
Appeal Reference:	2022/A0008
Appeal by:	Mr C Conn
Appeal against:	The refusal of full planning permission
Proposal:	Erection of a dwelling house
Location:	North and adjacent to 32 Killynure Road West, Carryduff
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2021/1178/F
Procedure:	Written Representations with Commissioner's site visit on 19 June 2024
Decision by:	Commissioner B Stevenson, dated 28 June 2024

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's Local Development Plan 2032: Plan Strategy ("PS") was adopted on 26 September 2023, post the exchange of the evidence. Further to its adoption, the Commission sought the parties involved in the appeal to make comments on the adopted PS. While the third refusal reason remains the same, the Council proposed the following amendments to the first two refusal reasons:
 - (1) The proposal is contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that the proposed development is not a type of development which in principle is acceptable in the countryside.
 - (2) The proposal is contrary to paragraph 6.70 of the SPPS, and policy COU15 of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that the design of the dwelling is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.
3. Given that I must have regard to the adopted PS, its relevant policies that the Council alleges that the appeal proposal would now offend are before me and must be considered in this appeal. While the appellant did not provide his comments on the adopted PS, he was given the opportunity to do so. No prejudice therefore arises.

Reasons

4. The main issues in this appeal are whether the appeal proposal would visually integrate into the landscape, its design would be appropriate for the site and its locality, and if sufficient information has been submitted to properly assess the proposal.
5. Section 45(1) of the Planning (Northern Ireland) Act 2011 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) 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.
6. As the Council recently adopted its Plan Strategy (PS), in accordance with the Planning (LDP) Regulations (Northern Ireland) 2015 (as amended), the LDP comprises the Departmental Development Plan (DDP) and the PS read together. The DDP in this appeal is the Belfast Urban Area Plan 2001 (BUAP). The legislation also requires that any policy contained in the BUAP and those of the PS must be resolved in favour of the latter. In May 2017, the Court of Appeal declared that the adoption of the 2014 version of the Belfast Metropolitan Area Plan (BMAP) was unlawful. In terms of the draft 2004 version of BMAP (dBMAP), it is not a DDP or a LDP but remains a potential material consideration.
7. Within the DDP, the appeal site is outside any settlement limit and in the green belt. Policy GB1 of the BUAP states that there will be a general presumption against further development in the green belt unless it is essential to the operation of farming and must be located in the countryside rather than in a nearby town or village. The appellant has provided no reasons as to why the dwelling would be essential for farming purposes in the countryside. Nevertheless, any conflict between a policy contained in a DDP and those of the PS must be resolved in favour of the PS. Accordingly, this green belt policy in the DDP is now outdated, and limited weight is given to it. There are no other provisions in the DDP that are material to the appeal proposal. In dBMAP, the appeal site is also within the green belt (designation COU1). That plan directs the reader to green belt regional policy.
8. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) states that where a PS is adopted for the area wherein the appeal site is located, existing policy retained under the transitional arrangements shall cease to have effect in that area. This includes Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) and the Planning Strategy for Rural Northern Ireland (PSRNI). The proposal falls to be considered against the provisions of the most up-to-date operational policy for the countryside as contained in the PS. Paragraph 1.14 of the SPPS also indicates that those Departmental planning documents which will continue to be treated as material considerations after the expiry of the transitional period are listed on the Department's website. The Building on Tradition 'A Sustainable Design Guide for Northern Ireland' (BoT) is one of them.
9. Policy COU1 'Development in the Countryside' of the PS states that there are 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. It goes on to say that details of operational policies relating to acceptable residential

development proposals are set out in policies COU2 to COU10. The Council considers that the appeal proposal would not offend Policy COU8 'Infill/Ribbon Development'. The development in principle is therefore not in dispute. Outline planning permission (LA05/2020/0692/O) for a dwelling was previously granted on the site. Policy COU1 states that any proposal for development in the countryside will be required to meet all of the general criteria set out in Policies COU15-COU16. The Council contends that the appeal proposal offends Policy COU15, and therefore offends Policy COU1 of the PS. I will return to the PS policies later.

10. The appeal site is on the northern side of the Killynure Road West and is accessed from a gated lane that serves two detached dwellings (Nos. 30 and 32) and a group of outbuildings. The two dwellings are south of the appeal site and the group of outbuildings are to the east. The site comprises the side garden of No. 32 and is a lawned area. It is bounded by the lane on two sides. The third boundary is defined by very high, mature trees and the fourth boundary is undefined. There are some trees and a hedgerow along part of one side of the lane. The land falls away in a northerly direction from the dwelling (No. 32) towards the lane.
11. The proposed three bedroom dwelling would have a central one and a half storey spine that comprises a dining hall, a cloakroom and a utility room on the ground floor and an ensuite and wardrobe on the first floor. Adjoining the central spine closest to the adjacent dwelling (No. 32) would be an element that houses a gym and sitting room on the ground floor and a bedroom on the first floor. Abutting it is a single storey flat roof garage with an outdoor balcony above. Four individual angled single storey returns would extend out from the central spine – two on each side - to create an 'X' shape plan layout. The roofs would mostly be pitched apart from the glass lean-to-roof off one of the single storey returns and the flat roof garage. Some of the proposed windows would have vertical emphasis. Large glazing areas are proposed at the dining/hall area and at the lean-to element. The external walls would be finished in render and the roof tiles would be dark grey.
12. The Council contends that the proposed dwelling is contrary to Article 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended) ("the GDPO") and argues that while the appellant provided a drawing showing one section, no site layout drawing has been provided that illustrates existing and proposed ground levels on it. The appellant disputes this and contends that the section that was submitted shows the relationship of the proposed dwelling on the site in relation to the existing adjacent dwelling (No. 32). He alleges that the north/south ground level and the east/west contours are consistent over the site and that the submitted section would be the same at any point throughout the sectional area of the plot.
13. Article 3 of the GDPO is entitled 'Applications for planning permission' and Article 3(3) states, inter alia, that the application must be accompanied (a) by a plan – (i) sufficient to identify the land to which it relates; and (ii) showing the situation of the land in relation to the locality and in particular in relation to the neighbouring land; (b) by such other plans and drawings as are necessary to describe the development to which it relates. I must consider if sufficient information has been submitted to fully assess the proposal. The set of drawings before me include a site layout plan, access detail plan, floor plans, elevations and a section. That 1:500 section annotated as 'Section AA' is of an outline of the ridgeline of the main section of the

proposed dwelling on the site in relation to the adjacent dwelling (No. 32) and the lane.

14. Given the northerly point identified on the site location plan and the orientation of the proposed dwelling on the site layout plan, I consider that the elevations have been annotated incorrectly. Nevertheless, it is apparent from the site layout plan which elevation relates to which. The proposed site layout plan also indicates where Section AA is taken from. That section outlines the ridgeline of the west elevation of the proposed dwelling that is referred to as the south elevation on the drawing. I am content that this section is sufficient to understand the ridgeline height of the proposed dwelling in comparison to the adjacent dwelling (No. 32) and the lane.
15. With respect to the ground works, the proposed site layout plan indicates that there would be a garden area and a parking and turning area to the front of the proposed dwelling. I note that the garage door would be on the rear elevation. While the existing and proposed ground levels of the entire site are not shown on the drawings and the existing site levels gradually slope away in a northerly direction from No. 32, those levels across the slope are generally consistent. The finished ground floor level of the proposed dwelling would be 100.0 and the level of the lowest part of the lane would be 99.70. I consider that the final ground levels across the site could not exceed the finished floor level. Given this and the limited variation of the levels between the finished floor level of the dwelling and the lane, on balance, I am satisfied that I have sufficient information to assess the proposed dwelling. The appeal proposal would not offend Article 3 of the GDPO. The Council's third reason for refusal is therefore not sustained.
16. Policy COU15 of the PS is entitled 'Integration and Design of Buildings in the Countryside' and it states that in all circumstances proposals for development in the countryside must be in accordance with and sited and designed to integrate sympathetically with their surroundings and be of an appropriate design. It expands to say that a new building will not be permitted if certain circumstances apply. The Council contends that criterion (f) of Policy COU15 is not met. None of the other policy criteria are in dispute. Criterion (f) states that a new building will not be permitted if the design of the building is inappropriate for the site and its locality.
17. The amplification text of Policy COU15 states that all development proposals in the countryside must, inter alia, be appropriately designed. Under the sub-heading 'Integration', the amplification text indicates that integration is an assessment of a number of elements, such as, the degree of enclosure, including natural site boundaries and/or a visual backdrop and the suitability of building design within the locality. Under the second sub-heading 'Design', the amplification text states that "all proposals should be of high quality to mitigate visual impact on the landscape. The most successful rural designs are those based upon simple shapes and forms and use of traditional local building materials. Opportunities for contemporary re-interpretation of tradition form in the locality will not be precluded."
18. Paragraph 7.5.0 of the BoT states that "applicants are encouraged to submit a design concept statement setting out the processes involved in site selection and analysis and building design as part of their planning application." Paragraph 7.5.4 sets out those design concerns that can be addressed as part of a statement including inter alia (i) the reason for the building design as proposed; its integration with the landscape and relationship with the surrounding buildings; (ii) the impact on critical

and combined views; and (iii) local distinctiveness and regard for the rural setting and character. No design concept statement accompanied the application. While BoT encourages the submission of a design concept statement and they are a useful way to explain how the design evolved, the guidance does not make it a prerequisite for single rural dwelling proposals to be accompanied by one.

19. While the Council argues that the proposed dwelling would be unacceptable in terms of its scale, massing and design, the appellant contends that the dwelling would be of low elevation design with narrow gables and vertically emphasised windows and that it would comply with the guidance. The front elevation of the main part of the proposed dwelling would be approximately 25.5 metres wide. This includes the adjoining flat roof garage. If the angled single storey returns are included, this means that the frontage width of its built form would extend to approximately 29.3 metres albeit it would not read as one continuous block. The ridgeline of the main roof would be approximately 6.5 metres high and the four single storey returns would be approximately 4.5 metres high. The appellant indicates that the footprint of the proposed dwelling would be 373.05m² including the garage. This is undisputed.
20. It is undisputed that the dwelling at No. 30 has a footprint of 115.2m² and that it is 23.2 metres wide. It is also undisputed that the dwelling at No. 32 is 23.2 metres wide and that its footprint is 303.5m². With respect to the complex of outbuildings to the east of the appeal site, I consider that given their close proximity to the proposed dwelling that they should also be considered. The Council does not dispute that the footprint of those outbuildings are each 476m², 440.2m² and 300.8m². The appellant refers to an approved dwelling (LA05/2016/0896) south east of the appeal site. He indicates that its approved footprint is around 312m². This is undisputed also.
21. While the appellant contends that the proposal is not visible from any public viewpoint, the Council is of the view that the proposed dwelling would be visible from the Killynure Road to the north-east of the appeal site, and that given its design, it would be inappropriate for the site and the surrounding area. I drove along the Killynure Road towards the north-east of the site and viewed it from that road. Notwithstanding the tree cover and the separation distance between the site and the Killynure Road, the site is visible from that road to the north-east of it. It was apparent from my on-site observations that the outbuildings are considerably larger in footprint size than the two existing dwellings (Nos. 30 and 32). Factoring in the adjacent surrounding buildings, I consider that the overall footprint size of the proposed dwelling would be compatible with them.
22. Even with the approximately 6.3 metres deep gables and the proposed ridge heights, the X-shape layout would not represent a simple form in the countryside. This would result in a non-linear building form that would be uncharacteristic of the locality. It would create a complex house shape, with many pitched roofs and an awkward, bulky form despite the approximately 6.3 metres deep gables and the proposed ridge heights. Notwithstanding that viewing the proposed dwelling from the Killynure Road would be at a distance and the mature high trees provide sufficient backdrop, the complexity of the house shape, its numerous roof elements and overly substantial form would be out of character in its surroundings. I do not consider the proposed dwelling to constitute a design that represents a contemporary re-interpretation of tradition form in the locality.

23. Despite the outbuildings having substantial footprints, they are set well into the landscape and are of simple shape and form. They are not comparable to the proposed dwelling. With respect to the nearby approval that the appellant relies on (LA05/2016/0896/F), its layout does not take the form of an 'X' shape. The design of that approved dwelling is not comparable to this appeal given that its shape, form and subsequent massing differ to the appeal proposal.
24. The appellant contends that the design has been prepared to take into account the conditions imposed on the original outline planning permission (LA05/2020/0692/O). Condition 6 of that outline approval requires the ridge height of the dwelling to not exceed 5.4 metres from the finished floor level and the under-building to not exceed 0.45 metres at any point above the existing ground level. As the main ridgeline of the appeal proposal would be in excess of the height referred to in Condition 6 of the outline permission, I do not agree with the appellant that the design of the proposed dwelling in this appeal is predicated on compliance with the conditions imposed in permission LA05/2020/0692/O.
25. Irrespective of the proposed landscaping and levels, the design of the proposed dwelling would be inappropriate for the site and its locality. The appeal proposal would offend criterion (f) of Policy COU15 of the PS, and given the critical nature of this element in respect to the appeal proposal, the policy read as a whole. Accordingly, Policy COU1 of the PS is not met in this regard. The Council's first and second reasons for refusal are therefore sustained and determining. The appeal must fail.

This decision relates to: -

Drawing No.	Drawing Title	Scale	Date Received
01	Site Location Plan and Elevations	1:1250 1:100	25 Oct 2021
02	Access Detail	1:500	19 Apr 2022
03A	Site Layout Plan	1:500	8 Dec 2021
04	Ground Floor Plan	1:100	25 Oct 2021
05	First Floor Plan and Elevation	1:100	25 Oct 2021

COMMISSIONER B STEVENSON

List of Documents
Planning Authority: -

- A Statement of Case
- A1 Rebuttal Statement
- A2 LDP Comments

Appellant: -

- B Statement of Case
- B1 Rebuttal Statement