
Appeal Reference:	2022/A0062
Appeal by:	Conor Nugent
Appeal against:	The refusal of full planning permission
Proposal:	Extension and alterations to outbuilding to form guest (granny) annex to include an extension of curtilage
Location:	85 Upper Darkley Road and outbuilding immediately south of 85 Upper Darkley Road, Darkley, Armagh BT60 3BS
Planning Authority:	Armagh City, Banbridge & Craigavon Borough Council
Application Reference:	LA08/2022/0320/F
Procedure:	Written Representations with Commissioner's Site Visit on 4 November 2024
Decisions by:	Commissioner Mandy Jones dated 7 November 2024

Decision

1. The appeal is dismissed.

Reasoning

2. The main issues in this appeal are whether the proposal would be acceptable in principle in the countryside and whether it would constitute a self-contained unit of accommodation in addition to the existing dwelling.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had 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 local development plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.
4. The Armagh Area Plan 2004 continues to operate as the LDP for the area in which the appeal site is located. It is located outside any settlement limit and lies within the countryside as designated in the Plan which does not contain any specific policy or guidance pertinent to this appeal proposal.
5. Overarching regional policy is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS). It sets out transitional arrangements which will operate until a local authority has adopted a Plan Strategy (PS) for the whole area. No PS has been adopted for this area. The SPPS retains existing planning policy statements including Planning Policy Statement 21 : Sustainable Development in the Countryside (PPS 21) and Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (PPS 7 addendum).The SPPS sets out the transitional arrangements to be followed in the event of a

conflict between it and retained policy. Any conflict arising between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the SPPS. As no such conflict arises in this instance, the retained policy contained in PPS 21 and PPS 7 addendum applies.

6. The appeal site contains a substantial two storey dwelling (85 Upper Darkley Road), with a hard surfaced parking area to its eastern (front) elevation and patio and lawn area to its western (rear) elevation and garden area to its southern (side elevation). The area beyond this side garden is outside the curtilage of the host dwelling and consists of a field which extends to the nearby Tullynowood Lake to the southwest. Within this, is a single storey outbuilding sited to the south of the main dwelling and used for storage.
7. The roadside boundary of the appeal site is defined by a red brickwork wall, set to the rear of visibility splays. The portion of the southern (side) boundary which defines the front garden of the host dwelling is defined with a row of Castlewella Gold trees. The northern boundary of the site is adjacent to a large agricultural outbuilding and is defined by a post and wire fence and a further row of Castlewella Gold trees.
8. Within the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations, Policy EXT 1 Residential Extensions and Alterations state that planning permission will be granted for a proposal to extend or alter a residential property where all of a number of criteria are met. It continues that the guidance set out in Annex A will be taken into account when assessing proposals against the criteria.
9. In relation to ancillary accommodation, paragraph 2.8 of the justification and amplification text states there may be occasions when people wish to provide ancillary accommodation to provide additional living space for elderly relatives or to meet a variety of other personal and domestic circumstances.
10. Paragraph 2.9 states to be ancillary, accommodation must be subordinate to the main dwelling and its function supplementary to the use of the existing residence. Such additional accommodation should normally be attached to the existing property and be internally accessible from it, although a separate doorway access will also be acceptable.
11. Paragraph 2.10 states where an extension to the existing house is not practicable and it is proposed to convert and extend an existing outbuilding, planning permission will normally depend on the development providing a modest scale of accommodation. The purpose of this is to ensure the use of the building as part of the main dwelling. The construction of a separate building, as self-contained accommodation, within the curtilage of an existing dwelling house will not be acceptable, unless a separate dwelling would be granted permission in its own right.

12. In relation to Extensions and Alterations to provide for ancillary uses, annex A paragraph 49 states that an extension or alteration to a residential property to provide an ancillary use, such as additional living accommodation for elderly or dependant relatives, should be designed to demonstrate dependence on the existing residential property. Proposals of this nature should be designed in such a manner as to easily enable the extension to be later used an integral part of the main residential property. Ancillary uses should provide limited accommodation and shared facilities, for example kitchens and be physically linked internally to the host property. Ancillary uses that could practically and viably operate on their own will not be acceptable.
13. The Addendum to PPS 7, refers to ancillary residential accommodation as being functionally supplementary to a main dwelling. The dictionary meaning of 'ancillary' is having a subordinate, subsidiary or secondary nature. It is implicit that ancillary residential accommodation is within an existing curtilage of the host dwelling and the planning unit. The appellant accepts that the outbuilding and proposed extension to accommodate the ancillary accommodation are outside the curtilage of the main dwelling, hence the description of the application. The appeal proposal includes a contrived curtilage which has been extended to include the outbuilding and a considerable portion of adjacent land to the south of the main dwelling. Policy does not refer to the creation or extension of an existing curtilage for ancillary accommodation. The appellant refers to the imposition of a condition to control the extent of a curtilage and referred to paragraph 5.74 of Policy CTY 13 of PPS 21. However, this refers to situations in which it may be necessary to control the size and extent of a curtilage of a new dwelling (my emphasis) by applying a planning condition and not ancillary accommodation as proposed.
14. Background documents indicate that following a request from the Council (dated 9 May 2022) during the course of the planning application, the agent submitted a supporting statement for the proposed conversion and extension of the outbuilding. It was stated that the proposal is required as the appellant has spent the majority of his adult life in the States and is intending to move back home permanently with his family to support the family farm. The proposal is for his elderly parents as they approach the latter years of their lives and may need an element of care. Post his parents he then expects the odd friend from the States to come and visit. It was claimed that the proposal could not function as a separate residence as no cooking facilities are proposed and water and electrical supplies will be provided from the host dwelling.
15. The existing outbuilding is sited approximately 13m to the south of no 85. It has a footprint of 8m x 5.9m (47.5m²) and is single storey with a double hipped, pitched roof. The proposed extension to the south of the outbuilding has a footprint of 5.5m x 10.5m and 2.5m x 7m. A sewing room (5.2m x 7.4m) is proposed within the existing outbuilding and the new build element consists of a bedroom (4.64m x 4.49m) with ensuite (2.4m x 2.9m), another en-suite opening to spare room and hall (3.4m x 2.5m), spare room (2.68m x 4.49m) entrance hall and storage with a total floorspace of 75.25m². It also has a front entrance door addressing the public road. Whilst I consider three dimensionally the proposal would read subordinate to the main residence, I note that the total footprint of the proposal at 123m² exceeds the footprint of the main dwelling which is approximately 102m².

16. Given the internal layout and scale of rooms, I would concur with the Council that with minimal internal works the proposal could practically and viably operate independently. The proposal is located outside the established curtilage of the host dwelling and given the significant separation distance between the proposal and the host dwelling and its displaced siting; the proposal cannot be physically linked to the host dwelling.
17. Notwithstanding sharing water and electricity from the main house as claimed, in my opinion, the proposal could easily function as a separate dwelling. Due to its separation from the main dwelling and location outside the curtilage of the host dwelling it does not meet the requirements in policy set out in paragraphs 2.9 and A49 of the addendum to PPS 7 for extensions and alterations to provide for ancillary residential use.
18. During the processing of the application, the applicant was asked why an extension to the applicant's dwelling is not practical. It was submitted that it would not be feasible for functional and technical reasons including proximity to the active farm and the requirement for extremely deep foundations given the clay soil and oak tree in the garden. The appellant maintains that 'clay soil is present throughout however, being a flexible historic building, the host building is better able to cope with movement than modern rigid structures, due to the prevalence of soft lime mortar and massive walls.' It was submitted that 'the proposed extension will have slender walls, set in cement mortar with brittle plaster and no cornices to show every crack. However, following careful site analysis the proposed extension will not encounter problems as it will be approximately 30m from the oak tree and outside the zone of influence or outside a distance within which 90% of damage cases were found in a Key Report 1989 (Cutler & Richardson,1989).'
19. The appellant maintains that 'alternatively to extend on the southern side of the main dwelling will bring any proposal within the zone of influence (say within 13m of an Oak tree) and problems will be encountered in addition to uneconomical foundations required.'
20. I note that within the appellant's statement of case, only assertions were made and only general information was submitted in relation to clay soils. No site-specific tree surveys were submitted or technical soil type analysis to support the appellant's position. Whilst there may or may not be unfavourable soil conditions, I am not persuaded that there are no technical solutions available for the construction of an extension to the main dwelling within its generous existing curtilage. In any case, where the appeal proposal is sited will also encounter the same soil type and any challenges to construction as claimed, albeit it is further from the location of the Oak tree. In addition, no evidence was submitted in relation to proximity with an active farm. It has not been demonstrated that an extension to the existing house is not practicable as required by paragraph 2.10.
21. Within the statement of case, the appellant submitted a supporting Doctor's letter regarding his mother's personal circumstances which refers to the requirement for ' a dwelling akin to a flat or and adaptations to current dwelling to allow ease of access and no stairs to facilitate ongoing problems with reduced mobility... the patient currently lives in a 2 storey dwelling and this requires a lot of adaptions to aid with daily activities.' I note this refers to adaptions to the current dwelling as an

option to address the personal circumstances cited and does not specifically refer to the appeal proposal as the only option available to the appellants.

22. The appeal proposal is contrary to Policy EXT1 of the Addendum to PPS 7, Residential Extensions and Alterations and the Council's first reason for refusal is sustained.
23. The Council also assessed the proposal under Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21), Policy CTY 4 – The Conversion and Reuse of Existing Buildings. Policy CTY 1 of PPS 21 lists types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes the conversion of a non-residential building to a dwelling in accordance with Policy CTY 4.
24. Policy CTY 4 states that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. Such proposals will be required to be of a high design quality and to meet a number of criteria.
25. Paragraph 5.20 of the justification and amplification text states that due to changing patterns of rural life there are a range of older buildings in the countryside, including some that have been listed, that are no longer needed for their original purpose. These can include former schoolhouses, churches and older traditional barns and outbuildings. The reuse and sympathetic conversion of these types of buildings can represent a sustainable approach to development in the countryside and for certain buildings may be the key to their preservation.
26. The Council were of the opinion that the existing building has no features worthy of retention. The existing outbuilding is constructed with concrete block with a painted rendered finish and double hipped pitched roof and overall has a simple and modest presentation. No evidence was presented regarding any architectural features which were worthy of retention or historical merit. A contemporary design approach is proposed and proposed finishes include a mixture of Siberian Larch T & G cladding laid vertically and granite random rubble stone cladding. A flat roof is proposed with a Sedum green covering. Existing openings have been built up and new larger openings have been created. The existing fabric of the outbuilding has been completely subsumed within the proposed elevational treatments. In my opinion, it is not a sympathetic conversion of the existing outbuilding with the policy aim of securing its upkeep and retention. Given this, combined with its scale and massing, the proposal does not maintain or enhance the form, character and architectural features of the existing outbuilding. The policy requirements of CTY 4 have not been met.
27. In this regard, as no overriding reasons were submitted as to why the development is essential and could not be located in a settlement the appeal proposal is contrary to Policy CTY 1 and unacceptable in principle. The Council's second and third reasons for refusal based on Policy CTY 1 and CTY 4 of PPS 21 have been sustained.

28. In conclusion, as all the reasons for refusal have been sustained the appeal must fail.

This decision relates to the following drawings submitted with the planning application.

- Site Location Plan @ scale 1:2500 (date received by Council 2 March 2022) Council ref: 01) and
- Proposed Site Plan, Existing & Proposed Plans @ scales 1:500,1:100 & 1:50 (date received by Council 2 March 2022). Council ref: 02.

COMMISSIONER MANDY JONES

List of Documents

Planning Authority: 'A' Statement of Case

'A1' Rebuttal

Appellant: 'B' Statement of Case