

PLANNING APPEALS COMMISSION

THE PLANNING ACT (NORTHERN IRELAND) 2011

SECTION 58

Appeal by Gerard McNeill

**against the refusal of outline planning permission for a site for a farm dwelling
on lands immediately south east of Mason Saws, Kilmore Road, Armagh and
immediately opposite 18 Kilmore Road, Richhill, Armagh, BT61 8QX**

Report

by

Commissioner Rachel Taylor

Planning Authority Reference: LA08/2020/0052/O

Procedure: Written Representations with Accompanied Site Visit on 24th July 2024

Report Date: 12th August 2024

1.0 BACKGROUND

- 1.1 Armagh City, Banbridge and Craigavon Borough Council received the application for planning permission on 13th January 2020.
- 1.2 By notice dated 12th December 2023 the Council refused permission giving the following reasons: -
1. **The proposal is contrary to the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside on the grounds that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and it has not been demonstrated that there are exceptional reasons as to why an alternative site should be considered.**
 2. **The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.**
 3. **The proposal is contrary to the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted result in ribbon development along Kilmore Road.**
 4. **The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would therefore result in a detrimental change to the rural character of the countryside.**
 5. **The proposal would have an unacceptable adverse impact on the amenity of the occupiers of numbers 21 and 25 Old Kilmore Road, on the grounds that it would create overlooking and loss of privacy and for that reason would be contrary to paragraphs 4.11, 4.12 and 5.72 of the SPPS.**
- 1.3 The Commission received the appeal on 18th December 2023 and advertised it in the local press on 18th April 2024.
- 1.4 No representations were received from third parties.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is located on lands immediately south east of Nos 25 & 27 Kilmore Road, Richhill, Armagh. It consists of an irregular shaped parcel of land that forms part of a larger agricultural field, which is given over to an apple orchard.
- 2.2 The land falls from the highest part at the northernmost corner of the site in a southern direction towards the Kilmore Road. To the west of the site, along the roadside is a single storey dwelling at No. 21 Kilmore Road. To the north west of the

site is another single storey dwelling at No. 25 Kilmore Road, with a small single storey shed to its side and a larger shed from which the business known as Mason Saws operates from No. 27 Kilmore Road to its rear.

- 2.3 The south western, roadside boundary and the south eastern boundary of the appeal site are defined by a mature tree lined hedgerow. There is an agricultural field gate access located on the south western boundary close to the boundary with No. 21 Kilmore Road. There is a wide grass verge along the road frontage. The north eastern boundary is undefined, but for an informal track between the apple trees. The north western boundary between Nos 25 and 27 Kilmore Road is defined by a low cut hedge approximately 1.2-1.5m in height. The site wraps around No. 21 Kilmore Road and its curtilage with the boundary with this property defined by a maintained, mature beech tree hedge. A small area of the south western boundary, set back from the roadside between the properties of Nos 21 and 25 & 27 Kilmore Road, is also undefined.
- 2.4 On the day of the accompanied site visit, a length of soil pipe measuring 5.5m had been erected vertically as a reference point by the appellant at his preferred location for the proposed dwelling.
- 2.5 The surrounding area is rural in character with a two storey farm dwelling at No. 31 Kilmore Road and a large agricultural shed to the north of the appeal site. There is a row of large detached roadside dwellings located on the opposite side of the Kilmore Road beyond which is open countryside.

PLANNING AUTHORITY'S CASE

- 3.1 The appeal site abuts the boundaries of two dwellings at Nos 21 and 25 Kilmore Road, and one non-residential property at No. 27 Kilmore Road. Approximately 60 metres north of the appeal site is a dwelling, No. 31 Kilmore Road, and approximately 100m north of the site is an associated agricultural building which are the principal group of farm buildings on the appellant's farm holding.
- 3.2 The site is located outside of any settlement development limits, as defined by the Armagh Area Plan 2004, and is not located within the sphere of influence of any historic sites or monuments.
- 3.3 The decision notice contains 5 reasons for refusal as two potential siting locations within the appeal site were considered. The first four refusal reasons relate to the appellants preferred siting (Site A) which is indicated to be along the roadside along the south western boundary. The remaining fifth refusal reason relates solely to the alternative site (Site B) located within the north western corner of the appeal site.
- 3.4 There are two planning histories on this site. Application O/1988/0168 is located in the appeal site's south-eastern portion and excluding its north-western portion. The application was for a site for a bungalow and was refused on 24th October 1988. This decision was appealed and dismissed on 13th October 1989 (ref: A34/1989).
- 3.5 Application O/2015/0121/O was located in the appeal site's north-western portion and includes land outside the appeal site between Nos 21 and 25 Kilmore Road for a proposed infill site and was refused permission on 11th February 2016.

- 3.6 Criterion (c) of Policy CTY10 states that the new building should visually link or be sited to cluster with an established group of buildings on the farm. In this instance, the appellant is seeking to visually link or cluster with two buildings located 60m north (farm dwelling) and 100m north (farm building) of the closest point of the appeal site. The Council is of the opinion that a dwelling would not cluster with these buildings but, given the topography of the site, could visually link with the farm buildings if sited within Site B. This area, however, is on elevated land to the rear of the dwellings at 21 and 25 Kilmore Road and, in the opinion of the Council, would result in an adverse impact on the residential amenity of these properties on the grounds of overlooking and loss of privacy.
- 3.7 The Council gave greater weight in this instance to the SPPS and the protection of amenity, specifically paragraphs 4.11, 4.12 and 5.72. Furthermore, the Council reviewed the personal circumstances provided by the appellant during the course of the planning application, which related to the spraying of chemicals onto the orchard. The Council's Environmental Health (EH) Department and the Public Health Agency (PHA) were consulted in relation to the orchard spraying. EH raised no objections while the PHA advised that they do not hold a statutory function within the processing of planning applications. The Council was of the opinion they do not meet the exceptional tests listed under criterion (c) of Policy CTY10, i.e. they do not relate to demonstrable health and safety reasons, nor do they relate to verifiable plans to expand the farm business.
- 3.8 The appellant has stated that, "A spray drift analysis plan was submitted as part of the application with wind rose for Aldergrove demonstrating that the prevailing winds emanating from the south and southwest and the preferred site was upwind so as to reduce the exposure to pesticide spray drift." In this regard, the Council considers it noteworthy that portions of the appellant's orchard are located to the south of the existing third-party dwellings at Nos 21 Kilmore Road and 25 Kilmore Road and therefore in the path of the prevailing winds from the orchard. It is therefore considered that the occupant(s) of a dwelling within site A would not experience significantly greater adverse impacts upon their residential amenity than the occupants of the aforementioned dwellings. In addition, the appeal site is located within an existing orchard, which is under the control/ownership of the appellant, therefore the Council has no concerns with regards to residential amenity in terms of noise, odour, or dust emanating from the orchard as the applicant will have control over activity within its confines and, by virtue, any potential emanating nuisance. Furthermore, the appellant included the northern portion of the appeal site within the red line boundary and therefore requested that said portion of the site be considered as a potential siting for the subject development.
- 3.9 The Council has been advised that the Health and Safety Executive should only be consulted on applications adjacent to gas pipelines and applications within COMAH (Control of Major Accident Hazards) consultation zones. This application did not fall within either consultation reason and for that reason while EH suggested a consultation with them one was not carried out.
- 3.10 With regards to the remainder of the appeal site, Council considered that no other area would allow the proposed dwelling to meet criterion (c) of Policy CTY10. Paragraph 5.41 within the 'Justification and Amplification' (J&A) section of Policy CTY10 has been quoted in paragraphs 2.1 and 2.2.3 of the appellant's statement of

case (SOC). The Council considers that the quoted text supports its first reason for refusal. Given the separation distance between the appeal site and the appellant's farm buildings, the Council considers that a dwelling would not read as being "visually interlinked with those buildings, with little appreciation of any physical separation".

- 3.11 In paragraph 2.1.2 of the appellant's SOC, it's stated that "Council has not considered that the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation." Although there is mature landscaping between the appeal site and the farm buildings, it is the aforementioned separation distance which creates a definite physical separation. In this regard, the presence of screening vegetation around existing farm buildings does not negate the requirement of Policy CTY10 for a farm dwelling to be "positioned sensitively with an established group of buildings on the farm ... to form an integral part of that particular building group". The Council considers that a dwelling located within the Site A would not "form an integral part of that particular building group".
- 3.12 As per criterion (g) of Policy CTY13, a new farm dwelling will be unacceptable where it is not visually linked or sited to cluster with an established group of buildings on the farm. As discussed, although the Council considered that a dwelling on Site B could visually link with the relevant farm buildings, it would result in an adverse impact on the residential amenity of the neighbouring dwellings at Nos 21 and 25 Kilmore Road on the grounds of overlooking and loss of privacy. With regards to the remainder of the appeal site, the Council considered that no other area would allow the proposed dwelling to meet criterion (g). By virtue of failing criterion (g), the Council considered that the proposal failed Policy CTY13 and would not visually integrate into the surrounding landscape.
- 3.13 The appellant submitted a site analysis plan during the course of the planning application. A dwelling located on Site A would read as ribbon development when considered along with Nos 21 and 25 Kilmore Road and is therefore contrary to Policy CTY8.
- 3.14 Paragraph 3.2 of the appellant's SOC states that, "Council has not considered that the Orchard itself (comprising of maturing trees) between 21 and 25 Kilmore Road which is protected from winds by both mature trees and mature hedge rows to provide a substantial break, totally separating Nos 21 and 25 Kilmore Road". In this regard, Policy CTY8 states that, "a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked". The Council considers that, although there is vegetation between the aforementioned dwellings, they possess a common frontage with Kilmore Road, and that a dwelling located within Site A would create a ribbon of development, contrary to the criteria of Policy CTY8.
- 3.15 Policy CTY8 states that: "Planning permission will be refused for a building which creates or adds to a ribbon of development"; "Ribbon development has consistently been opposed and will continue to be unacceptable"; and "It is considered that ribbon development is always detrimental to the rural character of an area as it

contributes to a localised sense of build-up and fails to respect the traditional settlement pattern of the countryside”. The strong, unambiguous language used in Policy CTY8 quoted above, is inherently restrictive. This prohibition is subject only to the very limited exception that is built into Policy CTY8 itself and can only be established if all of the required criteria underpinning the exception are met. Namely, the gap site must be within an otherwise substantial and continuously built-up frontage; the gap must be small, sufficient only to accommodate up to a maximum of two dwellings; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met. The Council considered that the proposed development on site A would create a ribbon of development along Kilmore Road, sharing a common road frontage with adjacent buildings, and the appeal site did not meet all of the required criteria. This was reinforced recently, on 3rd April 2024, by the court of appeal reference TRE12475 in the quashing of a judicial review relating to the approval of two infill dwellings.

- 3.16 It is a requirement of Policy CTY14 that a building in the countryside does not cause a detrimental change to, or further erode the rural character of an area. The Council was of the opinion that if the proposed dwelling was to be sited in Site A or in any position along the road frontage, it would read as a ribbon of development along Kilmore Road and therefore result in a detrimental change to the rural character of the countryside. Policy CTY14 is clear (paragraph 5.80) that where a proposal fails the tests of Policy CTY8 it will also constitute build-up and, by virtue, fail Policy CTY14.
- 3.17 Should the appeal be allowed, the following conditions are proposed on a without prejudice basis:
- Proposed ridge height of less than 5.5 metres above finished floor level;
 - No first floor windows in any elevation which faces towards 21 Kilmore Road and/or 25 Kilmore Road;
 - The depth of underbuilding shall not exceed 0.3 metres at any point;
 - All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard;
 - No development shall commence until a landscape plan showing full details of all existing trees to be retained and all proposed tree, shrub and hedgerow planting, has been submitted to and approved in writing by the Council;
 - Any retained or proposed trees, shrubs or hedgerows, dying, removed or becoming seriously damaged within 5 years shall be replaced in the next planting season;
 - Prior to the occupation of the dwelling, a native species hedge shall be planted to the rear of the sight splays along the front boundary of the site;
 - The dwelling shall not be occupied until all new boundaries have been defined by a timber post and wire fence with native species hedgerow and native species trees planted on the inside;
 - A scale plan and accurate site survey at 1:500 (minimum) shall be submitted in accordance with the RS1 form; and
 - The dwelling shall not be occupied until provision has been made within the curtilage for 2 parking spaces, with an additional parking space outside the curtilage.

4.0 APPELLANT'S CASE

- 4.1 The Council has deemed that 'the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape'.
- 4.2 Council has deemed that 'the proposal would, if permitted result in ribbon development along Kilmore Road' and has failed to give adequate consideration to the supplementary Health & Safety information.
- 4.3 J&A of Policy CTY10 – Dwellings on Farms, paragraph 5.41 states 'To help minimise impact on the character and appearance of the landscape such dwellings should be positioned sensitively with an established group of building on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, its reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. If, however, the existing building group is well landscaped planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation. It will not be acceptable to position a new dwelling with buildings which are on neighbouring farm holding.' Paragraph 5.41 within the J&A of Policy CTY10 was included to avoid unnecessary deforestation and destruction to the natural environment.
- 4.4 Council has not considered that the existing building group is well landscaped or that the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation.
- 4.5 The existing building group is surrounded by mature and maturing orchards, with windbreak to both limit damage from prevailing winds/storms to autumn harvests and comply with the Code of Practice for Using Plant Protection Products (the Code).
- 4.6 The existing screening vegetation (wind breaking hedges and trees) should not need to be removed to accommodate suitable sight visibility splays, the screening vegetation could for the most part stay and be faced if the access is appropriately sited. Dfl Roads in their consultation response to LA08/2020/0052/O dated 06th February 2020 recommended visibility splays of 2.4 x 90 metres. However, it is also noted in their response to LA08/2021/1200/RM dated 18th October 2021, Dfl Roads recommended 2.4 x 60 metres. Splays of 2.4 x 60 metres are easily achievable from the existing orchard gate and 2.4 x 90 metres can be achieved by relocating the entrance to the northeast and removing a short section of cropped hedging between the orchard gate and No. 21 Kilmore Road.
- 4.7 With regard the exceptions in CTY10, Council didn't believe the supplementary health and safety information to be compelling. Our proposition is that Council are not the competent authority to interpret health and safety information provided as part of the application. The competent authority in this instance is the applicant who is a 5th generation devoted apple grower who refers to the Health and Safety Executive's guidance document the Code which infers everyone who uses plant protection products has a legal responsibility to ensure that all reasonable precautions are taken to protect the health of human beings.

- 4.8 This is exactly what the applicant is trying to do by ensuring that the site is located upwind (towards the source of the wind) as far south and southwest as physically possible as it's well documented that the prevailing winds during the spraying season emanate from the south and southwest and to act as an additional wind break.
- 4.9 Section 4.7.2 and 4.7.3 of the Code lists what causes spray drift and what those working with pesticides should think about including 'the speed of wind' and 'the wind direction' and notes 'this is especially important when spraying near sensitive areas or neighbours'.
- 4.10 A spray drift analysis plan was submitted as part of the application with a wind rose for Aldergrove demonstrating that the prevailing winds emanate from the south and southwest and the preferred site is upwind so as to reduce the exposure to pesticide spray drift.
- 4.11 Section 4.7.4 of the Code states that 'in orchards, consider having appropriate natural windbreaks, such as other trees, around the treated area'. On review of the orchards and windbreak the competence of the appellant in proficient orchard management is demonstrable.
- 4.12 Unfortunately it is evident there are a number of shortcomings in Council's independent determination of the application including the lack of a competent authority to interpret the health and safety information and it is noted that EH in their consultation response stated that 'The Planning Department may wish to consult other agencies such as DAERA, Public Health Agency and the Health and Safety Executive NI in respect of this additional information'.
- 4.13 With regards ribbon development, the case officers report states that a dwelling located on Site A would read as ribbon development when considered along with Nos 25 and 21 Kilmore Road and is therefore contrary to CTY8 of PPS 21. Council has not considered that the orchard itself between Nos 21 and 25 Kilmore Road which is protected from winds by both mature trees and mature hedgerows, provides a substantial visual break, totally separating Nos 21 and 25 Kilmore Road.
- 4.14 The existing development comprising Nos 21 and 25 Kilmore Road does not appear as a ribbon or single entity on the ground due to the visual break.
- 4.15 Building on Tradition - A sustainable Design Guide for the Northern Ireland Countryside recognised that 'Another type of visual break can be an existing stand of mature trees occurring between properties that appear to be a ribbon on plan'. J&A of Policy CTY8 – Ribbon Development, at paragraph 5.34 states 'Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character'.
- 4.16 A dwelling sited on Site A would avail of the backdrop from rising land as well as the mature vegetation along the boundaries, which could be conditioned to be retained in perpetuity.

5.0 **CONSIDERATION**

5.1 The main issues in this appeal are whether the proposal would:

- be acceptable in principle in the countryside;
- have an adverse impact on rural character; and
- have an adverse impact on residential amenity by overlooking/loss of privacy.

5.2 Section 45(1) of the Planning Act (Northern Ireland) 2011 ('the Act') requires the Commission, in dealing with an appeal, to have regard to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where, in making any determination under the Act, 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 The Armagh Area Plan 2004 as amended by AAP Alteration 1: Countryside Proposals, operates as the relevant LDP for the area. The appeal site is located in the countryside and the Armagh Countryside Policy Area (CPA). Whilst the LDP contains no specific policy or guidance in respect of single dwellings in the countryside, Policy CPA 1 relates to CPAs. It states that development proposals within CPAs will be controlled in accordance with the provisions of regional policy, which is now found within Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21). The relevant regional policy is considered below.

5.4 The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) sets out transitional arrangements that will operate until a Plan Strategy (PS) is adopted for a Council area. No PS has been adopted for the council area the appeal site lies in. Accordingly, during the transitional period, the SPPS retains certain existing Planning Policy Statements (PPSs), including PPS 21. As there is no conflict or change in policy direction between the provisions of the SPPS and retained policy, PPS 21, provides the relevant policy context for assessing the appeal development. The SPPS provides further policy for assessing the proposed dwelling on amenity grounds.

5.5 Policy CTY1 of PPS 21 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. One of these allows for the development of a dwelling on a farm in accordance with Policy CTY10. It follows that if Policy CTY10 is met, then Policy CTY1 is also satisfied. Supplementary Planning Guidance for buildings in the countryside is also set out in the document 'Building on Tradition' – A Sustainable Design Guide for Northern Ireland Countryside (BoT).

5.6 Whilst the decision notice contains 5 reasons for refusal, the red line is such that the Council have considered 2 potential siting options within the appeal site. As confirmed at the Accompanied Site Visit (ASV), the preferred location (Site A) identified by the appellant is located along the roadside facing Kilmore Road, south east of No. 21 and opposite No. 18 Kilmore Road. The Council advised refusal reasons 1-4 relate to Site A only. An alternative site (Site B) considered by the

Council is north east and to the rear of No. 21 Kilmore Road, with only the fifth refusal reason relating to it. I will discuss each site in turn.

- 5.7 Considering Site A, Policy CTY10 advises that planning permission will be granted for a dwelling house on a farm where three criteria, as listed in the policy, are met. The only criterion in dispute is (c); that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s). The Council have stated that the health and safety reasons submitted by the appellant have not been considered sufficient to demonstrate the exception to permit an alternative siting away from the established group of buildings on the farm.
- 5.8 In addition Policy CTY13 – Integration and Design of Buildings in the Countryside states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The Council objected solely under criterion (g); in the case of a proposed dwelling on a farm (see Policy CTY10) it is not visually linked or sited to cluster with an established group of buildings on a farm.
- 5.9 The buildings on the farm holding comprise the dwelling at No. 31 Kilmore Road and its associated agricultural shed. It was confirmed at the ASV by both the appellant and Council that, at Site A, a dwelling would not be visually linked or sited to cluster with the established group of buildings on the farm due to the distance between them, topography and intervening vegetation.
- 5.10 The appellant has put forward a health and safety case concerning the use of pesticides to justify why a dwelling on Site A should be permitted. The appellant's rationale for Site A is that it is located upwind from the prevailing winds which are from the south and southwest and therefore the impact of spray drift from pesticides on the proposed inhabitants of the dwelling will be reduced.
- 5.11 Paragraph 5.42 of the J&A of Policy CTY10 places the onus on the applicant to submit appropriate and demonstrable evidence from a competent and independent authority to justify the siting. No such evidence was presented by the appellant. EH did provide comments during the processing of the application in relation to the information that was submitted by the applicant regarding pesticides and spray drift. They recommended that the Council consults other bodies and no such consultations took place. The Council took the view that other adjacent third-party properties are already within the path of the prevailing winds and therefore the occupiers of the proposed dwelling would not face any significantly greater impacts.
- 5.12 The purpose of the Code is to advise on how to use pesticides safely. Advice regarding neighbouring properties reinforces the need to use the correct equipment in the manner advised by the Code and in the appropriate weather conditions. It advises that the farmer can consider whether extra measures are needed such as advising occupants when spraying will take place and spraying when neighbours are not at home, which are good practice.

- 5.13 No information was submitted regarding current pesticide usage, management and application relating to this particular farm. Paragraph 4.7.1 of the Code states that spray drifting off target is a common result of misusing pesticides. Paragraph 4.7.2 of the Code lists eight factors which cause spray drift, of which one is wind speed. I accept that the direction of the wind is more frequently from the south west and the remaining factors amount to atmospheric conditions, the equipment and indeed the correct application by the farmer in accordance with the guidance.
- 5.14 Whilst it is highlighted within the Code that in orchards consideration should be given to appropriate natural wind breaks, such as other trees around the treated area, this again is advisory and it would be common for new dwellings to have appropriate boundary treatment.
- 5.15 The existence of the Code is not sufficient to persuade me that there are 'exceptional' and demonstrable health and safety circumstances for this site and that there are no alternative sites available at another group of buildings as per the policy requirement of Policy CTY10. The code acknowledges that pesticides will be used adjacent to neighbouring dwellings and essentially amounts to 'best practice'. The occupants of the proposed dwelling would not experience significantly greater impacts than the existing neighbouring properties as well as the appeal site being within the control/ownership of the appellant. In any event, this exception is only engaged provided there are no other sites available, and as there is an alternative site discussed below, this information is of limited assistance. Accordingly, development at Site A does not satisfy criterion (c) nor the exceptional test under Policy CTY10 of PPS21 or Policy CTY13. The first and second refusal reasons relating to Site A are therefore sustained.
- 5.16 Policy CTY8 entitled Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY14 entitled Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It expands to say that a new building will be unacceptable in certain circumstances e.g where (b) it results in a suburban style build-up of development when viewed with existing and approved buildings or (d) it creates or adds to a ribbon of development (see Policy CTY8).
- 5.17 Paragraph 5.33 of the J&A of Policy CTY8 states that 'buildings sited back, staggered or at angles with gaps between them can still represent ribbon development, if they have a common frontage or are visually linked.'
- 5.18 The appellant advanced arguments that Site A was well enclosed and rounded off the roadside development. Views of the exhibited soil pipe were limited. There would be minimal vegetation removal required for visibility splay provision and from critical views along Kilmore Road from the southernmost corner, outside of No. 21 and outside of No. 25 the existing dwellings and outbuilding do not visually link due to the extensive boundary vegetation. There is also a break between the curtilage of the dwellings at Nos 21 and 25 Kilmore Road as emphasised by the appellant. However, buildings which are not visually linked can still represent ribbon development. The buildings identified share a common frontage therefore a dwelling on Site A would create a ribbon of development and add to a suburban style build up when viewed with existing buildings causing a detrimental impact on rural character and is

therefore contrary to Policy CTY8 and Policy CTY14 in this regard. All existing boundaries can be retained with the exception of a small amount to be removed for visibility splay provision however this would be the same regardless of which siting option was considered. The third and fourth refusal reasons relating to Site A are therefore sustained.

- 5.19 Turning to the Council's identified Site B. A dwelling on the northern portion of the site to the rear of No 21 and east of Nos 25 and 27 Kilmore Road, as acknowledged by the Council, would be policy compliant with CTY10. However, the Council considered there would be an unacceptable impact on the amenity of adjacent residential properties with regard to overlooking and loss of privacy. The SPPS at Paragraphs 4.11 and 4.12 indicate that there are a wide range of environment and amenity considerations which should be taken into account by planning authorities when proposing policies or managing development. Other amenity considerations arising from development that may have potential health and well-being implications include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing.
- 5.20 Site B, subject to siting condition would be within approximately 70m of the existing farm buildings and would be visually linked (although limited) due to the topography of the site, and the intervening vegetation. The J&A at paragraph 5.41 accepts that in such circumstances, planning permission can be granted. As this is an outline application, the detailed design of any dwelling would normally be a matter which is reserved. Acknowledging that the land rises to the rear of No. 21 Kilmore Road and continues to rise beyond the rear of the site, a dwelling on site B has the potential to overlook the adjacent properties and in particular Nos 21 and 25 Kilmore Road. However, with careful consideration regarding the siting and orientation of any dwelling, appropriate mitigation measures could be incorporated into the detailed design of any dwelling to mitigate overlooking and subsequent loss of privacy to address the Council's concerns in relation to Site B.
- 5.21 Whilst the appellant does not consider Site B an appropriate location due to the direction of the prevailing winds and the impact they would have on spray drift of pesticides, as previously considered, adherence to the Code which advocates the range of best practice and good management procedures can mitigate concerns. In my opinion a dwelling located in Site B, with sufficient separation distances from the boundaries of the adjacent properties could be designed and landscaped in a way that there would be no unacceptable adverse overlooking or loss of privacy. In addition, as the site is well screened, any existing vegetation can be conditioned to be retained. The fifth and only refusal reason pertaining to the Site B is therefore not sustained.
- 5.22 The appeal can therefore be allowed subject to the conditions outlined above. In addition, other conditions relating to the height of the dwelling, under-build and sections would be necessary to ensure the dwelling visually integrates. A condition for provision of the sight splays of 2.4 metres x 90 metres would be necessary in the interests of road safety. A condition for the implementation of landscaping for the development would be necessary in the interests of both rural and residential amenity. For the same reasoning retention of existing vegetation would be required as would replacement of any dying or damaged vegetation within the first 5 years of planting.

6.0 RECOMMENDATION

- 6.1 For the reasons set out above, Site A is contrary to Policies CTY1, CTY10, CTY8, CTY13 and CTY14. However, as Site B has been found acceptable in principle for the reasons stated above, the appeal is allowed.
- 6.2 I recommend to the Commission that the appeal be allowed and that outline planning permission be granted, subject to the following conditions: -
1. Except as expressly provided for by condition 2, 4, 5, and 6 the following reserved matters shall be as approved by the planning authority – the design, external appearance and means of access to the dwelling.
 2. The ridge height of the dwelling shall not exceed 5.5 metres above existing ground level at the lowest point within its footprint and underbuilding shall not exceed 0.3 metres at any point above existing ground level.
 3. Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point.
 4. Any windows on the north west and south west elevations of the dwelling shall be designed to avoid direct overlooking of properties adjoining the site.
 5. The dwelling including its curtilage area shall be sited within the cross hatched area on the attached drawing PAC 1, date stamped 13th January 2020.
 6. Visibility splays of 2.4 metres x 90 metres shall be laid out in both directions onto Kilmore Road before any building operations commence and thereafter shall be permanently retained.
 7. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme providing for: -
 - the retention of trees and hedgerows along the north western, south eastern and the south western boundaries of the site;
 - all new boundaries for the curtilage of the dwelling hereby approved: and

The scheme of planting, as finally approved, shall be carried out during the first planting season after the dwelling is occupied. Trees and shrubs dying, removed or becoming seriously damaged within five years shall be replaced in the next planting season with others of a similar size and species unless the Planning Authority gives written consent to any variation.
 8. Application for approval of reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision.
 9. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

6.3 This recommendation relates to the following drawing: -

Drawing No.	Title	Scale	Date received by Council
PAC1	Site Location Plan	1:2500	13 th January 2020

List of Appearances

Planning Authority: - John Law on behalf of Armagh, Banbridge & Craigavon Borough Council (A,B & C BC)

Appellant: - Marc McNeice, Armagh Design Ltd.
Gerard McNeill

List of Documents

Planning Authority: - Statement of Case (A,B & C BC).

Rebuttal Statement (A,B & C BC).

Appellant: - Statement of Case (Marc McNeice, Armagh Design Ltd).