

Appeal Decisions

Appeal Reference: 2021/A0170 (Appeal 1)
Appeal by: Mr Johnny Lavery
Appeal against: The refusal of outline planning permission
Proposed Development: Dwelling and garage (infill site)
Location: 50m SW of 12 Knockanully Road, Martinstown
Planning Authority: Mid and East Antrim Borough Council
Application Reference: LA02/2021/0697/O
Procedure: Written representations and Commissioner's site visit on 9th November 2022
Decision by: Commissioner Gareth Kerr, dated 22nd November 2022

Appeal Reference: 2021/A0171 (Appeal 2)
Appeal by: Mr Johnny Lavery
Appeal against: The refusal of outline planning permission
Proposed Development: Dwelling and garage (infill site)
Location: 100m SW of 12 Knockanully Road, Martinstown
Planning Authority: Mid and East Antrim Borough Council
Application Reference: LA02/2021/0696/O
Procedure: Written representations and Commissioner's site visit on 9th November 2022
Decision by: Commissioner Gareth Kerr, dated 22nd November 2022

Decisions

1. Appeal 1 is dismissed.
2. Appeal 2 is dismissed.

Reasons

3. The main issues in each appeal are whether a single dwelling and garage is acceptable in principle in the countryside, whether it would visually integrate into the surrounding landscape and whether it would harm rural character.
4. The Planning Act (Northern Ireland) 2011 requires that regard is had to the local development plan (LDP), so far as material to the applications, and to any other material considerations. The Ballymena Area Plan 1986 – 2001 (BAP) acts as the LDP for this area. In it, the appeal sites are located to the east of the hamlet of Martinstown in the open countryside outside of any settlement limit or rural policy area defined in the plan. As the rural policies in the LDP are now outdated, having

been overtaken by a succession of regional policies for rural development, no determining weight can be attached to them in these appeals.

5. Regional planning policies of relevance to these appeals are set out in the Strategic Planning Policy Statement for Northern Ireland (SPPS) and other retained policies within Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). There is no conflict between the provisions of the SPPS and the retained policies on the issues raised in these appeals. In accordance with the transitional arrangements set out in paragraph 1.12 of the SPPS, the appeals should be determined in accordance with the retained policies.
6. Policy CTY1 of PPS 21 sets out a range of types of development which are considered to be acceptable in principle in the countryside. It states that planning permission will be granted for an individual dwelling house in six specified cases. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. One of the acceptable types of development is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.
7. Policy CTY8 is entitled ‘Ribbon Development’ and it states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.33 of the Justification and Amplification to this policy states that a ‘ribbon’ does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.
8. However, the policy permits as an exception the development of a small gap site sufficient only to accommodate a maximum of two houses within an otherwise substantial and continuously built up frontage 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 appeals are being considered together as it is argued by the appellant that they meet the exception in the policy for development of a small gap site with a maximum of two houses.
9. To establish whether the appeal sites are valid infill opportunities, it is first necessary to determine whether they are within a substantial and continuously built up frontage. The policy defines a substantial and continuously built up frontage as including a line of three or more buildings along a road frontage without accompanying development to the rear. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with the road.
10. The two appeal sites are located in the same field to the north of Knockanully Road. The land is relatively flat and the field has a frontage of some 250m to the road. It is proposed that a paired access to serve both sites would be constructed midway along the frontage. Appeal site 1 comprises the eastern half of the field and is deeper than appeal site 2 at the western side. There are two detached one-and-a-half storey dwellings to the east of appeal site 1 (at 12 and 14 Knockanully Road). They are set back approximately 40 to 50m from the road in well landscaped plots and both have frontage to the road. Immediately west of appeal site 2 is a laneway which then runs

along the rear of both appeal sites to a farm complex to the rear of the dwelling at 12 Knockanully Road. Beyond the laneway is agricultural land used for sheep grazing.

11. Another detached dwelling at 8A Knockanully Road sits to the rear of appeal site 2 beyond the farm lane. It is accessed from a point further west on Knockanully Road via a laneway that is shared with dwellings at 8 and 10. The appellant states that the dwelling at 8A has frontage to the Knockanully Road and that the two appeal sites sit in a gap between it and the dwelling at 12 Knockanully Road. He cites the description of ribbon development referred to in paragraph 7 above which indicates that buildings which are set back can contribute to a 'ribbon'. However, for the purposes of the exception test, the key policy consideration in these appeals is the slightly different definition of a substantial and continuously built up frontage in the policy headnote, which I have set out in paragraph 9. In the Council's opinion, the dwelling at 8A is set back and separated from the Knockanully Road by an agricultural field, so it does not share a common frontage with the dwellings at 12 and 14.
12. During my site visit, I observed that the plot on which the dwelling at 8A stands is defined by a post and wire fence set back from the road behind an agricultural field. The land that abuts the road was clearly in agricultural use. Therefore, I do not accept the appellant's contention that the dwelling at 8A shares a common frontage to Knockanully Road with those at 12 and 14. As I have found that the dwelling at 8A does not have frontage to the road, the appeal sites are not within a substantial and continuously built up frontage as set out in the policy, nor do they comprise a small gap in such a frontage. As there is no substantial and continuously built up frontage, it is not possible for the appeal proposals to respect the existing development pattern along the frontage.
13. Given that there is no small gap in a substantial and continuously built up frontage, the appeal proposals would not comply with the fundamental requirement of the exception permitted in Policy CTY8. Instead, the development of one or both sites would extend a ribbon of development as the proposals would have both a common frontage and visual linkage with the existing road frontage dwellings at 12 and 14 Knockanully Road. As the proposals are contrary to Policy CTY8, the Council has sustained its second reason for refusal in both appeals.
14. Policy CTY13 of PPS 21 concerns the integration and design of buildings in the countryside. It states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It cites seven instances where a new building will be unacceptable, of which the Council have raised three in each appeal:
 - (a) it is a prominent feature in the landscape;
 - (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and
 - (c) it relies primarily on the use of new landscaping for integration.
15. Appeal site 1 is bound to the north east by several mature trees within the plot of the dwelling at 12 Knockanully Road. The landscaping within the plots of the two existing dwellings would limit views of the appeal proposals when approaching from

the north east. There is extensive tree planting around the agricultural land to the west of appeal site 2 and this, together with a bend in the road, would prevent views on approach from the west. The roadside boundary of both appeal sites is defined by a fence and a sparse hedge, much of which would have to be removed to provide visibility at the paired access. This would result in any development within the appeal sites being a prominent feature in the landscape when travelling along the field's 250m frontage to the road. There would be no natural screening or sense of enclosure around the proposed buildings when viewed from the public road right across the frontage. They would therefore rely on new landscaping for integration, contrary to Policy CTY13. Accordingly, the Council has sustained its third reason for refusal in both appeals.

16. Policy CTY14 of PPS 21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It lists five instances where a new building will be unacceptable, of which the Council have raised three in each appeal:
 - (b) it results in a suburban style build-up of development when viewed with existing and approved buildings;
 - (c) it does not respect the traditional pattern of settlement exhibited in that area; and
 - (d) it creates or adds to a ribbon of development.
17. There is already a build-up of larger detached dwellings in the rural area surrounding the appeal sites. This includes Nos. 6, 8, 8A, 10, 12 and 14 to the northern side of Knockanully Road and Nos. 9 and 11 to the southern side. The appeal proposals would be intervisible with most of these dwellings while travelling along Knockanully Road and the appeal proposals would add to this build-up of development, further eroding the rural character of the area. The pattern of settlement generally exhibited by the existing dwellings referred to above is of plots deeper than they are wide with the dwellings set back at some distance from the road. The appeals sites display the opposite orientation, being of wide frontage and limited depth. Appeal site 2 in particular has a maximum depth of around 35m and, if approved, would result in a dwelling much closer to the road than others in the locality. This would not respect the traditional pattern of settlement exhibited in the area. I have already found that the proposals would add to a ribbon of development along Knockanully Road. The Council's concerns under Policy CTY14, and therefore its fourth reason for refusal in both appeals, are sustained.
18. As no other overriding reasons why the proposals are essential in the countryside have been presented, they are also contrary to Policy CTY1. Accordingly, the Council has sustained its first reason for refusal in both appeals. As the Council has sustained its four reasons for refusal in both appeals, the appeals must fail.

These decisions are based on the following drawings which were received by the Council on 3rd August 2021:-

2021/A0170 (Appeal 1)

No. 01/1 Site Location Map at 1:2500

2021/A0171 (Appeal 2)

No. 01/1 Site Location Map at 1:2500

COMMISSIONER GARETH KERR

List of Documents

2021/A0170 (Appeal 1)

Planning Authority:- A Statement of Case
Mid and East Antrim Borough Council

Appellant:- B Statement of Case
Joseph E McKernan & Son

2021/A0171 (Appeal 2)

Planning Authority:- C Statement of Case
Mid and East Antrim Borough Council

Appellant:- D Statement of Case
Joseph E McKernan & Son