
Appeal Reference:	2021/A0107.
Appeal by:	Mr & Mrs Wayne Garrett.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Single dwelling and garage.
Location:	135m south of No. 58 Carsonstown Road, Saintfield.
Planning Authority:	Newry Mourne & Down District Council.
Application Reference:	LA07/2021/0790/F.
Procedure:	Hearing on 3 May 2022.
Decision by:	Commissioner Mark Watson, dated 19 January 2023.

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is the principle of development.
3. The Ards and Down Area Plan 2015 (ADAP) is the statutory local development plan for the proposal. In it, the site lies within the countryside. There are no plans or policies within the ADAP relevant to the appeal development and the ADAP is not material in this case.
4. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) in respect to the appeal development. The policy provisions of PPS21 remain applicable to the appeal development.
5. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases, one of which is a dwelling based on special personal or domestic circumstances in accordance with Policy CTY6. The Council's sole reason for refusal was based upon Policy CTY6 of PPS21, with no environmental objections raised against the appeal development.
6. The appeal site comprises a portion of a grassed agricultural field situated on a bend on the western side of Carsonstown Road. It lies below the level of the road and slopes down to the south towards a watercourse, which forms the southern site boundary. The roadside boundary is defined by a high, mature hedge, whilst the

remaining boundaries are undefined. No. 58, a chalet bungalow, lies to the north on the opposite side of the road. No. 60, a two storey dwelling lies to the north-east set back up a laneway opposite the site. The appeal site lies in a rural area characterised by one-off dwellings and occasional groups of farm buildings.

7. The appeal development comprises a single storey dwelling with detached garage. The proposed dwelling is to be finished in a mix of smooth render and stone cladding, with blue/black roof slates. The interior has been designed to ensure wheelchair accessibility throughout. The garage would provide space for the Appellant's physiotherapy equipment and is proposed to be finished to match the dwelling. Level access between the dwelling and garage, along with a covered link, is proposed. Landscaping, including new planting along the site boundaries, is also proposed.
8. Policy CTY6 of PPS21 states that planning permission will be granted for a dwelling for the long term needs of the applicant, where there are compelling and site specific reasons for this related to the applicant's personal or domestic circumstances and providing two other criteria are met. The first is that satisfactory evidence is provided that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused. The second is that there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.
9. One of the Appellants suffered a life changing injury in July 2016 during competitive motocross racing. As a result they were paralysed from the chest down. The injury is a permanent one and they have been wheelchair bound since. Various medical and occupational therapist evidence was provided detailing the medical condition and the challenges faced on a daily basis.
10. At the time the planning application was under consideration by the Council the Appellants still lived in a two storey dwelling in Ballygowan. That dwelling was sold around December 2021 and the Appellants then moved in with close family for a brief period. The proceeds from that sale are intended to fund the appeal development. Regardless of whether the Council considered that the Ballygowan dwelling could be modified, it is no longer relevant to my consideration as it has been sold. The Appellants contend that a dwelling to suit their personal situation requires a single level living space, with a number of modifications including specially adapted bathroom / shower facilities and lower kitchen work surfaces, as well level access into the building. Space is also required for physio equipment in order to continue with exercises.
11. The Appellants presently live in rented accommodation at Drumaghlis Road, Crossgar, having moved in at the end of December 2021. I was able to inspect the property. The dwelling lies within a large curtilage, with an adjacent building which is a granny annex to the host property. Whilst the buildings were up for sale as a single unit, they were at a price greater than the Appellants' budget. An agreed sale to a third party fell through and the Appellant's have been renting the dwelling on an informal basis, with no actual contract in place, since then.

12. The Appellants would wish to remain in the Saintfield or Ballygowan area due to having friends close by, who would be very quick to respond, as assistance after a fall is required. There are potential health issues with remaining on the ground for prolonged periods until help arrives. Close family live between Comber and Ballygowan, which is some distance away and with work, only having a single car means they would not always be available should assistance be required. Friends would be approximately five minutes away, providing a great source of reassurance. The Appellant not in receipt of care is employed on a zero hours contract and needs to remain in the area for work purposes and can also get called out to work at relatively short notice. A dwelling on the appeal site would allow the Appellants to cut travel costs by remaining in the area. Whilst having friends close by to help with instances where assistance is required would provide peace of mind, I am not persuaded that this represents a site specific need for the proposed dwelling and garage. Other properties in the area would also bring the same advantages. Likewise, whilst the Appellant not in receipt of care may work in the local area and would be keen to keep travel costs low, as well as be able to respond quickly to get back home when assistance is required, these matters do not preclude other properties in the Saintfield or Ballygowan area being suitable for the same purpose, nor do they represent a site specific need for the appeal development.
13. I was told the Appellants have been keeping a close eye on the housing market for some 6 years in order to find a suitable home, but due to the lack of demand for bungalows in new-build developments, they are in relatively short supply. The Appellants' representative provided a series of examples of dwellings for sale within the surrounding areas of Saintfield and Ballygowan at a cost bracket within their budget. These were shown to be unsuitable given some were two storey with no ground floor bedrooms, whilst others, including bungalows had rooms which were too small for wheelchair access. It was stated that none were available that would be suitable without major alterations. One bungalow included in the examples was assessed in person by the Appellants. When they visited it they found that the doorways were too narrow for wheelchair accessibility, as well as the rooms themselves were too small. Several other examples provided were outside the Appellants' budget. Whilst this evidence may illustrate a limited supply of housing within the Appellants' price bracket and desired geographic location, it is only illustrative of one snapshot in time in late October 2021, with the property market a fluid and ever changing environment.
14. From my assessment of the current rental property at Drumaghilis Road, it appeared to at least partially meet requirements, though I accept it was not perfect in terms of kitchen work surface heights and bathroom specification. Whilst I accept that the property is only rented and does not provide a definitive, permanent residence, it is suggestive that there remain properties potentially suitable for the Appellants' needs, or one that could be modified as required. Whilst I accept that modification of an existing property, in line with the Department for Communities (DfC) Specific Wheelchair Housing Design Standards provided by the Appellants, would add to the costs, this does not demonstrate a site specific need for the appeal development.
15. According to the submitted evidence the Appellants were gifted the appeal site, proof of ownership being included as part of the appeal evidence. Despite the Appellants' limited budget, they have a number of contacts in the motocross community who would be able to supply building services and materials at discounted rates. Evidence was provided that the appeal dwelling could be built

within the Appellants' budget and I do not disagree with this assessment. Whilst the Appellants' present situation would not allow for mortgage eligibility due to the nature of the employment contract of the Appellant not in receipt of care, this may not always be the case should their terms of employment change. I do not discount the Appellants' financial situation and even though the appeal site has been gifted to them, I am not persuaded that these matters demonstrate a site specific need for the appeal development in line with the policy requirements. To my mind, the appeal site represents land owned by the Appellants which would provide a more economic means of acquiring a dwelling, rather than being a necessary response to the particular circumstances of the case.

16. Given that the Appellants sold their previous Ballygowan house, own only the appeal site and are currently residing in rented accommodation, I accept that alternative solutions to meet the particular circumstances of the case would not be readily available. For instance, an extension or annex attached to the existing dwelling or reuse of another building within the curtilage of the property are options more suited to property owned, not rented. The Appellants' circumstances are not short term in nature, thus use of a temporary mobile home would be of no assistance. I therefore accept the Appellants' proposition that criterion (b) of Policy CTY6 does not readily apply to the particulars of this case, nor should that in itself be fatal against the appeal development.
17. However, for the reasons given above, I am not persuaded that the appeal development is a necessary response to the particular circumstances of the case. Whilst the appeal development may represent a means of realising a dwelling built to the Appellants' specification in a desired location and at a suitable price, I am not persuaded that there are no other options such as other existing properties that would meet the Appellants' needs, even if modifications were required. Nor given my overall reasoning am I persuaded that genuine hardship would be caused if permission was refused. I therefore find that criterion (a) of Policy CTY6 of PPS21 is not met, nor the policy read as a whole.
18. A third party representation to the planning application subject of this appeal pointed to the proximity of the proposed development to an old graveyard that once occupied the area and emphasised the importance of local heritage. However, based upon the consultation response from the DfC Historic Environment Division (Historic Monuments), I am satisfied that the appeal development would not adversely impact upon any potential historic remains in the area. This matter would not warrant the withholding of planning permission.
19. However, for the reasons given above, the appeal development does not satisfy Policy CTY6 of PPS21 or the related provisions of the SPPS. Whilst I acknowledge the support for the Appellants provided by several elected representatives and the recognition within the SPPS that the planning system has an active role in improving health and well-being, I am nevertheless not persuaded there are any overriding reasons why the appeal development is essential and could not be located in a settlement. Although not referred to in the Council's reason for refusal, the appeal development also fails to comply with Policy CTY1 of PPS21. Nevertheless, the Council's sole reason for refusal is sustained for the reasons given above. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
275-21-P01	Site Location Plan	1:2500	27/04/2021
275-21-P02 Rev A	Existing Site Layout, Proposed Site Layout & Entrance Detail	1:500	17/06/2021
275-21-P03	Proposed Plans and Elevations	1:100	27/04/2021

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:- Mrs. A McAlarney (NM & D DC)

Appellant:- Mr D Donaldson (Donaldson Planning)
Mr W Garrett (Appellant)

List of Documents

Planning Authority:- 'A' Statement of Case & Appendices (NM & D DC)

Appellants:- 'B' Statement of Case & Appendices (Donaldson Planning)