

Appeal Decision

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710
E: info@pacni.gov.uk

Appeal Reference:	2021/A0188
Appeals by:	Mr Ryan O'Flynn
Appeals against:	The refusal of outline planning permission
Proposed Development:	Two infill sites
Location:	Site Between 16 and 18 Duneoin Road, Cullybackey
Planning Authority:	Mid and East Antrim Borough Council
Application Reference:	LA02/2021/0812/O
Procedure:	Written representations with Commissioner's site visit on 10 th January 2024
Decisions by:	Commissioner Kevin Gillespie, dated 7 th March 2024

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 30th November 2021, Mid and East Antrim Borough (Council) refused planning application LA02/2021/0812/O because it was, in their opinion, contrary to the Strategic Planning Statement for Northern Ireland (SPPS) and Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).
3. Following the adoption of the Mid and East Antrim Local Development Plan 2030: Plan Strategy on 16th October 2023 (PS), the Commission wrote to the parties on 22nd January 2024 to invite comments in respect of the adopted PS in so far as it related to the appeal development.
4. The Council subsequently wrote to the Commission advising that the refusal reason for the above application was being revised to take account of the recently adopted PS. This correspondence was exchanged with the appellant. However, he provided no comments either in respect of the PS or the Council's revised reasons for refusal. As the appellant has had the opportunity to make representations on the revised reasons for refusal at appeal stage, no prejudice arises. This appeal decision is based on the revised reasons for refusal.

Reasons

5. The main issues in this appeal is whether the appeal development would be acceptable in principle in the countryside and create a ribbon of development.
6. Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP), so far

as material to the application, and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

7. As indicated above, in October 2023, Mid and East Antrim Borough Council adopted its PS. In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations (NI) 2015 (as amended), the LDP now becomes a combination of the Departmental Development Plan (DDP) and the PS read together. Again, in accordance with the subject legislation, any conflict between the DDP and the PS must be resolved in favour of the PS.
8. The Ballymena Area Plan 1986 - 2001 (BUAP) comprises the departmental development plan (DDP). In it, the appeal site is in the countryside outside any defined settlement limit. There are no other policies in the DDP that are pertinent to the appeal.
9. Whilst the Strategic Planning Policy Statement for Northern Ireland (SPPS) remains material in accordance with paragraph 1.9 thereof, as the Council has adopted its PS, the previously retained policies have now ceased to have effect. I now turn to the particular policies of relevance to this appeal in the PS.
10. The PS Policy CS1 'Sustainable Development in the Countryside' sets out a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy expands to say that opportunities for development in the countryside are permitted through a number of policies. One of these is for the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy HOU13 'Ribbon/Infill Development' and the relevant policy provisions of Policy GP1 'General Policy for all Development'.
11. Policy HOU13 of the PS states that planning permission will be refused for a building that creates or adds to a ribbon of development in the countryside. It goes on to state that an exception will be permitted for the development of a small gap site sufficient to accommodate only one dwelling 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, meets the General Policy, and accords with other provisions of the LDP.
12. For the purpose of this policy, the definition of a substantial and built-up frontage includes a line of three or more substantial buildings with a common frontage to a road, footpath or private lane served by individual accesses and visually linked when viewed from that road, footpath, or private lane. The Justification and Amplification (J&A) indicates that the 'substantial buildings' should not be located within a designated settlement limit; each should have their own defined curtilage and they cannot include ancillary domestic sheds, outbuildings or garages or small agricultural buildings.
13. The appeal site is a rectangular shaped parcel of land which fronts onto Duneoin Road and is part of a larger agricultural field. Immediately to its north-east is an entrance which provides access to the host field. Adjacent to this entrance is a laneway serving No. 18a Duneoin Road which is a detached single storey dwelling

and garage set-back from the Duneoin Road. To the north-east of the laneway, and positioned between No. 18a and Duneoin Road, is No. 18 Duneoin Road, a detached single storey dwelling and garage. To its north-east of No. 18 is an agricultural field and further to the north-east is No. 20 Duneoin Road, a detached two storey dwelling and garage/outbuildings. To the south-west of the appeal site, planning permission was granted for two dwellings, positioned in a vertical arrangement, under G/2005/1428/RM and G/2006/1056/RM. Both structures only have foundations and footings constructed. Further to the south-west is No. 16 Duneoin Road which is a detached two storey dwelling with associated agricultural outbuildings.

14. The policy requires at least three substantial buildings with a common frontage to a road to make up a substantial and continuously built-up frontage. From my observations, to the north-east of the appeal site the single storey dwelling at No. 18 Duneoin Road and the two storey dwelling at No. 20 Duneoin Road are both qualifying buildings as they each are substantial buildings with their own curtilage and have frontage to Duneoin Road. Their associated ancillary garages and outbuildings however do not constitute substantial buildings for the purposes of Policy HOU13 of the PS as they do not have their own defined curtilage. In respect of No. 18a Duneoin Road, whilst it is a substantial building, because its plot is set-back from Duneoin Road it does not abut the road so it has no frontage to the road. A laneway or access point does not constitute a road frontage.
15. To the south-west of the appeal site, the two-storey dwelling at No. 16 Duneoin Road has its own defined curtilage and has frontage to Duneoin Road, so it is a qualifying building. The agricultural buildings within its curtilage however are not substantial buildings as they do not have their own defined curtilage. In respect of the two structures granted planning permission under G/2005/1428/RM and G/2006/1056/RM, as they remain in the course of construction with no walls as yet, neither structure can be considered as a 'substantial building' for the purposes of Policy HOU13 of the PS.
16. From the foregoing, there are three substantial buildings along the common frontage of this part of Duneoin Road, namely the dwellings at Nos. 16, 18 and 20. However, for the definition of a substantial and built-up frontage to be met, it also requires that each of the three qualifying buildings must be visually linked when viewed from the road. In this case, by reason of the orientation and contour of the road combined with the position and wooded aspect of the field situated between Nos. 18 and 20 Duneoin Road, which acts as a visual break, only Nos. 16 and 18 Duneoin Road qualify as part of the substantial and built-up frontage. Accordingly, the appeal site is therefore not within a substantial and continuously built-up frontage. This element of Policy HOU13 of the PS is not therefore met.
17. Policy HOU13 requires the gap site to be small and sufficient to accommodate only one dwelling. The appellant measures the appeal site frontage to be some 110 metres. Given these measurements and the surrounding development pattern, the appeal site could accommodate more than one dwelling in my judgement having regard to the surrounding area. Consequently, the appeal site does not represent a small gap site suitable to accommodate only one dwelling within an otherwise substantial and continuously built-up frontage and Policy HOU13 in so far as stated is not met.

18. Paragraph 8.1.67 of the J&A to Policy HOU13 recognises that ribbon development is detrimental to rural character, appearance, and the amenity of the countryside. Paragraph 8.1.68 of the J&A goes on to state that a 'ribbon' does not necessarily 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 and they are visually linked when viewed from the road.
19. There is an existing ribbon of development along this part of Duneoin Road which comprises the dwelling and agricultural buildings at No. 16 Duneoin Road and the dwelling and garage at No. 18. While the latter buildings are visually integrated, nonetheless they are still appreciable in the landscape. These buildings all have common frontage and are visually linked when travelling in either direction along this part of Duneoin Road. The appeal development would introduce two further dwellings along the road frontage which would be visually linked with the aforementioned development. This would add to the existing ribbon of development in this part of the countryside contrary to this element of Policy HOU13 of the PS.
20. As the appeal site is not within a substantial and continuously built-up frontage and it is not a small gap site suitable to accommodate only one dwelling, it does not represent an exception and fails to satisfy Policy HOU13 and Policy GP1 of the PS. Moreover, as there are no overriding reasons why the appeal development is essential nor are there any material considerations to outweigh the policy objections to the proposal it also does not satisfy Policy CS1 of the PS. For the reasons given, the appeal development is not acceptable in principle in the countryside as it does not comply with the PS. The Council's reasons for refusal are therefore sustained.
21. As the Council has sustained its reasons for refusal, the appeal must fail.

This decision is based on the following drawing numbers:

Drawing No.	Title	Scale	Received by the Commission
PP01	Location Map	1:2500 @ A3	14 th January 2022
PP02	Proposed Site Plan	1:1000 @ A2	14 th January 2022

COMMISSIONER KEVIN GILLESPIE

List of Documents

Planning Authority:-

“A1” Mid and East Antrim Borough Council –
LDP Comments

Appellant:-

“B1” Mr J Wilson, Agent - Statement of Case