
Appeal Reference:	2022/A0046
Appeal by:	Mr Anthony and Mrs Mary O'Prey.
Appeal against:	The refusal of outline planning permission.
Proposed Development:	Dwelling and detached garage with associated site works including improvements to existing vehicular access.
Location:	Land to the rear of 9 Wateresk Road, Dundrum.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2021/1041/O.
Procedure:	Written representations with Commissioner's site visit on 19 th February 2024.
Decision by:	Commissioner Damien Hannon, dated 12 th March 2024.

Decision

1. The appeal is allowed, and outline planning permission is granted subject to the conditions detailed below.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on rural character.
3. While the statutory development plan, the Ards and Down Area Plan 2015 (ADAP), designates the appeal site as located in the countryside, it contains no policies relevant to the appeal proposal. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development (SPPS), and those of retained policy, regarding issues raised by this appeal. Consequently, the relevant policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21).
4. The appeal site is a 75m deep, rectangular plot of land with a 25m frontage onto Wateresk Road. It accommodates the curtilage of No. 9 that comprises a bungalow and single-storey outbuilding. The appeal site also includes an open rectangular field abutting this curtilage to the northwest. While No. 9 is accessed directly off Wateresk Road, a laneway leading to a dwelling and outbuildings located approximately 120m to the northwest of the appeal site, runs along its northeastern boundary. The appeal site has a return frontage onto this laneway for its whole length and it is proposed to construct a detached dwelling and garage in the open field to the northwest of No. 9.
5. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in principle in the countryside. The appellant argued that the proposal

complied with Policy CTY 21 as the development of a small gap site in accordance with Policy CTY 8. Policy CTY 8 of PPS 21 states that a building which adds to a ribbon of development, such as that proposed, can cause a detrimental change to, or further erode the rural character of an area and that consequently, such development is to be resisted. This Policy CTY 8 requirement is repeated in Policy CTY 14 which also adds that permission will not be granted for development that results in suburban style build-up or causes detrimental change to or further erodes the rural character of an area.

6. Policy CTY 8 however, states that exceptionally, permission will be granted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, provided the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size.
7. I agree with the Council that a dwelling of single storey design could be adequately integrated into its surroundings. The Council also stated that the proposed development would constitute the infilling of a small gap in an otherwise continuously built-up frontage onto the laneway comprising Nos 9 and 11 Wateresk Road and their respective outbuildings. They nonetheless argued that the proposal failed to comply with policies CTY 8 and CTY 14 as it would not respect the existing development pattern along the frontage and would result in unacceptable detrimental impact on rural character. The Council's specific objection on rural character grounds is that the proposal takes its access from Wateresk Road and through the existing curtilage of No.9, whereas the other buildings within the otherwise continuously built-up frontage take access off the laneway. The Council also argued that taking access through the curtilage of No. 9 would have an unacceptable impact on the residential amenity of occupants of No. 9 through associated vehicular noise and disturbance.
8. However, the appellant submitted drawings with their statement of case illustrating an alternative arrangement taking access from the laneway. I judge that this arrangement would assuage the Council's stated objections and allow for a development that would respect the existing development pattern along the laneway frontage and have no unacceptable detrimental impact on the residential amenity of occupants of No. 9.
9. Implementing the amended access via the laneway would require control over land outside the appeal site. However, such an arrangement can appropriately be secured by imposition of a negative condition. Consequently, the Council's objection to the proposal on the grounds of detrimental impact on rural character and residential amenity are not upheld. I therefore conclude that the proposal is acceptable in principle in the countryside as the development of a small gap site in accordance with Policy CTY 8 of PPS 21. The Council's objections to the proposal on the grounds of detrimental impact on rural character and residential amenity are not therefore upheld and its first and second reasons for refusal based on Policy CTY8 are not sustained.
10. The Council argued that the proposed dwelling and garage would, in conjunction with existing surrounding buildings, create a suburban style build-up of development, resulting in detrimental change to rural character contrary to Policy CTY 14 of PPS 21. While the proposal would give rise to a build-up of development, I do not consider that this would be suburban in nature given the essentially rural character and design of existing development. Also, given that the development would constitute acceptable infill, I do not judge that it would be

detrimental to rural character to an unacceptable extent. The Council's third reason for refusal based on Policy CTY 14 is not therefore sustained.

11. In the evidential context of this case and the absence of sustained objection, the appeal is allowed, and outline permission granted.

Conditions

- 1) Except as expressly provided for by conditions 2 and 3, the following reserved matters shall be as approved by the Council – the siting, design and external appearance of the buildings and the means of access thereto.
- 2) The ridge height of the dwelling shall not exceed 5.5 metres above existing ground level at the lowest point within its footprint and underbuilding shall not exceed 0.5 metres at any point above existing ground level. Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point.
- 3) Access arrangements including visibility splays of 2.0m x 60m in each direction along Wateresk Road as illustrated by the 1:250 scale 'Indicative Site Layout Plan' numbered S-02, received by the Commission on 5th August 2022 and submitted as part of the appellant's statement of Case, shall be laid out before any building operations commence and thereafter permanently retained.
- 4) No development shall take place until there has been submitted to and approved by the council, a landscaping scheme showing a scheme of planting behind visibility splays and providing the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed, or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
- 5) Application for approval of the reserved matters shall be made to the Council before the expiration of three years from the date of this decision. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision approves the following drawings: -

1:1250 scale Site Location Plan numbered P-01 received by the Council on 3rd June 2021.

1:500 scale 'Surrounding Area and Indicative Site Layout Plan' numbered P-03 received by the Council on 3rd June 2021.

1:250 scale 'Indicative Site Layout Plan' numbered S-02 illustrating an access layout, received by the Commission on 5th August 2022 and submitted as part of the appellant's statement of Case.

COMMISSIONER DAMIEN HANNON

List of Documents

Planning Authority:-	COU 1	Statement of Case
Appellant:-	APP 1	Statement of Case