

**PLANNING APPEALS COMMISSION**

**THE PLANNING ACT (NORTHERN IRELAND) 2011  
SECTION 58**

**Appeal by Mr D Glendinning  
against the refusal of outline planning permission for a proposed new dwelling under  
PPS 21 within a small gap site with a continuously built frontage (CTY8) and which  
also forms part of an established cluster (CTY2a)  
at  
Lands to the west of 6 Chapel Road, Glenavy BT29 4LY**

**Report  
by**

**Commissioner Gareth McCallion**

**Planning Authority Reference: LA05/2021/1112/O**

**Procedure: Written Representations**

**Site Visit: 6<sup>th</sup> June 2024**

**Report Date: 27<sup>th</sup> June 2024**

## 1.0 BACKGROUND

1.1. Lisburn and Castlereagh City Council (the Council) received the planning application on 11<sup>th</sup> October 2021. By notice dated 15<sup>th</sup> September 2023, the Council refused permission giving the following reasons:

1. **The proposal is contrary to paragraph 6.73 of the SPPS and policy COU1 of the Lisburn and Castlereagh City Council’s draft Plan Strategy (as modified by the Direction of the Department) in that the proposed development is not a type of development which in principle is acceptable in the countryside.**
2. **The proposal is contrary to paragraph 6.73 of the SPPS and policy COU2 of the draft Plan Strategy (as modified by the Direction of the Department) in that:**
  - the proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of four or more buildings of which at least three are dwellings;
  - the proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape;
  - the proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility;
  - the identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development; and
  - the development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would, if permitted, visually intrude into the open countryside.
3. **The proposal is contrary to bullet point 5 of paragraph 6.73 of the SPPS, and policy COU8 of the Lisburn and Castlereagh City Council’s draft Plan Strategy (as modified by the Direction of the Department) as the site is not a small gap within an otherwise substantial and continuously built up frontage but rather, an important visual break in the developed appearance of the locality and the development, if approved, would add to a ribbon of development. Furthermore, the development would, if permitted, fail to respect the existing pattern of development in this part of the countryside in terms of the frontage width when compared to neighbouring properties identified to constitute the frontage of development.**
4. **The proposal is contrary to Policy COU16 of the Lisburn and Castlereagh City Council’s draft Plan Strategy (as modified by the Direction of the Department) in that the proposed development fails to respect the traditional pattern of settlement and as such would have an adverse impact on the rural character of the area.**

1.2. The Commission received the appeal on 20<sup>th</sup> November 2023 and advertised it in the local press on 8<sup>th</sup> December 2023. No representations were received from third parties.

- 1.3. The Lisburn and Castlereagh City Council, Local Development Plan Strategy (PS) was adopted on 26<sup>th</sup> September 2023. Following this change in circumstances, the Council stated that their reasons for refusal should be superseded with the following:
- 1. The proposal is contrary to paragraph 6.73 of the SPPS, and policy COU1 of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that it is not a type of development which in principle is considered to be acceptable in the countryside.**
  - 2. The proposal is contrary to paragraph 6.73 of the SPPS and policy COU2 of the Lisburn and Castlereagh Plan Strategy 2032 in that:**
    - The proposed dwelling is not located within an existing cluster of development which lies outside of a farm and consists of four or more buildings of which at least three are dwellings;
    - The proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape;
    - The proposed dwelling is not within a cluster of development that is associated with a focal point such as a social/community building/facility;
    - The identified site cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with other development within a cluster of development; and
    - The development of the site cannot be absorbed into a cluster of development as it is not located within one, through rounding off and consolidation as it would, if permitted, visually intrude into the open countryside.
  - 3. The proposal is contrary to bullet point 5 of paragraph 6.73 of the SPPS, and Policy COU8 of the Lisburn and Castlereagh City Council Plan Strategy 2032 as the site is not a small gap within an otherwise substantial and continuously built up frontage but rather, an important visual break in the developed appearance of the locality and the development, if approved, would add to a ribbon of development. Furthermore, the development would if permitted fail to respect the existing pattern of development in this part of the countryside in terms of the frontage width when compared to neighbouring properties identified to constitute the frontage of development.**
  - 4. The proposal is contrary to Policy COU16 of the Lisburn and Castlereagh City Council Plan Strategy 2032 in that the proposed development fails to respect the traditional pattern of settlement and as such would have an adverse impact on the rural character of the area.**
- 1.4. The Appellant was provided with the opportunity to comment on the revised reasons for refusal.

## 2.0 SITE AND SURROUNDINGS

- 2.1 The appeal site is located along the northern side of Chapel Road approximately 1.5 miles directly southwest of the village of Glenavy, in County Antrim. It is a triangular shaped field, with defined boundaries.
- 2.2 The north-westerly boundaries of the appeal site are delineated by mature trees and scrub. A stream (Crew Burn) also forms part of the northwestern boundary, and continuous to flow to the rear of the northern boundaries of the existing properties located to the east of the appeal site. The eastern boundary, between the appeal site and the adjacent property of No. 6 Chapel Road, is demarcated by a c. 1 metre high post and wire fence. There is also some scrub located in the northeastern corner. The southern boundary, which runs parallel to Chapel Road, is defined by a c. 2 metre high hedgerow. The current access to the appeal site is taken directly from the road and is located some 15 metres west of the common boundary with No. 6 Chapel Road.
- 2.3 The property directly east of and adjoining the appeal site, No. 6 Chapel Road, is a single storey dwelling, finished with a cream-coloured render. This property has a double garage adjacent to it. Further east is No. 8 Chapel Road. This dwelling, which is located closer to the public road than No. 6 Chapel Road, is largely a single storey, although it also has a perpendicular component, which is a storey and a half, situated along its western gable. This dwelling contains a green painted, corrugated metal shed within its curtilage. The shed is set back from the road and is in the northwest corner of the grounds, behind the dwelling. This property, including the shed, is separated from No. 6 Chapel Road by a post and wire fence along the western common boundary. A sign in front of this shed advertises its use as a gymnasium and, whilst still contained within the curtilage of No. 8 Chapel Road, it has a separate vehicular access.
- 2.4 Further east of No. 8 Chapel Road, there is a piece of disused land, roughly rectangular in shape and enclosed by hedgerows, mature trees and scrub on its western and northern boundaries. A c. 1 metre high wooden picket and close boarded fence demarcates its eastern and southern boundaries respectively. Access to this land is via an agricultural gate.
- 2.5 To the west of the appeal site, beyond the bridge which spans the stream, there is a lane which provides access to agricultural lands to the north. The section of the field, beyond the lane running along the Chapel Road is narrow, approximately 20 metres in width. The size of this field widens extensively the further north you proceed.
- 2.6 Beyond the western boundary of this field, which is demarcated by dense vegetation including mature trees, is No. 4 Chapel Road, a two-storey dwelling, with a vernacular single storey component adjoining the eastern gable. This property includes a large green painted shed, principally constructed from corrugated metal. West, beyond the dwelling, but still within its curtilage, is a large silver painted metal barn. Additional outbuildings and sheds are located behind this roadside dwelling, and again within the curtilage of No 4 Chapel Road.
- 2.7 Opposite the appeal site, on the other side of the road, is a large agricultural field with open countryside beyond. There are several two storey dwellings located to the

southeast of the appeal site. These include Nos. 7, 9, 9A and 9B Chapel Road. Some distance west of the appeal site, at the crossroads with the Crumlin Road, Lurgan Road and Aghandolgan Road, there is the Silver Eel Public House and Lounge.

### 3.0 PLANNING AUTHORITY'S CASE

- 3.1 Section 6(4) of the Planning Act (NI) 2011 requires that regard must be had to the requirement of the Local Development Plan. The Lisburn and Castlereagh Plan Strategy was adopted by resolution of the Council on 26<sup>th</sup> September 2023. In accordance with the transitional arrangements the existing Lisburn Area Plan 2001 (LAP) and draft Belfast Metropolitan Area Plan (draft BMAP 2004) remain material considerations. Both the LAP and dBMAP advise that the site is in the open countryside.
- 3.2 Policy COU1 of the Plan Strategy states that there are a range of types of development, which are acceptable in principle in the countryside, that will contribute to the aims of sustainable development. Details of operational policies relating to acceptable residential development proposals are set out in policies COU2 to COU10. This includes the development of a dwelling at an existing cluster in accordance with Policy COU2 and an infill dwelling in accordance with Policy COU8. It follows that if development complies with COU2 and COU8 it will also comply with Policy COU1 of the Plan Strategy.
- 3.3 The Council has found that the proposal is contrary to COU2 and COU8. Thus, there is no evidence to demonstrate that there are overriding reasons why the development is essential. The proposal is unacceptable in principle and contrary to Policy COU1.
- 3.4 Criterion a) of Policy COU2 states that the cluster shall consist of four or more established buildings, forming a close grouping of buildings, of which at least three are dwellings.
- 3.5 The appeal site is not located within an existing cluster of development which lies outside of a farm and consists of four or more buildings, of which at least three are dwellings. The proposed dwelling is not part of a cluster that appears as a visual entity in the local landscape. It is not associated with a focal point such as a social/community building/facility. The proposal cannot provide a suitable degree of enclosure and it is not bounded on at least two sides with development within a cluster.
- 3.6 The appeal site is triangular in shape and positioned to the north of Chapel Road. The site is bounded to the east by No. 6 Chapel Road (single storey dwelling and garage). To the west, the appeal site is bounded by a laneway and adjacent agricultural field. West of the agricultural field lies No. 4 Chapel Road and associated agricultural outbuildings. North of the appeal site lies a partial laneway and agricultural field.
- 3.7 It is considered that the appeal site does not fall within the cluster of development that is "noted around the Silver Eel public house". The public house is located 130m

from the appeal site. It is considered the cluster of development associated with the Silver Eel Public House ends at No. 4 Chapel Road.

- 3.8 The separation distance from the appeal site to No. 4 Chapel Road is 95m. Between No. 4 Chapel Road and the appeal site lies part of an agricultural field, laneway and mature trees and hedging. The separation distance between the appeal site and No. 4 Chapel Road is significant. It does not form a close grouping of buildings as required by the policy. The appeal site is bounded by No. 6 Chapel Road and given the separation distance of No. 4 Chapel Road there is no association with it. Therefore, the proposal does not fall within a cluster which comprises of four or more buildings which at least three are dwellings and it does not form part of an existing cluster of development.
- 3.9 Regarding criterion b) of COU2, the justification and amplification of this policy states that *“a visual entity in the local landscape is defined as a collective body of buildings, separated from the countryside when viewed from surrounding vantage points”*.
- 3.10 The appeal site does not fall within an existing cluster of development that appears as a visual entity in the landscape. Views from the surrounding vantage points include the crossroads at Crumlin Road and Chapel Road. There is no visual linkage from the application site to the Silver Eel public house, due to the curvature of the road and the intervening mature landscaping. When viewed from the appeal site, neither No. 4 Chapel Road nor the Silver Eel public house are visible.
- 3.11 The separation distance and visual break between No. 4 Chapel Road and the appeal site is not considered part of the collective body of the buildings at this location. The Silver Eel public house and buildings at No. 4 Chapel Road are too widely dispersed from the appeal site to be considered a cluster. Therefore, they do not appear as a visual entity in the landscape.
- 3.12 In relation to criterion c) the justification and amplification of this policy states *“a focal point is defined as a social/community building, usually visually significant within the cluster and which defines a different built form and use to the rest of the buildings in the cluster”*.
- 3.13 The Appellant, at the planning application stage, provided supporting information that advises that the Silver Eel public house is considered a focal point within the associated cluster. Planning application LA05/2017/1252/F accepted a new dwelling within a focal point, as described by COU2, within a cluster. The focal point, which was the Silver Eel public house in that case, was included within the red line application boundary. The Silver Eel public house is located 130m from the application site. The public house is not considered to be visually significant, and it is not visible from the application site. This is due to the separation distance, mature landscaping, and the curvature of the Chapel Road. For the reasons stated above the proposal does not fall within a cluster of development that is associated with a focal point such as a social/community building.
- 3.14 Regarding the gymnasium, located to the side of and associated with No. 8 Chapel Road, there is no planning permission for the use of the corrugated metal building as a gym at this location and it cannot be considered a building for community use.

- 3.15 Regarding criterion d) the proposal does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development within the cluster. The appeal site is bounded to the east by No. 6 Chapel Road, to the west by a laneway and adjacent field. North of the appeal site lies a partial laneway and agricultural field. South of the appeal site, on the opposite side of the Chapel Road, is an agricultural field. There is only one side of the appeal site, to its east, which is bounded by development – the dwelling and garage at No. 6 Chapel Road.
- 3.16 Regarding criterion e) it has been demonstrated that the appeal site is not within an existing cluster. Therefore, the development of the site cannot be absorbed into a cluster of development through rounding off and consolidation. It would, if permitted, visually intrude into the open countryside.
- 3.17 It is contended that in relation to Policy COU8 the site is not a small gap within an otherwise substantial and continuously built up frontage. Rather, the appeal site is an important visual break in the developed appearance in the locality. The proposed development would, if permitted, add to ribbon development. Furthermore, the proposal would fail to respect the existing pattern of development in this part of the countryside, in terms of frontage width, when compared to the frontages of neighbouring properties.
- 3.18 Policy COU 8 advises that planning permission will be refused for a building which creates or adds to a ribbon of development. In this case there is a need to consider whether the proposal adds to ribbon development and if so, does the proposal fall into the permissible exception to that policy. In this case, the proposal does engage ribbon development but none of the exceptions are met.
- 3.19 Travelling east towards the appeal site from the junction of Chapel Road and Crumlin/Lurgan Road, there is No. 4 Chapel Road (a two storey dwelling) and two agricultural sheds within the curtilage that have frontage to the road. Following this, there is a gap consisting of a portion of an agricultural field, a laneway that leads to a field at the rear of the appeal site and a bridge which defines the western boundary of the appeal site. East of the appeal site there is the dwelling and garage of No. 6 Chapel Road and the dwelling and shed of No. 8 Chapel Road, which are visible and read with the appeal site.
- 3.20 The dwelling at No. 4 Chapel Road is considered not to read with the appeal site when viewed from the roadside in front of the site. There is no sequential awareness given the shape of the road and the established vegetation along both the road frontage and either side of the watercourse. The associated buildings at Nos. 6 and 8 Chapel Road are excluded from a line of 4 or more buildings as they are considered domestic ancillary buildings. The gap measured between the conservatory of No. 6 Chapel Road to the first agricultural building associated with the dwelling at No. 4 Chapel Road is 110m. This gap comprises of the appeal site, part of another agricultural field, a laneway, river and mature landscaping.
- 3.21 Based on the information above, it is considered that the appeal site does not fall within an otherwise substantial and continuously built-up frontage. Rather it forms an important visual break in the developed appearance of the locality and the development, if approved, would add to a ribbon of development.

- 3.22 In considering whether a small gap site exists, whilst the policy text and supplementary guidance recognises that such a site may be able to accommodate two infill dwellings which respect the existing development, the Council have not assumed that any site of that size is necessarily a small gap within the meaning of the policy. The Council remains mindful that the issue remains one of planning judgement, and one which should be approached, bearing in mind the over arching restrictive purpose of the policy.
- 3.23 The exceptions test also requires consideration as to whether the proposed development respects the existing development pattern along the frontage in terms of size, scale, siting and plot size. With that in mind, and without prejudice to the views expressed that there is no substantial and continuously built-up frontage, the characteristics of the gap identified have been considered.
- 3.24 Within the Appellant’s supporting information, submitted at planning application stage, the measurements differ from the case officers. The case officer has provided an average frontage of 56m and a plot size of 0.2 hectares. The Appellant’s information contends that the appeal site has a frontage of 61m, this is some 5m wider than the average existing plot frontage. The measurements taken within the case officer report state that *“the measurements... differ slightly from those provided in support of the application. They are seen to be as follows:*

Address	Road Frontage Width	Plot Size
4 Chapel Road	80.4m	0.2h
6 Chapel Road	52.4m	0.2h
8 Chapel Road	35.7	0.1h
Appeal Site	65.9m	0.2h
Adjacent Field	22.3m	0.0h

- 3.25 The average frontage width and plot size associated with the sites above, that are included within the substantial and continuously built-up frontage are 56.1m and 0.16 hectares. The appeal site has a frontage of 65.9m that is greater than the average frontage width by 9.8m. Taking the field adjacent to and to the west of the appeal site into account, the average frontage of the appeal site and adjacent field that is not within the control of the Appellant, would measure 44.10m.
- 3.26 Given the difference between the average measurements as outlined, it is considered that the supporting information by the Appellant which seeks to illustrate the potential for two dwellings (one within the application site and one within an adjacent field not within the control of the applicant) would be unacceptable and does not provide support for the application as proposed. The measurements illustrates that the plots along the road are not uniform in their nature with the average plot sizes found for the existing development (Nos. 4, 6 and 8 Chapel Road) measuring 0.16 hectares. The area of the application site measures 0.2 hectares, some 0.04 hectares larger.
- 3.27 Within the Statement of Case, the Appellant has provided an additional concept plan showing frontage width and plot size of the sites along Chapel Road. The Appellant



reduced the size of the plot on the appeal site. The Appellant has included a separate plot with the agricultural building that is associated with No. 4 Chapel Road, meaning there are now six plots. Taking these revised details into account, the average frontage width and plot size is 43.5m and 0.1578 respectively. Whilst the Appellant has included a plot within an agricultural building beside No. 4 Chapel Road, the Council contend that the associated agricultural building is within the shared frontage with No. 4 Chapel Road. Therefore, the frontage is larger here.

- 3.28 When considered in its own right the average measurements would not be considered to be significant. However, when taken in conjunction with the assessment as a whole, it is considered that the measurement further illustrates that the development of the appeal site is not considered to be a small gap capable of accommodating two dwellings whilst respecting the existing pattern of development in terms of size, scale, siting and plot size. Therefore, it is contrary to policy COU8.
- 3.29 Consideration has also been given to the significance of the gap. The curvature of the road, in conjunction with the presence of the existing bridge, stream and mature landscaping and distances as outlined, illustrate that the appeal site provides an important visual break in the developed appearance of the countryside at this location. Building on Tradition states, at paragraph 4.5.0, that it may not be appropriate to fill gaps with development that are important visual break. For the reasons discussed above, this is considered to be one of these gaps. The appeal site exceeds the average plot width here and, with reference to Building on Tradition, the gap is considered to provide an important visual break in the developed appearance of the countryside at this location.
- 3.30 The development would, if permitted fail to respect the existing pattern of development in this part of the countryside in terms of frontage width when compared to neighbouring properties identified.
- 3.31 Policy COU16 'Rural Character and other Criteria' states that in all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode rural character of the area. It states that a new development proposal will be unacceptable where (c) it does not respect the traditional pattern of settlement exhibited in that area and (e) it has an adverse impact on rural character of the area.
- 3.32 As outlined above within Policy COU8, a new dwelling on the application site at Chapel Road would not respect the existing pattern of development exhibited in the area and would add to a ribbon of development along this section of the Chapel Road. This in turn would result in a detrimental change to and would further erode the rural character of the area contrary to criteria c) and e) of Policy COU 16. It has not been demonstrated that the proposal meets criteria c) in respecting the pattern of development and if permitted would result in an adverse impact on the rural character of the area contrary to criteria e) of Policy COU16.
- 3.33 The Appellant's reference to planning application LA05/2018/0528/F, which they refer to as a proposal relating to a double sized gap but that only one site was in control of the application, does not sit on all fours with this appeal.

3.34 Should the appeal be allowed, the following conditions are proposed on a without prejudice basis:

- Time Limit;
- Siting, design and landscaping details;
- Existing and proposed levels/contours, finished floor levels, under-build and ridge heights;
- Access and in-curtilage parking arrangements; and
- Buffer to the water course along the northwestern boundary of the site.

#### 4.0 APPELLANT'S CASE

4.1 The appeal site is located to the northern side of Chapel Road and to the west of No. 6 Chapel Road. It comprises a triangular field. There are two single storey dwellings at Nos. 6 and 8 Chapel Road, to the east of the appeal site. Between these two dwellings is a commercial gym, with a car park to the east of No.8 Chapel Road. Both the gym and the car park are noticeable from the road in any direction due to its large associated signage at the roads edge. There is a sand school to the east of the car park. There is a two-storey dwelling along with agricultural buildings at the front of the road at No. 4 Chapel Road.

4.2 There are several single storey dwellings on the opposite side of Chapel Road to the appeal site. There is a build up of development at the junction of the Lurgan, Crumlin, Aghadalgan and Chapel Roads, including the Silver Eel public house. The area beyond this is mainly rural, agricultural land.

4.3 Policy COU8 'Infill/Ribbon Development' provides an opportunity for development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantially and continuously built up frontage. For the purposes of Policy COU8, a substantial and continuously built up frontage is defined as *"...a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway"*.

4.4 Furthermore, to be considered as an appropriate infill development site under Policy COU8, the proposed infill dwellings must respect the existing pattern of development in terms of siting and design, and also be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development. Buildings forming a substantial and continuously built up frontage must also be visually linked.

4.5 Although the appeal proposal is for a single infill dwelling, it forms part of a larger infill site that accommodates 2 dwellings, therefore fulfilling the policy requirement of COU8.

4.6 The overall infill site, as proposed, fronts onto Chapel Road and is flanked on both sides by two existing buildings (No. 6 to the east and an agricultural building to the west). In the wider context, the appeal site sits within a substantial and continuously built-up frontage of existing buildings with frontages which extend to the edge of the public road. These comprise of the dwelling at No. 6, to the east of the appeal site, and beyond that another single storey dwelling at No. 8. To the other side of the

appeal site is a large agricultural outbuilding, and beyond this is a two-storey dwelling at No. 4 Chapel Road, which completes the continuously built-up frontages to the west.

- 4.7 Therefore, as required by policy COU8, the appeal site meets the definition of a substantial and continuously built-up frontage as it sits within the context of existing buildings (3 of which are dwellings) excluding domestic ancillary buildings such as garages/sheds, greenhouses, adjacent to a public road.
- 4.8 In accordance with the definition set out in policy COU8 and as established through the Appellant's detailed site analysis, the appeal site also represents a small gap, sufficient to accommodate 2 new infill dwellings which also respects the existing pattern of development in terms of size, scale, plot size and width of neighbouring buildings. The gap measures 93m in total, as this appeal is against the refusal to grant outline planning permission, if required the Appellant is amenable in reducing the red line to ensure the road frontages are equal and contribute to the smaller portion of the gap site (should it need bridged over etc) at the Reserved Matters stage. The suggested house footprint could certainly be accommodated on the remaining land if it were reduced for this purpose.
- 4.9 As demonstrated in the detailed site analysis and concept layout, the infill proposal respects the existing pattern of development along the Chapel Road frontage. It reflects the established building line; the consistent spacing between the 4 existing/proposed dwellings and the size, scale and frontage widths of the plots closely reflect the average size of the plot sizes and frontage widths of the existing development.
- 4.10 Furthermore, the buildings forming the substantial and continuously built-up frontage on both sides of the site are clearly visible and visually linked when viewed from both static and transient viewpoints along the Chapel Road.
- 4.11 Whilst the Council's Planning Report referred to the appeal site as having an important visual break due to the bridge and stream running between, the stream is at such a low level from the land that people are oblivious to its existence. It is not visible from any viewpoint along the road. The existing low-level walls (500mm), blend seamlessly into the landscape, and they will remain as is.
- 4.12 The planning application was also refused as it was not within a cluster of development associated with a focal point. Under planning application LA05/2017/1252/F a proposed dwelling was granted by the Council based on the acceptance of this cluster. The appeal site would also be party to this existing cluster and focal point. From here, the buildings cluster with one another in the same way as a cluster of grapes would, with the road acting like a vine holding them together. The buildings cluster with another building that serves the community, the gym and car park, just 50m past the site.
- 4.13 The buildings are not scattered and each building in the area has a visual link to the next. Therefore, the proposed dwelling would be part of a cluster of buildings that appears as a visual entity in the local landscape as illustrated in the accompanying photographic analysis and map.

- 4.14 Policy COU2 states that a cluster must be separate from the open countryside. If driving along any of these routes that lead to the Silver Eel public house, you will automatically reduce your speed within this built-up area. If approaching from the direction of the Chapel Road, you would reduce your speed again until you reached No. 9a (opposite the sand school) and you would not change your speed again until you were passed the development at the crossroads to the open countryside again.
- 4.15 A key point of policy COU2 is that the proposed site has a good degree of enclosure due to the existing landscaping; and that it is also bound on two sides by cluster buildings at properties. The two sides of the cluster development would be No. 6 and the agricultural buildings to the west.
- 4.16 The appeal site clearly meets the policy definition of a suitable infill site. It also respects the existing pattern of development along the Chapel Road in terms of siting and design, size, scale, plot size and widths of neighbouring buildings in accordance with policy COU8.
- 4.17 As the appeal site sits within a group, it would be easily absorbed by the existing buildings into this cluster of development and therefore would not alter the existing character or intrude into the open countryside through creation of ribbon development, which is in keeping with policy COU2.
- 4.18 The proposed development respects the traditional pattern of settlement as required by Policy COU16 and would not have an adverse impact on the rural character in the area.
- 4.19 As described throughout the Statement of Case, the appeal meets the policy tests for both infill dwelling and a dwelling within an existing cluster. A proposal only needs to satisfy one policy in order to gain approval.

## 5.0 CONSIDERATION

- 5.1 The main issues in this appeal relate to whether the proposal would:
- be acceptable in principle in the countryside; and
  - adversely impact on the rural character of the area.
- 5.2 Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.3 On 26<sup>th</sup> September 2023, the Council adopted the Plan Strategy (PS) titled 'the Lisburn and Castlereagh Local Development Plan 2023'. The purpose of the PS is to provide the strategic policy framework for the plan area. In accordance with the transitional arrangements as set out in the Schedule to the Planning (Local Development Plan) Regulations (NI) 2015 (as amended), the Local Development Plan (LDP) is now a compilation of the Departmental Development Plan (DDP) and the PS read together. In this appeal, the DDP is the Lisburn Area Plan. In the DDP, the site is located outside a settlement and in the countryside.

- 5.4 In compliance with paragraph 1.11 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), operational policies set out in the PS are now in effect. Existing policy retained under the transitional arrangements has ceased to have effect in the district of the Council. It now falls to the Commission to assess the appeal in the context of the LDP, in accordance with the above legislative provisions and the amended reasons for refusal as provided by the Council. Guidance contained within 'Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside' is also a material consideration.
- 5.5 Policy COU1 'Development in the Countryside' of the PS states that "*there are a range of types of development which in principle are acceptable in the countryside and which will contribute to the aims of sustainable development*". Under Policy COU1, details of operational policies relating to acceptable residential development proposals in the countryside are set out in policies COU2 to COU10. The policy advises that any proposal for development in the countryside will also be required to meet all the general criteria set out in Policies COU15 'Integration and Design of Buildings in the Countryside' and COU16 'Rural Character and other Criteria'.
- 5.6 Policy COU2 'New Dwellings in Existing Clusters' reflects the relevant provisions of paragraph 6.73 of the SPPS. It advises that planning permission will be granted for a dwelling at an existing cluster of development provided all criteria associated with the policy are met. The refusal reason directs that the appeal proposal does not meet any of the criteria listed as a) through to e) of Policy COU2.
- 5.7 Criterion a) requires that "*the cluster of development lies outside of a farm and consists of four or more established buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) forming a close grouping of buildings, of which at least three are dwellings*".
- 5.8 The established buildings closest to the appeal site are the properties of Nos. 6 and 8 Chapel Road. These properties contain dwellings and ancillary buildings, including a double garage and a large shed respectively. Whilst the Appellant contends that the gym which is located within the shed at No. 8 Chapel Road is a commercial entity, the Council have advised that it is unauthorised. The large shed is within the curtilage of No. 8 Chapel Road and I therefore consider it to be an outbuilding associated with it. Thus, only the two dwellings within these properties are the established buildings which qualify for the purposes of the policy.
- 5.9 Within the wider area there are a number of established buildings including several dwellings and the Silver Eel public house. The buildings at No. 4 Chapel Road appear to relate to a farm as both parties described them as agricultural and therefore they do not fall to be considered as part of any cluster. Due to the physical disposition of the established buildings to the west they do not present or read on the ground as a close grouping of buildings due to features including the alignment of the road, the separation distance, intervening agricultural land and vegetation. To the east of the site, Nos. 7 is set back some distance from the road and due the intervening topography and vegetation, does not closely group with other dwellings, to the east, on the south side of the road. However, Nos. 9 and 9a are roadside dwellings and read as a close grouping of buildings with Nos. 6 and 8 Chapel Road. A cluster therefore exists at this locality by virtue of the dwellings at Nos. 6, 8, 9 and 9A Chapel Road. Therefore, criterion a) of Policy COU2 is met.

- 5.10 Policy COU2 Criterion b) requires that “*the cluster appears as a visual entity in the local landscape*”. The justification and amplification of the policy advises that a visual entity in the local landscape is defined as a collective body of buildings, separated from the countryside when viewed from surrounding vantage points.
- 5.11 With regard to the above cluster of buildings when travelling along the Chapel Road, as indicated by the Appellant, as you travel from east towards No. 9A Chapel Road, due to the alignment and width of the road, the vegetation and built-up nature of this stretch of Chapel Road, vehicle speeds are likely to be reduced. From the vantage point at No. 9A Chapel Road, opposite the sand school, the qualifying established buildings in the cluster of Nos. 9A, 9 and 8 form a visual entity in the local landscape. However, the qualifying building, that of No. 6 Chapel Road is not visible from this vantage point as it is set back from the road and is completely secreted by the dwelling at No. 8 and the shed within that property’s curtilage.
- 5.12 Again, when travelling west from the crossroads, vehicular speed is likely to be reduced, consistent with the reasons provided above, although the road also narrows where it crosses the Crew River and then curves to the left. From this vantage point just beyond the river crossing, of which there is a photograph of the same contained within the Appellant’s evidence, the qualifying buildings of Nos. 6, 8 and 9 Chapel Road form a visual entity in the local landscape. The remaining qualifying building of No. 9A is not patently visible due to curvature of the road, its position to the east of dwelling at No. 9 Chapel Road and other ancillary buildings located within this property, the location of intervening trees and boundary vegetation. Whilst the dwelling at No. 7 Chapel Road is visible at this vantage point, it does not form part of the qualifying buildings within the cluster, and in any event this building is not visible from the vantage point as discussed in paragraph 5.11 above. There are no other vantage points in the vicinity of the cluster. Therefore, for the reasons provided above, I consider that the cluster does not present as a collective body of buildings separate from the countryside when viewed from the surrounding vantage points as conferred. Consequently, it does not appear as a visual entity in the local landscape. Thus, criterion b) of Policy COU2 is not met.
- 5.13 Criterion c) of Policy COU2 states that “*the cluster is associated with a focal point such as a social/community building*”. Policy COU2 advises that a focal point is usually visually significant within the cluster, and which defines a different built form and use to the rest of the buildings in that cluster. The Appellant contends that the appeal site benefits from two focal points, the Silver Eel public house and a gymnasium found to the rear of No. 8.
- 5.14 The Silver Eel public house is located some distance west of the appeal site at the crossroads of Chapel Road, Lisburn/Crumlin Road and Aghadolgan Road. The public house, due to the degree of separation from the appeal site, together with the intervening vegetation and alignment of the Chapel Road, is not visually significant within a cluster, as argued by the Appellant. Whilst the Appellant has referred to the planning permission granted under LA05/2017/1252/F I have not been furnished with the papers associated with this decision. Therefore, I cannot consider the circumstances of that permission in the context of this appeal. Furthermore, I am not persuaded by the Appellant’s assertion that the established buildings and the proposal will cluster together like grapes with the road acting as a vine. This depiction could only be appreciated from the perspective of a plan or aerial

assessment but is not the case when viewed from vantage points on the ground due to the intervening vegetation and alignment of the road. In any event, I have found that no cluster exists in relation to the established buildings to the west.

- 5.15 Within the Appellant's evidence there was an extract from the gymnasium's webpage which identified its opening times of Monday through the Saturday 6:30hrs through to 21:00hrs. During my site visit this business was closed and the property was for sale. The land east of No. 8 Chapel Road, which the Appellant advises is a car park, has no connectivity to No. 8 or the shed within its curtilage. It does appear to have some connection to the 'sand school'. I note too that the Council has advised that the use of the building as a gymnasium is not authorised. I have not been furnished with any persuasive evidence that the shed is being used as a lawful business. In the absence of evidence to demonstrate that the use is lawful, it cannot be weighed into consideration of the policy requirement as a *bona fide* focal point for the purposes of Policy COU2. For the reasons outlined above, I consider that criterion c) of Policy COU2 is not met.
- 5.16 Criterion d) of Policy COU2 states that "*the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster*". By virtue of the existing c. 2m high hedgerow presently along the Chapel Road, and the mature tree and scrub defining the northwestern boundary, I consider that the appeal site presently has a suitable degree of enclosure. However, even if accepting that this element of the criterion is met, the appeal site is only bounded on its east side by the development associated with property No. 6 Chapel Road, criterion d) of COU2 is not met.
- 5.17 Criterion e) of Policy COU2 requires that "*development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside through the creation of ribbon development*". As I have already found that the appeal site is not contained within an existing cluster, there is no scope for rounding off and consolidation to allow the development of the site to be absorbed into an existing cluster. Therefore, criterion e) is not met.
- 5.18 Accordingly, I find that the Council's second reason for refusal is sustained to the extent specified.
- 5.19 Policy COU8 'Infill/Ribbon Development' reflects the relevant provisions of paragraph 6.73 of the SPPS. It states that "*planning permission will be refused for a building which creates or adds to a ribbon of development*". The exception within Policy COU8 states that "*there may be situations where the development of a small gap, sufficient to accommodate 2 dwellings within an otherwise substantial and continuously built up frontage, may be acceptable. For the purpose of this policy a substantial and continuously built up frontage is a line of 4 or more buildings, of which at least 2 must be dwellings, excluding domestic ancillary buildings such as garages, sheds and greenhouses, adjacent to a public road or private laneway*". The Appellant has directed that the qualifying buildings, of which 3 are dwellings, include Nos. 8, 6 and 4 Chapel Road and the shed found within the curtilage of No. 4, which is a farm building and not a domestic ancillary building. Therefore, this shed is a qualifying building for the purposes of this policy.

- 5.20 There are two qualifying buildings to the east of the appeal site. Notably, Policy COU 8 states that buildings forming a substantially and continuously built up frontage must be visually linked. Given this, and the disposition of the building at No. 4 Chapel Road and the green farm shed, they do not visually link with the aforementioned qualifying buildings at Nos. 6 and 8 Chapel Road. Therefore, there is no substantial and continuously built up frontage. Notwithstanding the potential to satisfy the existing pattern of development in terms of siting, design and being appropriate to the existing size, scale, plot size and width of neighbouring buildings, the appeal proposal does not qualify as an exception pursuant to Policy COU8.
- 5.21 Within the justification and amplification of Policy COU8 it states that “*a ribbon of development cannot be defined by numbers, although, if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning*”. For the purposes of this aspect, the policy does not distinguish between qualifying buildings. Therefore, all buildings fronting on a road and beside each other must be considered. In this case there are four buildings east of the appeal site all beside each other and fronting onto a road, which the appeal development would add to.
- 5.22 Thus, for the reasons, as stated above, and given my findings on the exception under Policy COU8, the proposal would, if permitted, add to a ribbon of development at this location. Accordingly, the Council’s third reason for refusal is sustained. Consequently, as I have found that the appeal proposal is not a type of development which in principle is acceptable in the countryside, it follows that Policy COU1 is not met. Thus, the Council’s first reason for refusal is also sustained.
- 5.23 Policy COU16 ‘Rural Character and other Criteria’ states that “*in all circumstances proposals for development in the countryside must be in accordance with and must not cause a detrimental change to, or further erode the rural character of an area*”. Whilst the reason for refusal does not clarify which criteria of Policy COU16 the proposed development offends; the Council’s evidence advises that they consider it is contrary to criteria c) and e). Criterion c) advises that a new development proposal will be unacceptable where it does not respect the traditional pattern of settlement exhibited in that area, whilst criterion e) advises that it will not be acceptable where it has an adverse impact on the rural character of the area.
- 5.24 The Council’s evidence regarding the traditional pattern of settlement is somewhat contradictory in that it accepted that the average plot measurements in their own right were not significant but still found the pattern of development would not be respected in terms of frontage width. Given the Appellant’s evidence the proposal would be situated in a plot which would reflect those within the surrounding area and would be acceptable in this regard. Policy COU16 does not encompass ribbon development yet this is the only statement the Council made with regards to criterion e). It is for the Council to sustain its reason for refusal, and they have not provided any substantive evidence as to why the appeal development would fail against Policy COU16 in respect of rural character. The fourth reason for refusal is not sustained.
- 5.25 Nevertheless, for the reasons given above, the appeal proposal is contrary to Policies COU1, COU2 and COU8 of the Council’s Plan Strategy and the associated provisions of the SPPS. The Council’s first, second and third reasons for refusal are sustained to the extent specified and are determining in this appeal.



**6.0 RECOMMENDATION**

6.1 I recommend to the Commission that the appeal be dismissed.

6.2 This recommendation relates to the following drawings: -

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Date</b>
Drawing No. 01	Site Location Plan	1:250	Received by the Council on 21 <sup>st</sup> October 2021
Drawing No. 03A	Proposed Site Location	1:250	Received by the Council on 15 <sup>th</sup> March 2022
Drawing No. 03B	Proposed Site Locations	1:1250 & 1:2500	Received by the Council on 10 <sup>th</sup> March 2023

