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<b>Appeal Reference:</b>	2021/A0162.
<b>Appeal by:</b>	Mr Brendan Quinn.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Erection of a rural infill detached dwelling house, together with detached domestic garage, site works and associated landscaping.
<b>Location:</b>	Lands approximately 40m south-east of No. 20 Creamery Road, Carran, Crossmaglen, Co. Armagh, BT35 9AD.
<b>Planning Authority:</b>	Newry, Mourne and Down District Council.
<b>Application Reference:</b>	LA07/2021/0578/F.
<b>Procedure:</b>	Written Representations with Commissioner's Site Visit on 16 April 2024.
<b>Decision by:</b>	Commissioner Mark Watson, dated 31 May 2024.

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions below.

## Reasons

2. The main issues in this appeal are whether or not the appeal development would:
  - be acceptable in principle;
  - result in ribbon development; and
  - adversely impact on rural character.
3. The Banbridge, Newry & Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the area the appeal site lies in. In the BNMAP, the site lies within the countryside. The BNMAP offers no specific policy or guidance in respect of the appeal development and is not material. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) sets out transitional arrangements that will operate until a Plan Strategy has been adopted for the area. As no Plan Strategy has been adopted for this area, those transitional arrangements apply. In accordance with the transitional arrangements, certain retained policies namely Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21), along with the SPPS, are material in this appeal. As there is no conflict or change in policy direction between the provisions of the SPPS and PPS21 the provisions of PPS21 remain applicable to the appeal development.
4. The appeal site comprises a roadside piece of land on the southern side of the Creamery Road situated at the apex of a corner. It is cut from a larger field and is

relatively flat, having been cleared at some previous point, though the rear half has deposits of soil / spoil / rubble on it. There is also a rocky outcrop in the easternmost corner. The site lies slightly above the level of the road. The roadside boundary is defined by a low, relatively young hedge with double field gates located to the westernmost end of the frontage. The western and eastern site boundaries are defined by mature hedge, whilst the southern boundary is undefined.

5. No. 18, a single storey dwelling, lies adjacent and south of the appeal site. It has a small wooden building located in its rear garden area. Adjacent and north of the site lies No. 20, a chalet bungalow with two sheds within its curtilage. They lie to the rear and side of the host dwelling. The larger of the two sheds, closest to the road, is finished in corrugated metal sheeting and mounted on a concrete base. It has a vehicle sized door in its eastern gable and a pedestrian sized door in the roadside facing elevation. A smaller wooden shed with windows occupies a position to the side of the metal shed but is set to the “rear” of that building relative to Creamery Road. Further to the west lie Nos. 22A and 22 Creamery Road. Opposite and to the north-east on higher land is a single storey cottage and farm complex. The appeal site lies within a rural area characterised by sporadic one-off dwellings and farmsteads, some set along the roadside, with others set back along laneways.
6. The appeal development comprises a new dwelling and garage to be erected on the site. It is to be a one-and-a-half storey dwelling with a single storey rear return, set parallel to the main dwelling attached by a link corridor. Proposed finishes are a mix of smooth render, granite cladding and blue / black roof slates. The proposed double garage with first floor area above is to be finished in the same materials as the proposed host dwelling. Proposed landscaping is also shown on the drawings.
7. 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 the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. It follows that if the development complies with Policy CTY8 it will also comply with Policy CTY1 of PPS21. Supplementary guidance on infilling gap sites is contained in Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.
8. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY8 states that 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. The policy states that for its purposes, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
9. The Council considered that the site did not lie within an otherwise substantially and continuously built up frontage in that there were not three or more buildings along the Creamery Road frontage. It raised no issue in respect of the existing

development pattern or other aspects of the exceptional test within Policy CTY8. The Appellant considered that the appeal site lay within an otherwise substantial and continuously built up frontage comprised of seven buildings on Creamery Road, namely No. 20, two sheds within its curtilage, No. 18 and an outbuilding within its curtilage and also the dwellings at Nos. 22A and 22 Creamery Road.

10. Whilst Policy CTY8 may not differentiate between main and ancillary buildings, the buildings in question must nevertheless have a frontage to the road. No. 18 has a frontage to the Creamery Road, but the wooden outbuilding within its curtilage is located to the side and rear building line of the host dwelling in such an arrangement that it does not have a frontage to the road. No. 20 has a frontage to Creamery Road. The two outbuildings are located to its side and rear building line, but unlike the shed at No. 18, lie separated from the host dwelling. The smaller, wooden shed is positioned entirely behind the metal clad shed in relation to the road frontage, thus the wooden shed does not have a frontage to Creamery Road. Although I accept the Council's point that not every building may have a frontage despite being within the curtilage of a dwelling that itself has a frontage, due to the size and position of the metal shed relative to both the host dwelling and curtilage it lies within, it does have a frontage to Creamery Road. I therefore agree that there is a line of 3 buildings along the site frontage within which the appeal site is located.
11. Whilst No. 22A was referenced by the Appellant, that dwelling does not have a frontage to the Creamery Road as it only has its access laneway to the road, with an intervening paddock between its curtilage and the road. Whilst No. 22 does have a frontage to the road, it is separated from the dwellings at Nos. 18 and 20 by the aforementioned paddock and does not form part of the same frontage as those two dwellings. Nevertheless, the appeal site represents a small gap within an otherwise substantial and continuously built up frontage for the purposes of the policy.
12. The Council made reference to three appeal decisions 2019/A0075, 2016/A0005 and 2017/A0204 which they considered supported their position in respect to the outbuildings within the curtilages at Nos. 18 and 20 not qualifying as buildings with frontages to Creamery Road. I am not persuaded that the circumstances in those decisions are on all fours with the relationship of No. 20 and the metal shed within its curtilage relative to Creamery Road. I am satisfied that both buildings together with the dwelling at No. 18 form a line of three buildings along the Creamery Road frontage for the purposes of the policy.
13. The Council raised no objections in respect to the other elements of the exceptional test within Policy CTY8 of PPS21 and the Appellant's analysis pertaining to those other elements was unchallenged. Given this context along with my conclusion that the appeal site represents a small gap within an otherwise substantial and continuously built up frontage and my conclusions below pertaining to Policy CTY14, the appeal development meets the exceptional test of Policy CTY8 of PPS21.
14. The Appellant cited a series of examples of development approved by the Council, as well as several appeal decisions, which he considered justified the appeal development. As I have found the appeal development acceptable in its own right, I need not address those. The Appellant also cited a since withdrawn Departmental Planning Advice Note (PAN) "Implementation of Strategic Planning Policy on Development in the Countryside", stating that at the time the Council refused planning permission for the appeal development, it had placed too much weight on

that PAN. Notwithstanding that I have concluded on the acceptability of the proposed development in its own right, I noted no references to the PAN within the Council's consideration of the proposed development during its processing of the application now subject of this appeal.

15. The Council considered that the granting of permission for the appeal development would create ribbon development along this part of Creamery Road. As I have found that the appeal development meets the exception within Policy CTY8, this objection is not sustained as the policy makes allowance for this arrangement of development in those circumstances. Furthermore, for the same reasoning, the Council's objections under Policy CTY14 of PPS21 cannot stand, as the appeal development would not result in ribbon development, nor a suburban style build up. It would therefore not cause a detrimental change to or further erode the rural character of the area. The Council's second and third reasons for refusal are not sustained.
16. As the appeal development complies with Policy CTY8, it is acceptable in principle in the countryside and meets Policy CTY1 of PPS21 and the related provisions of the SPPS. The Council's first reason for refusal is not sustained.
17. As the Council's reasons for refusal have not been sustained, the appeal shall succeed. The matter of conditions remains to be addressed. A negative condition requiring the access and visibility splays to be implemented prior to any other development taking place, along with their permanent retention thereafter, would be necessary in the interests of road safety. The suggested access gradient restriction is unnecessary in this case given the minor difference in levels between the road and the site itself. The Council's suggested condition requiring, prior to any development taking place, submission of a copy of a consent to discharge to be agreed in writing with the Council, is unnecessary, as it is commonplace to ascertain a suitable means of sewage disposal prior to implementing development and a process itself administered under a separate legislative regime. Implementation of the landscaping scheme would be necessary in the interests of rural amenity, as would replacement of any dying or damaged vegetation within the first 5 years of planting.

## **Conditions**

- (1) Prior to any other development taking place, the vehicular access, including visibility splays and any forward sight distance shall be provided in accordance with Drawing PL-04 Rev A, stamped received by the planning authority on 3 June 2021. The visibility splays shall be kept clear and permanently retained thereafter.
- (2) All hard and soft landscaping works shall be carried out in accordance with the approved details contained in approved drawing PL-04 Rev A, stamped received by the planning authority on 3 June 2021. The works shall be carried out during the first available planting season after occupation of the dwelling hereby approved. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
- (3) The development shall be begun before the expiration of five years from the date of this permission.

This decision is based on the following drawings submitted with the application:

<b>DRAWING No.</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
PL-01	Site Location Map, Location Overview Map and Existing Site Concept Plot Analysis	1:2500 & 1:1000	23/03/2021
PL-02 Rev A	Proposed Dwelling Plans	1:100	03/06/2021
PL-03 Rev A	Proposed Dwelling Elevations	1:100	03/06/2021
PL-04 Rev A	Proposed Site Layout Plan and Proposed Landscaping & Management Plan	1:100	03/06/2021
PL-05	Proposed Garage Plans, Elevations and Proposed Boundary Treatments	1:100 & 1:50	23/03/2021

**COMMISSIONER MARK WATSON**



## **List of Documents**

Planning Authority:-

'A' Statement of Case & Appendix (N, M & D DC)  
'B' Rebuttal Statement & Appendices (N, M & D DC)

Appellant:-

'C' Statement of Case & Appendices (Blackgate Property Services Ltd)  
'D' Rebuttal Statement & Appendices (Blackgate Property Services Ltd)