
Appeal Reference:	2023/A0038
Appeal by:	Rodney Young
Appeal against:	The refusal of full planning permission
Proposed Development:	Proposed change of use from agricultural out buildings to remote document storage facility including new access onto Lisnabreeny Road, (Farm Diversification)
Location:	Lands 20m south of 20 Lisnabreeny Road, Belfast BT6 9SD
Planning Authority:	Lisburn and Castlereagh City Council
Application Reference:	LA05/2022/0195/F
Procedure:	Informal Hearing on 15 th February 2024
Decision by:	Commissioner Trudy Harbinson, dated 31 st May 2024

Decision

1. The appeal is dismissed.

Preliminary matters

2. An updated drawing was submitted at appeal stage by the Appellant. It was included within the Appellant's Statement of Case. The drawing (no. 2174 03C) Proposed Site Layout Plan, moves the position of the access lane that runs parallel to the Lisnabreeny Road, closer to that road, specifies the material to be used in its construction and details proposed new planting.
3. The Council had no objection to the amended drawing being admitted for consideration under this appeal. Given the nature of amendments in the updated drawing, it does not alter or go to the heart of the proposal, I am satisfied that no third party unaware of it would be prejudiced in their consideration. The updated drawing will form the basis of my appeal consideration.
4. The description of the appeal proposal is 'Proposed change of use from agricultural out buildings to remote document storage facility including new access onto Lisnabreeny Road, all under PPS21 Policy CTY 11 Farm Diversification'. As referred to later in this decision, Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21) is no longer relevant having been replaced by the Council's Plan Strategy (PS). The new relevant policy context was discussed at the hearing. I have amended the description to remove reference to PPS21.

Reasons

5. The main issues in this appeal are whether the appeal development would:
 - be acceptable in principle in the countryside; and
 - adversely impact on rural character.
6. In the determination of this appeal, Section 45 (1) of the Act states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.
7. The Council has adopted the PS entitled 'Lisburn and Castlereagh Local Development Plan 2032'. In line with the transitional arrangements set out in the Schedule to the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 (as amended), the LDP now becomes a combination of the Departmental Development Plan (DDP) and the PS read together. Again, in accordance with the subject legislation, any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS.
8. The Belfast Urban Area Plan (BUAP) is the relevant DDP. In that plan the site is located outside any settlement and within the Belfast Urban Area Green Belt and within an Area of High Scenic Value (AHSV). The rural policies in the DDP are outdated having been taken over by regional policies, now replaced by the PS. Policy L4 'City Setting' of the DDP seeks to protect Areas of High Scenic Value in the Antrim and Castlereagh Hills, the Lagan Valley and Lough Shores. While the Draft Belfast Metropolitan Area Plan 2004 (dBMAP) is not a DDP as it was never adopted, it could still be a potential material consideration in certain cases. Within dBMAP the appeal site is located in the open countryside and is also within an AHSV. dBMAP therefore remains material insofar as it relates to this designation. The Council point to policies COU15 'Integration and Design of Buildings in the Countryside' and COU16 'Rural Character and other Criteria' of the PS in considering the appeal development within the AHSV. There is no conflict between the DDP and the PS in relation to the AHSV.
9. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), as the Council has now adopted the PS, previously retained policies set out in the suite of regional Planning Policy Statements (PPSs) have now ceased to have effect within this Council area.
10. Following adoption of the PS the Council provided updated reasons for refusal in their Statement of Case. These were based on Policies COU1, COU4, COU11, COU14, COU15, COU16 and ED6 of the PS. The Appellant was afforded opportunity to comment on the updated reasons for refusal at the hearing so no prejudice arises.

The appeal proposal

11. The appeal site is located on the eastern side of Lisnabreeny Road, south of a dwelling and outbuildings at number 20. It comprises a yard containing agricultural buildings and hardstanding and it takes in part of a field to its south. The agricultural outbuildings are single storey comprising of a larger outbuilding and smaller shed. The roof form varies from pitched to mono pitch and the buildings

are finished in concrete blockwork, corrugated metal sheeting, render and brickwork. There are silage bales on the area of hardstanding within the yard. The yard is accessed by an agricultural gate off the Lisnabreeny Road.

12. There is a timber fence, access field gate and hedge along the western roadside boundary. The northern boundary is mostly defined by the gable of the existing buildings. Within the existing yard a block wall, approximately 1.6m high, defines part of the eastern boundary, the remainder, given it is part of a larger field, is undefined, as is the southern boundary. The yard and field within the appeal site are relatively flat, the remainder of the field undulates, rising gently to the south and east. There are rolling fields to the south and west. On the opposite western side of the Lisnabreeny Road the fields fall to a lower level. There are a number of electricity pylons in the area, including one within the field to the east of the appeal site and two to the south.
13. The appeal seeks to change the use of the agricultural outbuildings to a remote document storage facility. Both parties agreed that the proposed use falls under Part B Industrial & Business Uses: Class B4 Storage and Distribution of the Planning (Use Classes) Order (NI) 2015. Internally the buildings would accommodate a document storage area alongside an office, reception and toilet. Externally there are minimal changes to the buildings, with a fire exit door replacing a window on the rear elevation and the introduction of a fire exit door, roller shutter door and an entrance door in lieu of a window on the side elevation. The existing access to the outbuildings and yard would be closed and a new access created in the adjoining field to the south. A new gravel laneway will travel a distance of some 42m from the newly created access into the external yard which provides circulation and parking spaces for 2 cars and 2 vans. A new native double hedgerow is to be planted adjacent to a new fence along the eastern boundary of the access laneway. New tree and hedge planting are also proposed behind the required visibility splays.

The Principle of Development

14. Six reasons for refusal were advanced in total. Refusal reason three, as amended, states that the proposal is contrary to Policy COU14 and COU 4 of the PS in that it has not been demonstrated that the building is non-listed vernacular or suitably locally important to qualify for conversion to a non-residential use and the nature and scale of the proposed non-residential use is not appropriate to a countryside location as the buildings have been designed and used for agricultural purposes. Refusal reason six states that the proposal is contrary to Policy ED6 of the PS in that the storage use is not ancillary to a proposal for a community enterprise park/centre. The Appellant confirmed that no case was being made under Policy COU4, COU14 or ED6 and that they accept that those policies were of no assistance to them. I agree that the buildings can not be considered to be non-listed vernacular or locally important buildings, nor is the proposal one to develop a small community enterprise centre or a small rural industrial enterprise. The proposal is not in compliance with those policies. The Appellant stated that their case rested on Policy COU11.
15. Policy COU1 Development in the Countryside 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 further states that details of operational policies relating to acceptable non-

residential development proposals are set out in policies COU11 to COU14. It goes on to state that any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 and COU16.

16. Policy COU11 Farm Diversification states that planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm and where four criteria are met. It further states that proposals for farm diversification must involve the conversion or reuse of existing farm buildings. The Council found that in the first instance the Appellant had failed to demonstrate that the proposed storage facility is to be run in conjunction with the agricultural operations on the farm. They also considered that the proposal failed to comply with criterion (b) in that it had not been demonstrated that the character and scale of the proposal would be appropriate to its location.
17. The Council considered that the information they had been provided with demonstrated the potential for a stand alone storage and distribution facility in the open countryside with no association with the operations of the farm holding, apart from providing an additional revenue stream.
18. Policy COU11 of the PS provides no definition of farm diversification, nor does it provide an explanation of the policy requirement 'to be run in conjunction with the agricultural operations on the farm'. At the hearing the Council stated that whilst there was no definition of diversification given in the PS the reference in the Justification and Amplification (J&A) text to suitable tourism or agri-tourism schemes gives an idea of such schemes. There is no definition in the PS of the policy requirement 'to be run in conjunction with the agricultural operations on the farm', their position was that the use would be connected to the farming activity. They considered information required to demonstrate such a connection would include linkages to the farming activity and to the farmers ability and experience, alongside a need for the proposal and benefits to the community. The Appellant stated that the Council were going beyond the requirements of the policy. He referenced the Oxford Dictionary definition of the word 'conjunction' as 'the action or an instance of two or more events or things occurring at the same point in time or space'. Whilst the Council did not dispute this definition, they asserted that the criteria must be considered as a whole, and that the nature of the proposed use is divorced from the farming activity.
19. The strategic policy (SP) for economic development in the countryside (SP12) states that the Plan will support development proposals that facilitate and benefit the rural economy and support rural communities, whilst protecting rural character and the environment. The J&A text states that it is recognised that certain economic development, namely those associated with farm diversification and expansion of existing enterprises, require a countryside location having been established at that location. Whilst farm diversification is recognised within the SP there are no specific examples presented that assist in the consideration of this appeal proposal against Policy COU11.
20. Again, the J&A text at Policy COU11 references the promotion of sustainable forms of farm diversification *including* (my emphasis) suitable tourism or agri-tourism schemes. However this list is not exhaustive and it cannot therefore be used to justify or restrict uses to those that serve or are linked with agriculture

exclusively. Neither does Policy COU11 require that a need for the farm diversification proposal or community benefit be demonstrated.

21. The Appellant has advised that he owns 60 acres of farmland half of which he farms himself and the remainder he lets in conacre. He keeps 30 beef cattle housed and wintered in sheds at his home, which lies further south of the appeal site. Typical farming activity includes feeding the cattle, cleaning sheds, sewing fertiliser, cleaning sheughs and cattle testing. He is also involved in the family's aluminium and glass façade company. He states that this income assists his farming activity, which is not profitable. There is no dispute that the Appellant has an active and established farm business.
22. The Appellant intends to start and operate the proposed document storage business from existing farm buildings. He states that these buildings, given their outlying position and proximity to an unconnected dwelling, are unsuited to intensive livestock farming. The business would be run alongside his farming activity, for which he will continue to claim single farm payments. He intends to manage and work the operation himself. There would be no third-party involvement. As such it is more than a rental income as it would be managed and operated by him alongside the farming business. According to the Appellant he chose a low intensity business that would allow him to do both. He will attend farming duties first thing in the morning, then dispatch and retrieve files from the document store as and when required, attending to farming duties as necessary upon return.
23. To diversify is to become varied or different. The proposed document storage represents a diversification scheme when read against Policy COU11. The phrase 'run in conjunction with the agricultural operations on the farm', whilst unclear, suggests that the agricultural and diversification activities on the holding should have some sort of joint management of the business or business connection with each other. This is consistent with the approach taken by the Commission in planning appeal 2012/A0073 to which both parties refer in their evidence. In that appeal the phrase was set out under a now defunct PPS policy, however the language used remains the same. That appeal provides useful direction as to the interpretation of the phrase 'run in conjunction with the agricultural operations on the farm' however it is not on all fours with this appeal proposal, as the appellant in that case had no involvement in the setting up, running or future of the business and derived a rental income only.
24. The Appellant in this case has indicated that it is his intention to jointly manage and run both the document storage business and his farm business. In an effort to allay the Council's concern he suggests a restrictive condition to prevent the sale or subdivision of the business from the holding. He states that this could be registered as a charge against the land to alert any conveyancer that there is a planning condition in place.
25. I agree with the Appellant that a restrictive condition registered as a charge against the land would address the Council's concern that the proposed document storage facility could be operated as a stand alone business independent of the farm. Whilst the Council were concerned that such a condition would be difficult to enforce, I am not persuaded that it would be unenforceable. A suitably worded condition could also require that the Appellant provide a yearly statement of

accounts to the Council, demonstrating their continued joint management of the storage facility alongside their agricultural business. This would ease the burden on the Council to monitor compliance with the condition and place the onus on the Appellant to demonstrate same. In the round I consider that the Appellant has demonstrated that the proposed document storage facility is to be run in conjunction with the agricultural operations on the farm, meeting the initial test as set out in the policy headnote of Policy COU11. It also meets the penultimate requirement that it must involve the conversion or reuse of existing farm buildings. Criterion (b) of the policy requires that in terms of character and scale, the farm diversification scheme is appropriate to its location, and I consider this requirement below.

Rural character

26. The J&A text to Policy COU11 states that large scale proposals more suitable to the urban area or existing urban based enterprises seeking relocation will not be acceptable. It does not set out specific examples of what is appropriate in terms of character and scale. At the hearing the Council stated that it was the nature of the use which was considered inappropriate. I have already concluded that, given the Appellant's information with respect to joint management, the use itself is an acceptable farm diversification proposal. It therefore follows that it is of an acceptable character. As it involves the reuse of existing buildings it is of an appropriate scale in terms of built form. The Council however stated that the ancillary works to be undertaken to provide the use on the site are unacceptable within this rural location.
27. The Council consider that the development proposal, in order to facilitate access, removes roadside hedging and extends into the field to the south, with its undefined southern and eastern boundary, opening the site up to public views from Lisnabreeny Road and Lisnabreeny Road East, failing to integrate into the landscape and damaging the rural character of the area. They are concerned that the additional intrusion into the countryside as a result of the ancillary works will result in increased exposure. A third party objector echoed some of these concerns.
28. The existing agricultural buildings and yard are accessed directly through a discreet field gate. It is not however of an acceptable standard to serve the proposed use. In order to facilitate the proposed use the creation of a new access is required. That access requires visibility splays of 2.4m x 79m and as such it is proposed be located in the adjoining field some 42m south of the existing yard. A new laneway is then required to provide access from the new road access to the existing buildings and yard within which the proposed document store would operate. The field gate, post and wire fence and block wall that currently define the southern boundary of the existing yard would be removed. Where the block wall is removed the hardstanding would encroach into the adjoining field to facilitate a turning head within the yard. A new post and wire fence and native species double hedgerow are proposed along the newly defined south and eastern boundaries. The new 6m wide laneway is to be finished in gravel.
29. All existing planting within the visibility splays is to be removed with a new hedge planted behind. Given the curvature in the road, the 79m forward sight splay requires the splays on the opposite side of the road to also be cleared. A new

hedgerow is proposed 0.5m to the rear of the forward sight splay with trees and shrubs set 3m to the rear of the sight splay to allow for future growth.

30. On approach from the north the road dips and undulates. The site itself is screened by the dwelling at number 20. The gable of the existing buildings on the northern boundary of the appeal site would also screen any ancillary works on approach from this direction. The Lisnabreeny Road on approach from the south and travelling in a northern direction sits at a higher level, dipping on approach to the site. The sub-division of the southern field and extension of the appeal site into it with the new laneway would be visible from the higher level of the road as one approaches the site. It would come into view as one passes number 33. The views from Lisnabreeny Road East, given the undulating nature of the road together with the high roadside verge, are more fleeting and localised to the two field gates along that roadside.
31. The Appellant stated that the lane will not be accompanied by ornate walls, gates or fencing, or suburban piers, lighting, tarmacadam, kerbing or other conspicuous features and proposed that permitted development rights could be removed to preserve the area's rural character. Whilst that may be the case, the lane, given its width and length coupled with the higher topography upon approach from the south, would be conspicuous locally within the landscape. Even with the proposed planting the extension of the appeal site into the southern field and its subdivision of same would be noticeable within its rural locality.
32. The Appellant further stated that there is a fallback for the laneway in that it could be put in place under permitted development (PD). It is open to the Appellant to demonstrate that he can benefit from agricultural PD. There is a legal process in statute that should be followed in such circumstances. This is set out at Sections 169 to 174 of the Act in respect of the determination of lawfulness by application to the planning authority for a certificate. As it stands there is no such certificate for the laneway proposed and it is not for me to determine the lawfulness or otherwise and as such I cannot give determining weight to the Appellant's fallback argument.
33. The Appellant stated that taking the use in isolation the policy is simply not offended. Whilst the change of use itself is confined to the existing buildings I must consider the development proposal as a whole and this includes the ancillary access works required to facilitate the change of use. The policy requires consideration be given to the scale as well as the character of the proposal and the appropriateness of both within the location. Taken as a whole, I consider that the scale of the ancillary works required to facilitate access to the proposed farm diversification proposal, are inappropriate to its location resulting in the subdivision of an adjoining field and the creation of a new laneway that is not insubstantial in size. The extent of the works required is indicative that the existing buildings and yard are unsuitable for the proposed document storage facility. Criterion (b) of Policy COU11 is not met.
34. Refusal reason four as amended finds the proposal contrary to Policy COU15 Integration and Design of Buildings in the Countryside. This 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 of an appropriate design. It states that a new building will not be permitted where any of seven criteria apply. The Council stated that criteria (d)

and (e) were offended however the criteria as listed relate to a new building. The proposal is to put existing buildings to an alternative use. As such the criteria contained in the policy do not apply and the Council's reliance on these and their fourth reason for refusal is misplaced. The Council's concern with the extension into the field to the south to provide a laneway to serve the existing buildings falls to be considered under Policy COU16.

35. Refusal reason five, as amended, states that the proposal is contrary to Policy COU16 in that the impact of ancillary works required to provide the development would damage the rural character of the area. Policy COU16 states that development proposals in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of the area. It sets out criteria under which a development proposal will be unacceptable. The Council consider that the proposal would offend criterion (h) the impact of ancillary works (with the exception of necessary visibility splays) would have an adverse impact on rural character. The Council considered that it followed that the adverse impact on rural character would also result in an unacceptable adverse effect on the AHSV.
36. Whilst I appreciate that the Appellant has made an effort to minimise impact by moving the lane closer to the roadside boundary, finishing in gravel and excluding any ornate features, it nonetheless is a substantial laneway encroaching into the adjacent field, increasing the overall size and visibility of the existing outlying farmyard. I have already concluded above that the scale of the proposed ancillary works will be conspicuous and inappropriate to their rural location. The proposal therefore also fails the requirement as set out in Policy COU16 as the scale of the ancillary works would have an adverse impact on rural character. The Council's and Objector's related concerns in this regard are well founded.
37. Notwithstanding this, the proposed works in isolation would not compromise the continued protection of the city's setting and I do not agree with the Council that they would result in an unacceptable adverse impact on the overall AHSV within which the site is located. This particular element of objection is not sustained. Nevertheless, the proposal does not comply with Policy COU16 when read as a whole and refusal reason five is sustained.
38. The Appellant references case law and a second appeal decision with respect to the interpretation of policy, in particular CTY13 and CTY14 of PPS21 which are now both defunct policies. Full copies of these were not provided. In any event I have fully considered the relevant policies in my consideration above.

Other matters

39. An objector to the planning application, in addition to concerns in respect of the proposed use and visual impact of ancillary works which I have already considered above, raised concern with the impact of the proposed development on a national trust property however no details of that property were provided. They also raised a traffic concern that the access was at a hazardous road junction. I note that the Council, following consultation with DfI Roads, has not objected to the proposal on road safety grounds. The Appellant has detailed adequate visibility splays and DfI Roads have no objection subject to provision of same. I have not been presented with any evidence that the access would present a danger and this issue in isolation would not warrant rejection of the appeal development.

40. The Appellant refers to other uses along the road including a dog groomers, commercial kennels, a farm shop, butchery and commercial dairy. No detailed information or planning history was provided for these sites and their associated uses therefore I cannot conclude with any certainty if there were similarities with the appeal proposal. In any event each case falls to be assessed on its own merits.
41. The Appellant provides a transcript of the Planning Committee meeting at which the appeal development was presented and discussed. They consider that refusal of the planning application was not based upon a sound application of the policy and that there was a real possibility of a different outcome had the policy been interpreted as written. For this reason they ask that the Appeal should be allowed. The debate at planning committee primarily centred on the interpretation of farm diversification however the scale of ancillary works to facilitate the diversification and their impact on rural character was briefly referenced. The policy debated at the meeting, CTY11, is from a now defunct PPS.
42. I note from the transcript that the Appellant also addressed the Committee and presented their case on how the policy should be interpreted. The Committee was advised that they could weigh the case presented by the Appellant as a material consideration in the decision-making process against what was submitted by the officer. The final vote was in favour of the officer's recommendation to refuse the application. I cannot be certain that the Committee would have come to a different conclusion on the recommendation made to them as suggested by the Appellant. Notwithstanding this, I have considered the appeal development against the applicable policy of COU11 and have found it wanting against criterion (b) of that policy for the reasons given above.

Conclusions

43. The Appellant accepts the proposal finds no support in Policies COU4, COU14 and ED6, and I agree that is the case, refusal reasons three and six, as amended, are therefore sustained. Whilst the use of the existing buildings for the proposed farm diversification document storage facility is acceptable, the adverse impact of the proposed means of access on its rural location render the appeal development unacceptable against Policy COU11 when read as a whole. The Council's second reason for refusal, as amended, is therefore sustained to the extent specified above. As the proposal is not a type of development which in principle is considered to be appropriate in the countryside and also fails to meet all of the general criteria set out in Policy COU 16, it also fails Policy COU1. The first reason for refusal, as amended, is sustained. The Council's amended reasons for refusal and related concerns of the Objector are sustained to the extent specified and are determining. The appeal must fail.

The decision is based on the following drawings:

Drawing No. 01A Site Location Plan

Drawing No. 02 Existing Site Plan

Drawing No. 03(c) Proposed Site Layout (submitted at appeal).

Drawing No. 04 Proposed Ground Floor Plan & Elevations

Drawing No. 05 Existing Plans & Elevations

COMMISSIONER TRUDY HARBINSON

List of Appearances

Planning Authority:- Brenda Ferguson, Lisburn and Castlereagh City Council

Appellant:- Mr Colin O'Callaghan, O'Callaghan Planning

List of Documents

Planning Authority:- Statement of Case (Lisburn and Castlereagh City Council)
Post Hearing Comments on DDP AHSV

Appellant:- Statement of Case (O'Callaghan Planning)
Post Hearing Comments on DDP AHSV