for refusal as amended and the Objectors' various concerns on these matters are not sustained.

Impacts on wildlife

35. Objectors stated that the appeal development would impact on bats and newts. The Appellant provided a Biodiversity Checklist during the application process. The Department of Agriculture, Environment & Rural Affairs - Natural Environment Division confirmed that there were no bat roosts on the site and offered no objection. The appeal development does not involve removal of any mature hedgelines that could provide foraging routes for bats in the wider locality. It is not uncommon for boggy or overgrown pieces of land to have some degree of animal activity but I have no evidence to suggest that any protected amphibian species occupy the site, or that any such local population would be adversely impacted by the appeal development. From the submitted evidence I am satisfied that the appeal development complies with the provisions of PPS2. These matters would not warrant the withholding of planning permission.

Treatment and disposal of sewage

36. Objectors raised concerns as to the proposed use of a PS to link to the existing sewage infrastructure. Concerns were also raised that the appeal development would place additional strain on the existing sewage infrastructure, pointing to instances where the existing nearby PS malfunctioned. Whilst I have no reason to doubt this testimony, I nevertheless have no evidence to suggest that a properly maintained PS on the appeal site would give rise to any issues, or place any unacceptable strain on the wider sewage network for Darragh Cross. The NI Water consultation response for the appeal development did not suggest any capacity issue at the Saintfield waste water treatment works, which the appeal

development would ultimately connect to. Nor was any objection raised to the proposed use of a PS. These matters would not warrant the withholding of planning permission.

Other Matters

37. Objectors raised the issue that the granting of planning permission on the site could lead to further development taking place elsewhere in the vicinity and pointed to the previous refusals of permission on the appeal site. They also pointed to a previous instance of waste and rubble being deposited on the appeal site by the Appellant. Notwithstanding the previously refused planning applications on the appeal site, the Appellant was entitled to submit an application to the Council for consideration. Furthermore, even though any future application must be assessed on its individual merits, the appeal development would, if approved and implemented, exhaust the remaining undeveloped land within the settlement limit at this part of Darragh Cross. Deposition of any material that may have taken place on part of the appeal site is not a matter for this appeal.

38. The owner of No. 56 Darragh Road stated that she owned a narrow strip of land along the western and south-western periphery of the appeal site. She provided folio maps with her appeal submission. The Appellant's representatives could not definitively state who owned the relevant section but maintained that the Appellant owned everything within the red line of the planning application. I accept that there could be implications for the precise disposition of development within the site given the ownership of the strip in question, particularly in respect to the implementation of boundary treatments along those parts of the appeal site boundary as well as the precise siting of the PS. However, as the possible landowner is aware of the proposed development and made representations in respect of it and as I have found the development to be unacceptable in road safety terms, this matter is not in this case determining.

39. Whilst the owner of No. 54 raised concerns as to the potential impact on the drainage of his property being adversely impacted by the appeal development, a drainage plan for the proposed development has been submitted and its implementation is addressed through a separate legislative process. Notwithstanding that, there is nothing to suggest that the appeal development would give rise to any issue to neighbouring properties, particular ones on higher ground relative to the appeal site. Whilst it was pointed out that the appeal site was prone to waterlogging and part of the site had flooded, I note that no objection was raised by DFI Rivers in respect to the appeal development. These matters would not warrant the withholding of planning permission.

40. Whilst a general concern to the lack of community facilities available in Darragh Cross was raised and any new residential development would inevitably lead to increased population in the small settlement, as well as more pollution from increased car use, these would not be a reason enough to refuse planning permission, particularly when the land lies within the LDP settlement limit, where, subject to satisfying prevailing regional policy, some development would be envisaged.

Conclusions

41. However, for the reasons given above I find that the appeal development would prejudice road safety, contrary to Policy AMP2 of PPS3 and the related provisions

of the SPPS. Consequently, the appeal proposal, despite being within the settlement limit of Darragh Cross, does not satisfy prevailing policy requirements in respect to road safety, thus would not fully accord with Policy SETT1 of the ADAP. Although the other matters raised by the Council and Objectors would not warrant the withholding of planning permission, the Council's second and third reasons for refusal and the Objectors' related concerns are sustained and determining. The appeal must fail

This decision relates to the following drawings submitted with the application, drawing L01-01A submitted with the Appellant's Statement of Case and drawing 'J' submitted post-hearing by the Appellant:-

DRAWING NUMBER	**TITLE**	**SCALE**	**DATE**
01	Housing Layout - Location Map & Site Plan (Site Plan element superseded by Drawing 'J'	1:2500 & 1:500	03/12/2019
'J'	Amended Site Plan	1:500	19/10/2021
L01-01A	Landscape Proposals (except in respect to public open space to rear of House Type C)	1:250	14/06/2021
03	House Types A, B & C Elevations & Floor Plans	1:100	05/10/2018
04	Storm Drainage	1:500	25/10/2019
05	Exceedance Flows	1:500	25/10/2019
06	Extent of Culverting	1:500	25/10/2019

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:-	Mrs P Manley (NM & D DC) Ms O Rooney (NM & D DC) Mr J Killen (DFI Roads)
Appellant:-	Mr D Donaldson (Donaldson Planning) Mr M Byrne (MB Design) Mr T Cousins (Lisbane Consulting)
Third Parties:-	Mr E O Conraoi (Objector) Mrs T Kennedy-Magowan (Objector)

List of Documents

Planning Authority:-	'A' Statement of Case & Appendices (NM & D DC) 'B' Rebuttal Statement & Appendix (NM & D DC) 'K' Post-hearing comments on Amended Site Plan (NM & D DC)
Appellant:-	'C' Statement of Case & Appendices (Donaldson Planning) 'D' Rebuttal Statement & Appendix (Donaldson Planning) 'J' Copy of Amended Site Plan (submitted post-hearing)
Third Parties:-	'E' Statement Letter (Mr E O Conraoi) 'F' Rebuttal Letter (Mr E O Conraoi) 'G' Statement Letter (Mr K Cleary) 'H Statement Letter (Mr P Kinnaird) 'I' Statement of Case & Appendix (Mrs T Kennedy-Magowan)