
Appeal Reference:	2022/A0007
Appeal by:	Mrs Dympna Bateson
Appeal against:	The refusal of outline planning permission
Proposed Development:	Site for replacement dwelling (superseding approval granted under LA03/2020/0866/F)
Location:	158 Staffordstown Road, Cranfield, Randalstown
Planning Authority:	Antrim and Newtownabbey Borough Council
Application Reference:	LA03/2021/1126/O
Procedure:	Written representations and Commissioner's site visit on 26 th July 2024
Decision by:	Commissioner Gareth Kerr, dated 5 th August 2024

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal:
 - is acceptable in principle in the countryside;
 - can be visually integrated into the surrounding landscape; and
 - would mar the distinction between the settlement of Creggan-Cranfield and the surrounding countryside.
3. The Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. Antrim and Newtownabbey Borough Council has not yet adopted a plan strategy for the district as a whole. Therefore, the Antrim Area Plan 1984 – 2001 (AAP), despite its vintage, operates as the LDP for the area in which the appeal site is located. Alteration No. 1 to the AAP, which was adopted in 1993, defines limits of development for six hamlets in the district including Creggan-Cranfield where the appeal site is located. The Plan states that development limits have been established for hamlets to identify the extent to which the settlement will be allowed to expand and the limits within which growth will be contained. The dwelling to be replaced falls within the settlement limit, but the proposed site for the new dwelling on the opposite side of the Staffordstown Road is within the countryside, outside of any policy area. While the settlement limits defined by the AAP continue to apply,

the rural policies of the AAP have now been overtaken by regional policy for rural development, as 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 this appeal.

5. The appeal site comprises the plot of an existing two storey dwelling at the junction of Staffordstown Road and Cranfield Road and a triangular portion of a larger agricultural field on the opposite side of Staffordstown Road. The Council granted planning permission for replacement of the existing dwelling on the same site on 24th June 2021 under application LA03/2020/0866/F. As it fell within the settlement limit of Creggan-Cranfield, the provisions of PPS 21 did not apply to it. The appellant is now of the view that the site of the approved replacement dwelling is too small to construct a reasonable sized dwelling with adequate amenity space and privacy. She lives adjacent to the appeal site at No. 156A Staffordstown Road. She has been recently widowed and would like her daughter and her family to live close to her, but they would need a larger dwelling than the one approved. She is therefore proposing to replace the dwelling on the opposite side of the Staffordstown Road in the agricultural field.
6. The Preamble of PPS 21 states that it sets out planning policies for development in the countryside. For the purpose of the document, the countryside is defined as land lying outside of settlement limits as identified in development plans. As the appeal seeks outline planning permission for development in the countryside, the provisions of PPS 21 are applicable.
7. Policy CTY1 of PPS 21 sets out a limited 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. One of these is a replacement dwelling in accordance with Policy CTY3. 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.
8. Policy CTY3 concerns replacement dwellings. There is no dispute that the dwelling to be replaced is suitable in principle for replacement and there is an extant approval to replace it on site (which would be superseded if the appeal was allowed). The key part of Policy CTY3 for the purposes of this appeal is the section on the siting of a replacement dwelling which states, “the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.”
9. Policy CTY13 relates to integration and design of buildings in the countryside. 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. Seven instances where a new dwelling will be unacceptable are set out including, “(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”.

10. Policy CTY15 is entitled "The Setting of Settlements". It states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl.
11. Although the Council did not include a refusal reason based on Policy CTY3 because the dwelling to be replaced is within a settlement, it is necessary to consider the proposal against the siting provisions of Policy CTY3 in order to determine whether it is acceptable in principle in the countryside under Policy CTY1. There is nothing within Policy CTY3 to suggest that a dwelling within a settlement can be replaced in the countryside. To do so would run contrary to the strict controls on new housing development in the countryside set out in Policy CTY1. However, for completeness, the arguments put forward by the appellant will be assessed.
12. Policy CTY3 permits two exceptions where an off-site replacement dwelling would be acceptable. The appellant argues that the proposal meets both exceptions. The first exception concerns the size of the existing curtilage and whether it can accommodate a modest sized dwelling. The appellant argues that the existing site is too small for the dwelling they wish to build and would have insufficient garden and amenity space. She refers to recently built houses at Cranfield Lane to the south, one of which is only 7m from the boundary of the appeal site. She states that she did not know how close these houses would be when she submitted the previous application.
13. The existing dwelling is sited with its gable to the road whereas the approved replacement dwelling would front onto the road. Both the existing and approved houses are of reasonable size. Whilst it may not be as large as desired by the appellant's daughter, at some 1350 sq.ft. it is of modest size and would have three bedrooms and a detached garage. The Council has calculated the associated amenity area as 116 sq.m which exceeds the average space standard of 70 sq.m required for a dwelling in a settlement and the size of many of the rear gardens in the adjoining Cranfield Lane development. The 7m separation distance from the new development to the common boundary is true of only one dwelling due to the shape of the site and is not typical of the relationship between the site and the other new properties. Furthermore, they would not directly face one another due to the angled orientation of both developments. At my site visit, I observed that the common boundary to the south of the appeal site is heavily vegetated with trees up to around 6 metres in height and some of these could be retained to filter views and alleviate any privacy concerns. For these reasons, the curtilage is not too small to reasonably accommodate a modest sized dwelling. The proposal would not meet exception (a) in Policy CTY3.
14. Exception (b) allows account to be taken of demonstrable landscape, heritage, access or amenity benefits. In respect of landscape, the appellant argues that the roadside boundary of the proposed site would provide excellent screening of the new dwelling in contrast to the open frontage of the existing site. Notwithstanding that the existing site is within a settlement and would not necessarily require to be screened by hedging, the majority of the road frontage hedge to the proposed site would have to be removed to provide visibility spays at the proposed access. This would leave the proposed dwelling at least as exposed as the existing one when viewed from the Staffordstown Road, so no landscape benefit would be derived.

15. With regard to access benefits, the appellant states that the approved access in relatively close proximity to the junction with Cranfield Road is less safe than the proposed access to the alternative site. They state that various accidents have occurred here over the years, but provided no evidence regarding these. The Council highlighted that DfI Roads had no road safety objection to the proposed access during the determination of application LA03/2020/0866/F. In light of this, the argument that the current proposal would result in access benefits has not been substantiated.
16. Concerning amenity benefits, the appellant points to the provision of a proper sized garden for the proposed dwelling and that the appellant's own house at No. 156A could increase its garden and amenity space by incorporating the curtilage of the dwelling to be replaced. She further states that there would be too much road noise given the site's proximity to the road. While a larger garden could be provided across the road, I have already found that sufficient private amenity space would be provided at the approved replacement dwelling. The extension of the curtilage of No. 156A is not part of the outline proposal before me and cannot be afforded determining weight in the appeal. With regard to road noise, I note that the approved dwelling and the suggested siting position for the proposed dwelling are both a similar distance from the road, so there should be no discernible difference in noise levels. The use of acoustic glazing could ameliorate any concerns in this regard. For these reasons, I am not persuaded that there would be demonstrable amenity benefits from the proposal. Therefore, it would not comply with exception (b).
17. In summary, I find the siting of the proposed replacement dwelling to be contrary to Policy CTY3. In any case, the Policy does not allow for the replacement in the countryside of dwellings within settlements. It is not, therefore, a type of development that would be acceptable in principle in the countryside under Policy CTY1.
18. Under Policy CTY13, a new building in the countryside will be unacceptable where 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. The roadside boundary of the appeal site is defined by a tall hedge up to 4m in height with individual trees rising to around 7m in height. The rear boundary is also defined by trees up to around 8m in height. The north-eastern boundary of the site is not defined on the ground and would require new planting. While the Council does not dispute that the appeal site is well screened along two boundaries at present, they are concerned that an extensive stretch of the roadside mature boundary vegetation would have to be removed to facilitate visibility splays and as a result, the appeal site would be open and exposed to significant critical views on approach to the site from both directions along Staffordstown Road. The appellant contends that some of the front boundary would remain to provide integration and enclosure.
19. The DfI Roads consultation response indicates that visibility splays of 2.4m x 90m would be required to both sides of the entrance. At my site visit, I observed that the existing hedge is very close to the road edge with a very narrow verge. This means that a significant length of hedge would have to be removed across the entire front of the proposed dwelling to achieve the south western visibility splay and an equal amount would have to be removed to the north east to achieve the splay in that direction. This would open up views of the development along a stretch of more than

100m of the Staffordstown Road leaving only the rear boundary of the site as a backdrop. There would be no existing natural boundary to the front or side to enclose the development and it would not, therefore, integrate into the landscape. It would rely on new planting for integration which would take a considerable length of time to mature and in the interim would not mitigate the impact of the development. I do not consider that the imposition of planning conditions requiring replacement planting could overcome these concerns.

20. The appellant argued that the Council regularly approves sites where considerable lengths of roadside vegetation have to be removed to provide visibility splays. They cited one recent example (LA03/2022/0194/O) where permission was given for two infill sites where 65m of hedge would have to be removed across the frontage. I was only provided with the approved site location map for the above development and no other details of how the decision was reached, but I note that the 65m of hedge removal only extended to the frontage of the two plots whereas in the case of the appeal development, the splays would extend well beyond the plot frontage, particularly to the north eastern side, and would entail over 100m of hedge removal. The example cited does not stand on all fours with the appeal scenario and would not outweigh the policy objections to the development. I conclude that the site would not provide a suitable degree of enclosure for the building to integrate into the landscape. The Council has sustained its second reason for refusal.
21. Policy CTY15 applies to developments that could mar the distinction between a settlement and the surrounding countryside. The Justification and Amplification to the policy states that the principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. Proposals that would mar this distinction will therefore be unacceptable.
22. The Staffordstown Road forms a distinct and clearly defined boundary to the north western edge of this part of the settlement of Creggan-Cranfield. The western part of the settlement has no development north west of the road line. Development only begins to occur on both sides of the road around 260m north east of the appeal site. The development of the appeal proposal to the north western side of the Staffordstown Road would be at odds with the clearly defined edge of the settlement at this location and would mar the distinction between the settlement and the surrounding countryside.
23. The appellant's argument in respect of Policy CTY15 centres around other developments that have been approved beyond the edge of the settlement of Creggan-Cranfield. They say that seven existing dwellings and one industrial building have been approved outside the development limit and the planning office is being inconsistent in refusing their proposal on the basis of urban sprawl. The Council highlights that all the dwellings referred to were approved by the Department of the Environment as planning authority and the Council is not bound by these determinations. They were also assessed under the Planning Strategy for Rural Northern Ireland (PSRNI), the rural policy provisions of which have now been superseded by PPS 21. The Council further argues that the dwellings identified as providing a precedent are set back off the road and therefore, visually, do not obscure the defined settlement limits from public vantage points. The industrial unit referred to was approved by the Council under application LA03/2016/0437/F as it

was demonstrated under a related application (LA03/2016/0606/LDE) for a certificate of lawfulness that there was a lawful engineering business on the site.

24. With the exception of the industrial shed which is for a different use and its approval was based on lawfulness through immunity, none of the examples cited by the appellant were decisions by the Council. They were taken in a now superseded policy context. Although the PSRNI did contain a policy (DES3) on the settings of towns and villages, it had a more relaxed approach to development in the countryside in general. None of the decisions cited were subject to Policy CTY15 of PPS 21 which I must now take account of. They would not, therefore, outweigh the policy objections to the development under CTY15. The introduction of development to the north western side of this part of the Staffordstown Road would harm the setting of the settlement of Creggan-Cranfield which is currently defined by the road. The Council's objections under Policy CTY15 are well founded and it has sustained its third reason for refusal.
25. A letter of support from a local MLA, in addition to the issues discussed previously, argues that the appellant's family have lived and farmed in this locality for generations and they are intimately integrated with the community and civic life of the area. He states that the appellant was widowed several years ago and the proposal would enable her daughter and family to live in close proximity.
26. No evidence has been provided of any compelling and site-specific personal circumstances that mean the appellant would require her daughter to live in close proximity. It is unclear where she or any other family members currently live and why this is not suitable. No persuasive evidence has been provided as to why the approved proposal next door to the appellant's house could not cater for any genuine need for care. Neither have any alternative solutions been considered and ruled out, such as accommodating her daughter and family in the appellant's own large dwelling at No. 156A or extending it. I have no reason to believe that the appellant cannot continue to contribute to the local community if planning permission is refused, or that this would cause genuine hardship. In the evidential context, the matters raised in the letter of support would not outweigh the policy objections to the proposal.
27. I am not persuaded that there are any overriding reasons why the development is essential in the countryside when there is an opportunity for the replacement dwelling to be sited within the nearby settlement. The proposal is therefore contrary to Policy CTY1 and the Council has sustained its first reason for refusal.
28. The proposal fails to accord with the limits of development set out in the LDP. It is also contrary to the provisions of PPS 21 as set out above. As each of the Council's reasons for refusal have been sustained and are determining, the appeal must fail.

This decision is based on drawing No. 01, site location map at scale 1:1250, which was received by the Council on 22 November 2021.

COMMISSIONER GARETH KERR

List of Documents

Planning Authority:-	A	Statement of Case Antrim and Newtownabbey Borough Council
	B	Rebuttal Statement Antrim and Newtownabbey Borough Council
Appellant:-	C	Statement of Case Park Design Associates
	D	Rebuttal Statement Park Design Associates
Third Parties:-	E	Letter of Support Declan Kearney MLA