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| Appeal Reference: | 2022/A0045 |
| Appeal by: | Mr Ian McFall |
| Appeal against: | The refusal of outline planning permission |
| Proposed Development: | Tourist accommodation |
| Location: | 40m west of 3b Lisglass Road, Ballyclare |
| Planning Authority: | Antrim and Newtownabbey Borough Council |
| Application Reference: | LA03/2020/0385/O |
| Procedure: | Hearing on 15 March 2023 |
| Decision by: | Commissioner B Stevenson, dated 6 August 2024 |

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is described on the appeal form as 'non-specific' tourist accommodation and as tourist accommodation on the planning application form and on the refusal notice. A concept plan numbered drawing 02 accompanied the application. That drawing shows an indicative layout including 14 caravan plots, 3 glamping pod plots and 3 chalets. The appellant accepted at the hearing that there is a policy requirement for a layout plan to be provided and he confirmed that he is content for the decision to be based on that drawing. Accordingly, this decision shall therefore be based on this concept plan, and I do not consider that the words 'non-specific' require to be added to the original proposal description. No prejudice arises to any parties in the exclusion of those words.

Reasons

3. The main issues in this appeal are whether the proposal would:
 - be acceptable in principle in the countryside;
 - have an adverse flooding impact;
 - have an adverse impact on Ramsar sites;
 - have an adverse impact on protected species;
 - visually integrate into the landscape; and
 - erode the rural character of the area.

4. The Planning Act (NI) 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. Where in making any determination, regard is to be had to the LDP, Section 6(4) of the Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.
5. In May 2017, the Court of Appeal declared the adoption of the 2014 version of the Belfast Metropolitan Area Plan 2014 (BMAP) unlawful. Prior to that, the draft version of BMAP was published in 2004, and the draft Newtownabbey Area Plan 2005 (dNAP) was published in March 1993. dBMAP effectively replaced the dNAP in 2004. Whilst the adopted version of BMAP is unlawful, dBMAP remains a material consideration despite it not being a Departmental Development Plan (DDP) or LDP.
6. In the Belfast Urban Area Plan 2001 (BUAP) and in dBMAP, the appeal site is within the countryside and outside the development limit of Newtownabbey. The site is also within the green belt. dBMAP indicates that proposals for development within the green belt will be considered in accordance with prevailing planning policy. Policy GB1 of the BUAP states that there will be a presumption against further development within the green belt unless certain requirements are met. That policy is outdated having been overtaken by regional policy for development in the countryside. No determining weight can therefore be attached to its provisions.
7. The Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS) sets out transitional arrangements that will operate until a Plan Strategy is adopted for the area. Under those arrangements, the SPPS retains certain Planning Policy Statements (PPSs) namely Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21), Planning Policy Statement 16 'Tourism' (PPS16), Planning Policy Statement 15 'Planning and Flood Risk' (PPS15) and Planning Policy Statement 2 'Natural Heritage' (PPS2). No conflict arises between the provisions of the SPPS and those named retained policies insofar as they relate to this appeal. PPS21, PPS16, PPS15 and PPS2 therefore provide the policy context for assessing the proposal.
8. The irregular L-shaped appeal site mainly comprises an agricultural field and is located east of the A8 Belfast to Larne dual carriageway. It is 40 metres west of a bungalow at No. 3B Lisglass Road and north-west of another dwelling (No. 3). The northern boundary of the appeal site extends beyond the field to include part of a laneway up to Lisglass Road. The western curved boundary of the appeal site abuts that laneway. The laneway provides access to the two dwellings, a day nursery and allotments. The allotments are north-east of the appeal site and the day nursery is south-east of the appeal site adjacent to the dwelling at No. 3. No. 3B's driveway traverses the appeal site south-west to north-east.
9. The stamped refused drawing numbered 02 shows an indicative layout of the proposed tourist accommodation that comprises 14 touring caravan plots, 3 glamping pod plots, 3 chalets, open space, a reception block and an amenity block.

10. Policy CTY1 'Development in the Countryside' of PPS21 lists 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 expands to say that 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.
11. Policy CTY1 states that planning permission will be granted for non-residential development in the countryside in certain circumstances. One of those is for farm diversification proposals in accordance with Policy CTY11 of PPS21 and another is for tourism development in accordance with the TOU policies of the Planning Strategy for Rural Northern Ireland (PSRNI). PPS16 has since superseded those policies in the PSRNI. To accord with Policy CTY1 of PPS21, only one of those circumstances must be complied with where the development is not considered to be essential. I will deal with Policy CTY11 of PPS21 first before considering the latter.
12. Policy CTY11 of PPS21 is entitled "farm diversification" and it states that planning permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The policy also requires that the proposal complies with certain criteria. One of those is that (a) the farm business is currently active and established. Paragraph 5.49 of the amplification text of Policy CTY11 states that for the purposes of this policy the determining criteria for an active and established business will be that set under Policy CTY10. Criterion (a) of Policy CTY10 requires that the farm business is currently active and has been established for at least 6 years. The word "established" means more than mere existence.
13. While the appellant contends that he has two farm business identification numbers and that he has an allotment site and that this is horticultural, the Council argues that the appellant has provided no farm business identification number and that no other form of information has been provided that would substantiate the appellant's assertion that there is an active and established farm business. The definition of 'agricultural activity' is set out in paragraph 5.39 of the Policy CTY10 amplification text and Footnote 26 of the SPPS. For the purposes of the policy, agricultural activity means inter alia the production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes. Except for fishery products, agricultural products are those items listed in Annex I to the Treaties. That list includes those products that are often found growing at an allotment or on a plant nursery.
14. Paragraph 5.38 of the amplification text of Policy CTY10 states that the applicant will be required to provide the farm's DARD business identification number along with other evidence to prove active farming over the required period. While it is not the responsibility of the Department of Agriculture, Environment and Rural Affairs (DAERA) to determine whether a farm is active, a farm business does not have to be in receipt of subsidies in order to be considered active for the purpose of the policy. However, no substantive documentary evidence has been provided in this appeal that demonstrates that there is an active and established horticulture business. In this evidential context, I must conclude that there is no active and

established farm business that the proposal would be run in conjunction with. The proposed tourist accommodation is therefore not a farm diversification proposal and does not meet Policy CTY11 of PPS21 and the related provisions of the SPPS.

15. Policy CTY1 of PPS21 also permits tourism development proposals in the countryside where they would accord with the TOU policies in the PSRNI, now superseded by PPS16. The aim of PPS16 is to manage the provision of sustainable and high quality tourism developments in appropriate locations within the built and natural environment.
16. Policy TSM6 of PPS16 is entitled 'new and extended holiday parks in the countryside'. Paragraph 7.30 of the amplification text of that policy states that holiday parks may offer a range of accommodation, including static caravan holiday homes, holiday chalets and pitches for touring caravans, motor-homes and camping, as well as a diverse range of infrastructure and amenity provision. The glossary in PPS16 states that for the purposes of that policy, Policy TSM6 excludes caravans. However, that same glossary defines a holiday park for the purposes of the policy as a caravan site licensed under the Caravans Act (NI) 1963, which in addition to static caravans, may also contain holiday chalets or cabins, pitches for touring caravans, motor homes and tenting. Touring caravan plots are mostly proposed within the development.
17. There is no dispute between the appellant and the Council that the proposal would be a holiday park in the countryside and that Policy TSM6 is the appropriate policy to assess the proposal against. In this evidential context and given that touring caravan plots are the predominant element of the proposed concept plan, the proposal is assessed in this appeal against Policy TSM6 of PPS16. Apart from that policy and Policy TSM7 of PPS16, the Council expresses no concern regarding any other policies within PPS16.
18. Policy TSM6 of PPS16 states that planning permission will be granted for a new holiday park where it is demonstrated that the proposal will create a high quality and sustainable form of tourism development. It goes on to say that "the location, siting, size, design, layout and landscaping of the holiday park proposal must be based on an overall design concept that respects the surrounding landscape, rural character and site context. Proposals for holiday park development must be accompanied by a layout and landscaping plan (see guidance at Appendix 4)." The policy also requires that the proposal complies with certain criteria. The Council argues that the proposal would offend criteria (a), (b), (d) and (e) of Policy TSM6 and criteria (b) and (g) of Policy TSM7.

Layout and Design

19. Criterion (d) of Policy TSM6 requires that the layout of caravan pitches is informal and characterised by discrete groupings or clusters of units separated through the use of appropriate soft landscaping. Criterion (e) requires that the design of the development, including the design and scale of ancillary buildings and the design of other elements including internal roads, paths, car parking areas, walls and fences, is appropriate for the site and the locality, respecting the best local traditions of form, materials and detailing. Criterion (b) of Policy TSM7 requires that the site layout,

building design, associated infrastructure and landscaping arrangements (including flood lighting) are of high quality in accordance with the Department's published guidance and assist the promotion of sustainability and biodiversity.

20. The Council argues that the proposed site layout would introduce rigid and regimented rows of development and that the accommodation would be focused and orientated towards a formal avenue type road arrangement. The Council also expresses concern that the conceptual layout does not indicate if soft landscaping works are proposed to soften the relationship between the pitches, aside a general 'green' colouring to the spaces in the conceptual layout.
21. The concept plan shows that the footprint of an amenity block and a reception block would be sited at the main site entrance. A parking area would be in front of the reception block. 14 touring caravan plots would be lined side by side on either side of the proposed internal road. At the turning head of the proposed internal road, the three glamping plots would be lined side by side and the three chalets would be in a row opposite. There would be two open space areas. One of those open space areas would separate the caravan sites from the glamping pods and the other would be beside the proposed amenity block. The concept plan indicates that all existing landscaping within the appeal site would be retained, and that new screening would be planted along the laneway boundary that provides access to the dwellings, allotments and an existing day nursery.
22. Paragraph 7.33 of the amplification text of the policy states that further guidance on site layout and landscape design is set out in Appendix 4. Appendix 4 indicates that the layout/landscaping plan must avoid long straight lines for roads and paths and give due regard to the protection of key views from the holiday park. It goes on to say that an exception to this may arise where an avenue is an appropriate design element. While the Council identified viewpoints of the appeal site that it considered as critical, the Council did not identify key views from the holiday park that it considered that should be protected.
23. Notwithstanding that the proposed internal road within the site would curve in response to the shape of the appeal site, the road would have no breaks. Nevertheless, given the shape of the site, the scale of the development and my observations from the Council's identified critical viewpoints, I am content to accept the avenue as an appropriate design element for the appeal site.
24. Appendix 4 also requires an informal layout of caravan units / motor homes / chalets be provided and that it be characterised by the use of small informal clusters separated by appropriate landscaping and the avoidance of 'regimented' rows of units that typically results in a detrimental visual impact (a 'sea' of caravans' effect). While there would be one row of touring caravans, a row of 3 glamping pod plots and 3 chalets all facing onto an internal avenue, there would be no regimented rows (*my emphasis*) given the overall scale of the development and the shape of the appeal site. Nevertheless, the concept plan has not been designed to reflect small informal clusters separated by appropriate landscaping.

25. While there is 'green' colouring between the sites on the concept plan, the stamped refused drawing numbered 02 does not indicate if the green shaded areas would be landscaped areas. However, those green coloured areas shown on the concept plan could be conditioned to be landscaped areas and the requirement to submit for approval a landscaping plan could be conditioned if permission is to be granted. Appendix 4 of PPS16 also requires a layout /landscaping plan to contain "appropriate planning and selection of planting taking account of function, suitability for prevailing soil and climatic conditions (eg coastal environments), durability, seasonal changes and ease of maintenance." It goes on to say that planting will be required for a variety of functions including linking the holiday park into its wider landscape setting, enhancing the visual character of the development and promoting a distinctive sense of place, boundary treatment and screening, creating visual diversity in the layout etc.
26. While the concept plan indicates that there would be new tree screening along the existing laneway, no further details of that planting is provided. A landscaping plan could provide such detail, and as said, the requirement for one could be conditioned if the proposed development is permitted. Appropriate soft landscaping on the green coloured areas could be presented on a landscaping plan. To my mind, this would be sufficient to separate the caravan plots into groupings or clusters of units. I am satisfied that by conditioning the requirement of a landscaping plan to be submitted and agreed that the appeal proposal would provide an informal high quality layout and that it would not offend criteria (d) and (e) of Policy TSM6 of PPS16, criterion (b) of Policy TSM7 of PPS16 and the related provisions of the SPPS insofar as stated.

Visual Integration

27. Criterion (a) of Policy TSM6 requires that the appeal site is in an area that has the capacity to absorb the holiday park development, without adverse impact on visual amenity and rural character. I will deal with the impact of the proposal on visual amenity first before returning to the impact on rural character. Criterion (b) requires that effective integration into the landscape be secured primarily through the utilisation of existing natural or built features. It goes on to state that "where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist its integration with the surrounding area."
28. Policy CTY13 'Integration and Design of Buildings in the Countryside' of PPS21 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 expands to say that a new building will be unacceptable if it offends certain criteria. The Council argues that the proposed tourist accommodation would offend criteria (a), (b), (c) and (f) of Policy CTY13.
29. Policy CTY13 states that a new building will be unacceptable where (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; (c) it relies primarily on the use of new landscaping for

integration; and (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.

30. The main portion of the appeal site is a field set back from the Lisglass Road and the A8 dual carriageway. The topography of the appeal site is relatively flat with a gentle southerly rise towards the dwelling at No. 3. The site sits below the dual carriageway. A leylandii hedgerow, approximately 2 metres in height, defines the boundary that abuts No. 3. A timber ranch style fence, approximately 1.5 metres high, defines the western curved boundary of the appeal site. Tall trees define the north-eastern boundary of the appeal site adjacent to the allotments. Beyond the tall trees further north-east, the topography rises up to a hill.
31. An overgrown hedgerow and trees, approximately 3-4 metres high, define the field boundary adjacent to the dual carriageway. Further trees, approximately 3-4 metres high, are planted along the inner boundary adjacent to Lisglass Road. Those boundaries are in the appellant's ownership and the retention of their planting could be conditioned if permission is granted. Beyond the lands within the appellant's ownership, an overgrown hedgerow and trees demarcate the roadside boundary along Lisglass Road.
32. The Council argues that the proposed tourist accommodation would be heavily exposed to public views on approaching the site in either direction along the A8 dual carriageway and when approaching the site along the Lisglass Road for 40-50 metres from its entrance. I observed the site from the Council's three identified viewpoints. In my opinion, given the existing topography of the site and its position relative to its surroundings, the site's separation distance from both roads, the existing vegetation and the built landscape, I consider that the proposal would not be a prominent feature in the landscape.
33. The proposed development would not rely primarily on new planting for the development to integrate given the existing planting at the appeal site and on surrounding land that is within the appellant's ownership. The development would blend into the landform given the tall trees on the north-eastern boundary, the higher topography beyond those trees and the built form of the dwellings, the day nursery to the east and the allotments to the north-east. I am satisfied that the site provides a suitable degree of enclosure to enable the proposed development to integrate into the landscape.
34. Despite the western curved boundary of the appeal site adjacent to the laneway being devoid of any planting, I am content that the site does not lack long established natural boundaries given the existing trees on the north-eastern boundary of the appeal site and the leylandii hedgerow abutting No. 3, together with the existing vegetation on the surrounding land owned by the appellant that could be conditioned to be retained if the proposal is permitted. I am satisfied that the development would effectively integrate into the landscape through the utilisation of existing natural features together with new planting along the western site boundary.

35. Given these factors, the appeal proposal would not offend criteria (a), (b), (c) and (f) of Policy CTY13 of PPS21, criterion (a) of Policy TSM6 in terms of visual amenity or criterion (b) of Policy TSM6 and the related provisions of the SPPS.

Rural Character

36. Policy TSM7 'Criteria for Tourism Development' of PPS16 states that a proposal for a tourism use, will be subject to certain design criteria. The Council argues that the proposal offends criterion (g) of Policy TSM7 of PPS16. Criterion (g) requires the proposal to be compatible with surrounding land uses and neither the use or built form to detract from the landscape quality and character of the surrounding area.
37. Policy CTY14 of PPS21 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 subject to complying with certain criteria. The Council contends that the proposal would offend criterion (a) of Policy CTY14. Criterion (a) requires that a new building would not be unduly prominent in the landscape. For the reasons set out above, the proposed tourist accommodation would not be unduly prominent in the landscape. The appeal proposal would not offend criterion (a) of Policy CTY14 of PPS21, criterion (g) of Policy TSM7 of PPS16 and the related provisions of the SPPS.

Impact on Flooding

38. Policy FLD1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS15 states that development will not be permitted within the 1 in 100 year fluvial flood plain (AEP⁷ of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy. The policy expands to say that where the principle of development is accepted by the planning authority through meeting the exceptions test, the applicant is required to submit a Flood Risk Assessment (FRA) for all proposals.
39. The policy also states that planning permission will only be granted if the FRA demonstrates that (a) all sources of flood risk to and from the proposed development have been identified; and (b) there are adequate measures to manage and mitigate any increase in flood risk arising from the development. The Council alleges that the proposal does not fall within any of the identified exception categories and would offend Policy FLD1 of PPS15.
40. In Appendix 3 of its Statement of Case, the Council encloses an extract of the Department for Infrastructure's (DfI) Strategic Flood Map. The undisputed flood map indicates that there is a watercourse north-west of the main portion of the appeal site. The existing laneway that is partly within the appeal site and that currently provides access to the allotments, day nursery and two dwellings' traverses that watercourse. That map indicates that part of the existing laneway that is within the appeal site and a pinch point at the northern corner of the appeal site fall within the flood plain and that surface water is prone on those lands. The stamped refused drawing numbered 02 indicates that open space would be in that northern corner.

41. The appellant has submitted no FRA or demonstrated that the proposal constitutes an exception to the policy. The appellant contends that there should be little or no need for detailed layout drawings or a FRA given that this is an outline application. While only the principle of development is being sought, the planning policy requirements cannot be set aside. The exceptions listed in Policy FLD1 include proposals of overriding regional or sub-regional economic importance or where the development is minor as defined in the Glossary. No reasons have been provided that demonstrate that the proposal is of overriding regional or sub-regional economic importance, nor would the appeal proposal be minor development.
42. The other exceptions are that (a) the development is of previously developed land protected by flood defences; and in undefended areas (b) that the new development would be within settlements in the coastal floodplain where the land is raised; or (c) that the proposal would involve the replacement of an existing building; or (d) that it would be development for agricultural use, transport and utilities infrastructure; or (e) that it would be water compatible development; or (f) that the use of land would be for sport and outdoor recreation, amenity open space or for nature conservation purposes, including ancillary buildings; or (g) that it would be for the extraction of mineral deposits and necessary ancillary development. The exceptions listed under (a), (b), (c), (d), (e) and (g) do not relate to the appeal proposal.
43. As the northern corner would be used for open space and the rest of the development that would be within the floodplain is the existing laneway and no changes are proposed to it under this appeal, I am satisfied that the development would meet the exceptions test under (f) in Policy FLD1 of PPS15. However, no FRA has been submitted and therefore all sources of flood risk to and from the proposed development have not been identified. It has also not been demonstrated that adequate measures would be put in place to manage and mitigate any increase in flood risk that could arise from the development. Accordingly, the appeal proposal would offend Policy FLD1 of PPS15 and the related provisions of the SPPS. The Council's third reason for refusal is therefore sustained in this regard.
44. The Council argues that the proposal would offend criterion (d) of Policy TSM7 of PPS16. Criterion (d) of Policy TSM7 requires that sustainable drainage systems are utilised where feasible and practicable to ensure that surface water run-off is managed in a sustainable manner. Policy FLD3 'Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains' of PPS15 requires a Drainage Assessment (DA) for all development proposals that exceed certain thresholds. The policy expands to state that such development will be permitted where it is demonstrated through the DA that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere. The policy states that where the proposed development is also located within a fluvial flood plain, then Policy FLD1 will take precedence.
45. The Council contends that the proposal requires the submission of a DA as in its opinion the development would exceed one of the listed thresholds; that of a change of use involving new buildings and/or hard surfacing exceeding 1000 square metres in area. I accept that this threshold applies given that the proposal would involve a

change of use of the land and would involve new buildings. A DA is therefore required.

46. Given that neither a DA nor a FRA have been submitted, I am not persuaded that adequate measures will be put in place to effectively mitigate the flood risk to the proposed development and from the development elsewhere, or that sustainable drainage systems, where feasible and practicable, would be utilised. The appeal proposal would offend Policy FLD3 of PPS15, criterion (d) of Policy TSM7 of PPS16 and the related provisions of the SPPS. The Council's third reason for refusal is therefore sustained.

Impact on Protected Species

47. Policy NH2 'Species Protected by Law' of PPS2 states that planning permission will only be granted for a development proposal that is not likely to harm a protected species. It expands to say that in exceptional circumstances a development proposal that is likely to harm European protected species may only be permitted where there are no alternative solutions; and it is required for imperative reasons of overriding public interest; and there is no detriment to the maintenance of the population of the species at a favourable conservation status; and compensatory measures are agreed and fully secured. The policy goes on to say that development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places.
48. Paragraph 6.174 of the SPPS indicates that the precautionary principle should be applied when considering the impacts of a proposed development on national or international significant landscape or natural heritage resources. The Council did not consult with the Northern Ireland Environment Agency (NIEA) Natural Environment Division (NED), nor did the Council request the appellant to submit a Biodiversity Checklist or a Preliminary Ecological Assessment (PEA), but nor did the appellant offer to provide either. I therefore can only rely on my on-site observations. The site contains grassland, mature trees along a site boundary and a leylandii hedgerow on another site boundary plus a nearby watercourse.
49. Given the nature of the site and the adjacent watercourse, I consider that there is the potential for the site to be inhabited by protected species and those species could be disturbed to accommodate the proposed tourist accommodation. Bearing this in mind together with the precautionary principle, I conclude that the appeal proposal would result in an unacceptable adverse impact on, or damage to protected species and that the development would offend Policy NH2 of PPS2 and the related provisions of the SPPS. The Council's fourth reason for refusal is therefore sustained in this regard.

Impact on European/Ramsar Sites

50. The Council indicates that the watercourse adjacent to the north-western boundary of the appeal site flows west via the undesignated Ballylinny Burn into the designated river known as the Six Mile Water Extension and continues to flow into the Six Mile Water River and onwards to Lough Neagh and Lough Beg Special Protection Areas (SPAs)/Ramsar Sites. The Council further states that the

watercourse may be used by either land or aquatic animals for purposes of resting, foraging, commuting, breeding or sleeping. The Council contends that no information has been provided that demonstrates that the appeal development, in either its formation or operation, would not have an adverse impact on water quality and in turn the SPAs/Ramsar Sites.

51. Policy NH1 'European and Ramsar Sites – International' of PPS2 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or a listed or proposed Ramsar Site.
52. The policy goes on to say that “where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the decision-maker shall make an appropriate assessment of the implications for the site in view of the site’s conservation objectives. Appropriate mitigation measures in the form of planning conditions may be imposed. In light of the conclusions of the assessment, the decision-maker shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site. In exceptional circumstances, a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where there are no alternative solutions; and the proposed development is required for imperative reasons of overriding public interest; and compensatory measures are agreed and fully secured.”
53. The existing laneway that would be used to access the proposed tourist accommodation traverses the Ballylinny Burn watercourse. The proposed tourist accommodation would be sited in the adjacent field to the laneway and the watercourse. While Lough Neagh and Lough Beg SPAs and Ramsar Sites are a considerable distance from the appeal site, the Ballylinny Burn watercourse is a tributary connected to Lough Neagh and Lough Beg SPAs and Ramsar Sites. However, I was given no persuasive evidence from either party that outlines the impact, if any, on Lough Neagh and Lough Beg SPAs and Ramsar Sites. Despite the considerable distance to the SPAs/Ramsar Sites, given the tributary’s hydrological linkage to them and applying the precautionary principle, it is a possibility that the proposal could likely have a significant effect on such sites.
54. In the evidential context of this appeal, I am unable to carry out an Appropriate Assessment, nor identify appropriate mitigation measures if required and no exceptional circumstances have been put forward by the appellant. Accordingly, I must conclude that the proposal would fail to comply with Policy NH1 of PPS2. The Council’s fourth reason for refusal is therefore sustained insofar as stated.

Other Matters

55. The appellant raises concerns regarding the length of time it took the Council to make its decision and feels aggrieved at the alleged lack of contact from that office in requesting further information. While the Council admits that it did not request certain environmental information from the appellant, any concerns regarding the handling of the planning application are matters outside the remit of this appeal.

Conclusion

56. Given that landscaping could be proposed to break up the proposed tourist accommodation into clusters and this could be a requirement on any landscaping plan that could be conditioned to be submitted at Reserved Matters, the proposal would not offend Policies TSM6 and TSM7 of PPS16. Even though Policy CTY11 of PPS21 is not met, as I have found that the proposed tourist accommodation would be acceptable in principle in the countryside, it would still accord with Policy CTY1 of PPS21. The Council's first and second reasons for refusal are therefore not sustained.
57. Nevertheless, despite the above conclusions, it has not been demonstrated that all sources of flood risk to and from the proposed development have been identified or that adequate measures to manage and mitigate any flood risk have been provided. I have also found that the proposal would have an unacceptable adverse impact on, or damage to protected species and would adversely affect the integrity of the Lough Neagh and Lough Beg SPA and Ramsar Sites. The Council's third and fourth reasons for refusal are sustained insofar as stated and are determining. The appeal must fail.

This decision is based on the drawing numbered 01: Site Location Plan to scale 1:2500 and which the Council received on 5 April 2022, and the drawing numbered 02: Concept Plan to scale 1:200 and which the Council received on 5 April 2022.

COMMISSIONER B STEVENSON

List of Appearances

Planning Authority: -

Mr M O'Reilly
Ms T McVeigh (*observing only*)
Ms L Hingston (*observing only*)

Appellant: -

Mr I McFall
Mr T Clarke MLA
Ms J Archibald (*observing only*)

List of Documents

Planning Authority: -

A Statement of Case
Antrim and Newtownabbey Borough Council

Appellant: -

B Statement of Case
Mr I McFall