
Appeal Reference:	2023/A0016
Appeal by:	Adriane Lewis
Appeal against:	The refusal of outline planning permission
Proposed Development:	Proposed dwelling on a farm including alteration of existing access
Location:	Approximately 90m West of 26 Lany Road, Moira
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2021/0387/O
Procedure:	Informal hearing on 14 th December 2023.
Decision by:	Commissioner Cathy McKeary, dated 7 th June 2024

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The third party has raised concerns that the proposal was not correctly advertised. The application was advertised three times using the location “*90m west of 26 Lany Road, Moira*”, the first time as a ‘dwelling on a farm’, the second time as a ‘dwelling on a farm (amended address)’ and the third time as a ‘dwelling on a farm including alteration of an amended access onto Lany Road (amended description)’ to reflect a change in the red line and ownership certificate. I am satisfied that the information within the initial advertisement was adequate to alert any interested party to the proposal and its location. In the two subsequent advertisements it was also adequately clear that the application had been amended, offering any interested party the opportunity to seek further information, and to comment. No prejudice has arisen.
3. At the hearing the Council introduced an additional refusal reason relating to Policy COU8 ‘Infill/Ribbon Development’. The concerns regarding adding to a ribbon of development were already raised in both the decision notice and the statement of case provided by the Council. All parties had submitted a statement of case, were represented at the hearing, and had the opportunity to comment. No prejudice has arisen.
4. Information relating to the farm business was circulated post hearing and the third party had raised concerns that this constituted new information under S59 of the Planning Act NI (2011) ‘the Act’. These matters were before the Council when considering the planning application and therefore additional information pertaining to them can be considered as part of this appeal. The additional

information provided by the appellant was circulated to the other parties who then had the opportunity to comment. No prejudice has arisen.

Reasons

5. The main issues in this appeal are whether the proposal is acceptable in principle and whether it would have an adverse impact on rural character.
6. The appeal site is a cut out of a larger roadside field approximately 4 Km west of Hillsborough. It is sited adjacent to a shared laneway which accesses onto Laney Road. The appeal site is located across the laneway and approximately 90m west of the dwelling at 26 Laney Road. The laneway also leads to a number of other dwellings and farm buildings at nos. 28, 30, 32 and 34 Lany Road. The appeal site is bounded to the east by a vegetated earth bund which is approximately 2m high. The western and northern boundaries are defined by mature vegetation with some post and wire fencing. The southern boundary is defined by ranch fencing. The immediate area is rural with dispersed single dwellings and associated outbuildings.
7. On 26th September 2023, the Council adopted the Lisburn and Castlereagh City Council Local Development Plan 2032 - Plan Strategy (PS). In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations 2015 (as amended) the Local Development Plan now becomes a combination of the Departmental Development Plan (DDP) and the Plan Strategy (PS) read together. In this appeal the Lisburn Area Plan 2001 is the relevant DDP. Again, in accordance with the subject legislation any conflict between a policy contained in the DDP and those of the Plan Strategy must be resolved in favour of the Plan Strategy.
8. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement (SPPS), as the Council has now adopted the Plan Strategy the previously retained policies such as the Planning Policy Statements have now ceased to have effect within this Council District.
9. In the DDP, the appeal site is located in the countryside and within the Greenbelt. The site is also within the Greenbelt in draft Belfast Metropolitan Area Plan 2004 (dBMAP). Greenbelt policies were overtaken by a succession of regional policies which, in this Council area, have now been superseded by those policies within the PS. There is no conflict between the DDP and the PS insofar as they relate to the proposal. I now turn to consider the policies in the PS.
10. Policy COU1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. The acceptable residential development proposals are then set out in Policies COU2 to COU10. It also requires that any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 and COU16. A type of acceptable development in the countryside is laid out in Policy COU10 which relates to a dwelling on a farm such as this proposal. One area of dispute is that the third party does not accept that the farm business is currently active and that it has been established for at least 6 years in accordance with criterion (a) of the policy.

11. The third party considers that the policy test in Policy COU10 is stricter than that within Policy CTY10 of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) in that it specifies that active and established must be demonstrated, with sufficient evidence, such as independent, professionally verifiable business accounts. The Council accepts that the proposal meets the requirements of criterion (a) of Policy COU10 in terms of the farm being both active and established. The farm business is accepted by DAERA as having been in existence for more than 6 years.
12. The third party considers that the evidence pertaining to farming activity supplied by the appellant does not cover the requisite 6 year period. The evidence supplied by the appellant relates to vet receipts, feed invoices and herd information. The information from the vet provides a summary of treatments from 2019 to 2022 for John Lewis of 26 Lany Road (the appellant's husband). This is limited to a three year time period and does not relate to the appellant who is the person associated with the farm business. The bovine, poultry and equine feed invoices provided are made out to John Lewis with no address provided. They cover the period 2018 to 2022 and do not state where the feed was sent. Within these invoices, there is limited detail that would allow the information to be linked to the appellant, their holding or the farm business. John Lewis is not the appellant, nor has it been demonstrated that he is part of the farm business. Moreover, this evidence provided only covers a four year period. It is of limited benefit to the appellant's case.
13. The DAERA herd information supplied by the appellant provides an ID, registration date of 2013 and relates to the appellant at 26 Lany Road, however, it only refers to three animals. The detailed herd record shows that multiple animals have been moved off a holding or died between 2016 and 2021, however, the records do not demonstrate how they relate to the appellant, the holding or the farm business. Notwithstanding any concerns the third party has that this is unstamped or handwritten, the herd information as a whole only demonstrates limited farming activity over the required period.
14. Despite DAERA having confirmed that the business ID has been in existence for over six years, limited and patchy evidence of farming activity has been provided to demonstrate that the farm business is currently active and has been established for six years. The evidence comprises snapshots over part of the required period between 2016 and 2022, with some of it not specific to the farm business under which the proposal was made. Taken as a whole, I am not persuaded that it constitutes sufficient evidence to demonstrate that criterion (a) of Policy COU10 is met when read as a whole. The third party's concerns in this regard are well founded.
15. With regards to the farm holding, the third party considers that the appeal site is not on the holding. The PS does not provide any definition of holding and the parties were not in agreement on what constitutes the holding. The farm map provided by the appellant is not a DAERA authenticated farm map. The farm map shows four parcels of land, one of which is the appeal site, clustered around the dwelling at 26 Lany Road. There are two parcels of land on each side of and immediately adjacent to the shared laneway. The appellant stated that Category 3 farms such as this are not provided with farm maps by DAERA. The map provided

merely shows the lands that the appellant considers to be their holding. I have no reason to doubt this and in any event it would not be to their benefit to show fewer fields than those that constitute the holding.

16. The appellant has a farm Business ID and I accept that it relates to a farm holding. Within the planning application the appellant has signed Certificate A to indicate full ownership of the appeal site and adjacent lands were shown outlined in blue over which the appellant has control. While the certificate was disputed in other regards, it was not disputed that the appellant was the owner of the appeal site or had control over the blue outlined lands. I acknowledge that the farm business and farm holding may not necessarily always be one and the same, however, from the evidence before me I am satisfied that they are the same in this instance. For the reasons given above I accept that all lands shown by the appellant on the supplied map constitutes their farm holding for the purposes of Policy COU10.
17. The Council and third party both consider that it has not been demonstrated that development opportunities outwith settlement limits have not been sold off from the farm holding within 10 years of the date of the application, contrary to criterion (b) of Policy COU10. The dwelling at 26 Lany Road, identified by the appellant as part of the holding in their application, was transferred to Stephen Lewis (the son of John Lewis and the appellant) on 23rd December 2020. This falls within 10 years of the date of the application. The justification and amplification of Policy COU10 states that, for the purposes of this policy, 'sold off' will mean any development opportunity disposed of from the farm holding to any other person, including a family member. The policy does not make exceptions for family members who are not part of the holding or farm business but who work on the farm. Nor does it make any exception for cases such as this, where the appellant continues to live in the transferred dwelling. At the time of the transfer, the new owners of the site at 26 Lany Road (Stephen and Amanda Lewis) were not part of the farm business and therefore must be considered to be outside the holding for the purposes of Policy CTY10 of PPS21 and the subsequent Policy COU10 of the PS.
18. It was also argued that the appellant's husband John Lewis was the sole owner of the site at 26 Lany Road, and therefore that it had not been transferred off the holding when transferred to Stephen Lewis. If I were to accept this line of argument and conclude that John Lewis and his land did not form part of the farm holding, this would be contradictory to other evidence given. It would further contradict the farming evidence supplied, most of which relates to John Lewis. This particular line of argument does not further the appellant's case and in any event I will consider the evidence in its totality.
19. The appellant advised that both her husband and son were part of the farm business at the time of the application but no evidence was supplied to support this. Information supplied by DAERA via the Council shows that Stephen Lewis joined the farm business on 1st December 2022. This is both after the transfer of the dwelling at 26 Lany Road on 23rd December 2020 and after the submission of the application, now subject of this appeal, on 9th April 2021. Even though Stephen Lewis subsequently became part of the farm business after the dwelling was signed over to him, this does not negate the fact that a site had been transferred off the holding within 10 years of the application. The proposal,

therefore, is contrary to criterion (b) of Policy COU10. The Council's second refusal is sustained.

20. The third party considers that criterion (c) of Policy COU10 is not met in that the proposal is physically and functionally separated from "the alleged farm group". The policy requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Notwithstanding the lack of certificates of lawfulness for these buildings, the Council accepts that they are agricultural permitted development and cited S169(2) of the Act relating to lawfulness. They had no concerns regarding visual linkage. The proposal would be sited on the opposite side of the shared lane from the appellant's buildings and therefore would not cluster with them. However, it would still be visually linked with the existing buildings even with the presence of the intervening lane when viewed from both the laneway and Laney Road travelling east. Criterion (c) would be satisfied.
21. Policy COU8, 'Infill/Ribbon Development', of the PS states that planning permission will be refused for a building which creates or adds to a ribbon of development. The justification and amplification of this policy indicates that if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. The dwelling at no. 28 and one of the adjacent farm buildings are sited gable onto the shared laneway, and therefore do not front onto the road as required for a ribbon. The only building which fronts onto the shared laneway is an agricultural building to the north of the dwelling at no. 28. Therefore, there is no existing ribbon along the shared laneway for the purposes of the policy. For the reasons given, the proposal is not contrary to Policy COU8. The Council's fourth refusal reason is not sustained.
22. Policy COU16, states that a new development proposal will be unacceptable where it fails to meet any of the nine criteria laid out which would cause a detrimental change to, or further erode the rural character of an area. Criteria (a), (b), (c), (d) and (e) are in dispute. The third party considers that the proposal would be read in isolation from other buildings. The proposal would be unduly prominent when viewed from Laney Road directly in front of the appeal site due to the flat land and limited vegetation on the southern boundary of the appeal site which would fail to provide adequate integration for the site. Given the lack of enclosure, the flat landform and proximity of the site to the road, the proposal would be a prominent feature in the landscape, irrespective of the design of any dwelling and therefore would be contrary to criterion (a) of the policy. Even though the proposal would have some visual linkage with the buildings across the lane, it fails to satisfy criterion (b) in that it would not be sited to cluster with an established group of buildings for the reasons given above.
23. The Council also considers the proposal to be out of keeping with the established pattern of development found within the local area which is that of dispersed rural dwellings with associated outbuildings/agricultural buildings contrary to criterion (c) of the policy. The pattern of development in the immediate area for the most part is of single dwellings with only their associated outbuildings nearby. The proposal would read with the other existing buildings at no. 28 to the north of the appeal site

which would not respect the pattern of settlement exhibited. Criterion (c) is not met.

24. With regards to criterion (d) the Council considers that the proposal will add to a ribbon of development which will result in urban sprawl and have an adverse impact on the rural character of the area. For the reasons given above I consider that the proposal would not add to an existing ribbon. Furthermore, I do not accept that this constitutes urban sprawl. When criterion (d) and the policy is read as a whole, it is clear that it relates to the extension of settlements into the countryside and does not relate to the potential build up caused by single dwellings in the countryside. This argument is misplaced and this criterion is not offended.
25. The Council and third party both consider that the proposal would result in a build-up of development when viewed with existing and approved buildings to the east and north of the site. Due to the mature vegetation along the shared laneway and around no. 26, the roadside vegetation and the disposition of the agricultural buildings, the proposal would not be read with the dwelling to the east at no. 26 Laney Road when viewed from Laney Road or from the laneway. However, I concur that the proposal would contribute to a suburban style build up in this area when read with the existing buildings along the laneway to the north at no. 28 when viewed from the laneway and when travelling east along Laney Road in front of the site. It therefore would further erode rural character, contrary to criterion (e). Not all the criteria would be satisfied and Policy COU16 would not be met when read as a whole. The Council's third refusal reason is sustained insofar as concluded above.
26. The proposal fails to constitute any of the acceptable types of residential development in the countryside laid out under Policies COU8 and COU10. It also fails to meet the requirements of Policy COU16. Overall, it will not contribute to the aim of sustainable development and fails to meet the requirements of Policy COU1. The Council's first refusal reason is sustained.
27. The Council's fourth reason for refusal is not sustained. However, for the reasons given above, the Council's first, second and third refusal reasons along with the third party concerns, are sustained to the extent specified above and are determining. The appeal must fail.

This decision is based on the following drawings stamped received by Lisburn and Castlereagh City Council:-

Drawing No.	Title	Scale	Date
01C	Location Plan	1:2500	8 th February 2023
02	Business Owned Map	1:10,000	9 th April 2021
03	Site Plan	1:500	8 th February 2023

COMMISSIONER CATHY MCKEARY

List of Appearances

Planning Authority:- Brenda Ferguson (Lisburn and Castlereagh City Council)
Mark Burns (Lisburn and Castlereagh City Council)

Appellant:- Tom Wilson (Tom Wilson Planning)
Jeffrey Morrow (JEM Architectural Services Ltd.)

Third Party:- Andy Stephens (Matrix Planning Consultancy)

List of Documents

Planning Authority:- Statement of Case by Lisburn and Castlereagh City Council
Amended refusal reasons based on the PS
Comments on post hearing evidence

Appellant:- Statement of Case by Tom Wilson
DAERA information (submitted post hearing)

Third Parties:- Statement of Case by Matrix Planning Consultancy on behalf
of Mr Morgan Crone
Comments on the amended refusal reasons
Comments on post hearing evidence