
Appeal Reference:	2022/A0029
Appeal by:	Mr Trevor Nelson
Appeal against:	The refusal of full planning permission
Proposed Development:	Agricultural shed
Location:	70m SE of No.5 Coach Lane, Cottage Road, Seaforde
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2021/1982/F
Procedure:	Written Representations with Commissioner's site visit on 30 th May 2024
Decision by:	Commissioner Diane O'Neill, dated 10 th June 2024

Decision

1. The appeal is refused.

Reasons

2. The main issues in this appeal are the principle of development and whether sufficient information has been submitted to enable a full assessment of the proposal.
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan 2015 (ADAP) operates as the local development plan for the area where the appeal site is located. The site is outside any settlement development limit within ADAP and is in the countryside. The ADAP has no material policies for dealing with the proposed development.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these is PPS 21 which provides the relevant policy context for the appeal proposal.
5. Policy CTY 1 of PPS 21 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. A number of instances when planning permission will be granted for non-residential development are outlined. The appellant argued that the appeal proposal meets Policy CTY 12 which relates to agricultural and forestry development.

6. Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise; (b) in terms of character and scale that it is appropriate to its location; (c) it visually integrates into the local landscape and additional landscaping is provided as necessary; (d) it will not have an adverse impact on the natural or built heritage; and (e) that it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution. In cases where a new building is proposed, applicants also need to provide sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used; the design and materials to be used are sympathetic to the locality and adjacent buildings; and the proposal is sited beside existing farm or forestry buildings. Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding and where: it is essential for the efficient functioning of the business; or there are demonstrable health and safety reasons.
7. Although the planning authority accepted that the appellant's farm business was active and established, it raised a number of objections to the proposal namely that it had not been demonstrated that the proposal was necessary for the efficient use of the agricultural holding; it would not be sited beside existing farm buildings; that the alternative site was essential for the efficient functioning of the business. Irrespective of the view of the case officer, the corporate view of the planning authority was that it could also result in a detrimental impact on the amenity of residential dwellings outside the holding and could adversely impact on designated European sites.
8. The appellant's holding is split between lands located at the Dunnaneew Road (32.81ha), Ballydugan Road (2.04ha) and Coach Horse Lane (1.19ha). The appeal site is located at the smallest section of the farm at Coach Horse Lane to the south-east of seven residential properties outside the appellant's holding. The appeal site is approximately 1 mile from the main holding at Dunnaneew Road. The proposed site is also within 7.5km of a number of Special Areas of Conservation (SACs).
9. The appellant stated that the farm currently breeds approximately 200 ewes. It was stated that the 9.4m x 9.4m x 4.25m proposed building is required to allow animals to isolate and be treated for infection as well as for agricultural storage at what he considered to be the middle of his landholding close to where he claims he stores silage.
10. The planning authority presented evidence to demonstrate that the appellant had a farm building located at his lands at Ballydugan Road which was certified by a CLEUD (LA07/2020/0337/LDE) on 15th May 2020. The lands at Ballydugan Road are approximately 1 ½ miles away from the appeal site. The shed was located to the west of an existing farm dwelling and outbuildings. This shed however was subsequently removed and the appellant was granted planning permission for two infill dwellings within an adjacent field on 16th June 2020 (LA07/2020/0293/O). One of these dwellings has since been constructed by a different individual (LA07/2022/0049/RM). The appellant therefore had a lawful farm building sited beside other existing farm buildings on the farm holding and chose to demolish it.

11. The appellant argued that the appeal site was strategically located to cater for the needs of the farmholding especially to provide an isolating facility for the flock when infected or following birthing difficulties. The site was considered to be in a more sustainable location hidden from public view and well screened by its natural and physical boundaries. It was also thought to cluster with an open silage store area as well as be suitably designed and finished. Despite the level of integration of the site, the planning authority however provided details in relation to numerous attempts being made to ascertain details in relation to the entirety of the farm holding and the need for the shed at the proposed location. Also, during multiple inspections by the planning authority no sheep were present on the appellant's lands other than at his Dunnew Road holding. Substantive evidence was not presented to confirm that there are no suitable existing buildings on the holding that can be used and, even if it was needed, why it could not cluster with existing buildings on the holding. Although it was stated within the appellant's evidence that there are no agricultural sheds at either the Coach Horse Lane or Ballydugan Road parts of the holding, the main Dunnew Road section is located only a short distance away from these other small parcels. The lack of need for the proposal is further reinforced by the removal of a lawful agricultural building beside existing farm buildings elsewhere on the holding.
12. Being located within 7.5km of a number of Special Areas of Conservation, the planning authority also raised concern that the housing of livestock has the potential to generate ammonia emissions which could negatively impact on these European designated sites. On a number of occasions during the processing of the planning application the planning authority requested further information in relation to the number of ewes to be housed at the appeal site during the lambing period. Although there would appear to be a miscommunication between the parties in terms of the level of detail required and despite the size and scale of the proposed building, the appellant's information that it would house up to 30 ewes during sick periods to prevent disease does not provide sufficient clarity in order to assess its impact on European designated sites.
13. The agricultural shed would be located within 75m of residential dwellings not associated with the farm. The Council's Environmental Health Department requested information in relation to odour abatement measures, details of all external plant to be installed, a comprehensive noise impact assessment and details of any proposed floodlighting to be erected on the site. Although the appellant argued that planning authorities across the UK seek a separation distance of approximately 20m from habitable rooms and that he was not given sufficient time to engage a consultant to prepare such information prior to the decision issuing, little substantive details were also provided as part of the appeal process. It would not be appropriate to address such matters by imposing planning conditions as suggested by the appellant as they may not be able to be mitigated.
14. As the proposal fails to meet Policy CTY 12, it is not one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1 of PPS 21. Accordingly, the reason for refusal is sustained.
15. Although the proposed access is narrow, there is a passing bay which assists vehicles to safely pass each other. Construction traffic would only be attending the site for a temporary period. Given that it was estimated that the appellant would

make less than 5 trip per day to the appeal site, it would not result in an unacceptable intensification of the laneway which currently serves seven residential properties. It is also noted that Dfl Roads raised no objection to the proposed development.

16. As the reason for refusal is sustained, the appeal fails.

This decision is based on the following drawings:-

Drawing L-01 1:1250 site location map dated December 2020

Drawing LM-01 1:500 site layout map dated December 2020

Drawing PL-01 1:100 floor plans and elevations dated December 2020

COMMISSIONER DIANE O'NEILL

List of Documents

Planning Authority
(Newry, Mourne and Down District Council):-

Statement of Case (PA 1)

Appellant (HR Jess-agent):-

Statement of Case (A 1)