
Appeal Reference:	2023/A0083
Appeal by:	Mr John Crawford
Appeal against:	The refusal of outline planning permission
Proposal:	Two-storey dwelling and garage
Location:	50 metres south of 33 Kildowney Hill, Glarryford
Planning Authority:	Mid and East Antrim Borough Council
Application Reference:	LA02/2023/1704/O
Procedure:	Written Representations with an Accompanied Site Visit on 1 May 2024
Decision by:	Commissioner B Stevenson, dated 7 May 2024

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Post the Council issuing its refusal notice and prior to the submission of the parties' Statement of Cases, the Council notified the Commission that its Mid and East Antim Borough Council Local Development Plan 2030: Plan Strategy (PS) had been adopted since the proposal had been refused and that it proposes revisions to its refusal reasons. The proposed revisions factor in the new infill policy in the PS. Given that I must have regard to the adopted PS and that the Appellant and the Council both had the opportunity to consider the PS in the appeal evidence, no prejudice arises. The evidence is therefore admitted in this appeal.

Reasons

3. The main issues in this appeal are whether the appeal proposal would be acceptable in principle.
4. Section 45(1) of the Act requires the Commission when dealing with an appeal to have regard to the LDP, so far as material to the application, and to any other material considerations. Section 6(4) requires 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. As the Council recently adopted its PS, in accordance with the Planning (Local Development Plan) Regulations (Northern Ireland) 2015 (as amended), the LDP comprises the Departmental Development Plan (DDP) and the PS read together. In this appeal, the Ballymena Area Plan 1986-2001 (BAP) is the DDP. The legislation

also requires that any policy contained in the BAP and those of the PS must be resolved in favour of the latter. The BAP contains no policies that are material to this appeal. No conflict therefore arises between the DDP and the PS.

6. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is a material consideration. The transitional arrangements set out in the SPPS no longer apply given that the PS is adopted for the area. The policies retained under paragraph 1.13 of the SPPS therefore cease to have effect. Paragraph 6.73 of the SPPS states that in the countryside that provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. It goes on to say that planning permission will be refused for a building which creates or adds to a ribbon of development.
7. Policy CS1 'Sustainable Development in the Countryside' of the PS states that opportunities for development in the countryside are permitted through certain policies. One of which is for the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy HOU13. Policy CS1 also requires that all proposals must satisfy the requirements of the relevant policy and that the proposal must meet the General Policy and accord with other provisions of the LDP.
8. Policy HOU13 'Ribbon/Infill Development' of the PS states that planning permission will be refused for a building which creates or adds to a ribbon of development in the countryside. Notwithstanding the presumption against ribbon development, the policy states that an exception will be permitted for the development of a small gap site sufficient to accommodate only one dwelling within an otherwise substantial and continuously built up frontage in terms of size, scale, siting and plot size, meets the General Policy and accords with other provisions of the LDP. The policy states that the definition of a substantial and built up frontage includes a line of three or more substantial buildings with a common frontage to a road, footpath or private lane served by individual accesses and visually linked when viewed from that road, footpath or private lane. The Council expresses concern that there is no substantial and continuously built up frontage and thus no small gap site.
9. The appeal site is part of a larger agricultural field and is north of the road named Kildowney Hill and east of a private lane that provides access to a farmhouse at No. 33. That dwelling (No. 33) sits within a farm yard that comprises a number of farm buildings. Beyond the farm yard are fields. The farmhouse (No. 33) and its farm buildings are at the end of the laneway and north of the appeal site. South of the appeal site is another farm building known as the 'hen house'. Further south of the hen house is a small timber garden-like shed.
10. There is no dispute between the Council and the Appellant that the buildings at No. 33 and the hen house are visually linked when viewed from the lane. However, while the Council accepts that the hen house has frontage, the Council contends that those buildings at No. 33 do not have frontage. Paragraph 8.1.68 of the amplification text of the policy states that a building has frontage to a private lane if the plot on which it stands abuts or shares a boundary with that private lane. It goes on to say that an access does not constitute a road frontage. Therefore, the substantial building does not have to front the private lane but its plot must abut or share a boundary with that private lane. The paragraph also defines 'substantial buildings' as each having their own defined curtilage and that they cannot include ancillary domestic sheds,

outbuildings garages or small agricultural buildings. Moreover, the substantial buildings with common frontage to the lane must be served by individual accesses.

11. Abutting the lane is the vehicular entrance to the farmhouse at No. 33 and its farm yard. That entrance is defined on each side by posts and provides access through the farm yard and to the dwelling. To my mind, the private lane ends at the entrance into the farm yard. Only the vehicular entrance of the plot on which the dwelling and its farm buildings within the farm yard are located abuts the lane. Notwithstanding whether the buildings at No. 33 are substantial or outbuildings and whether they have their own defined curtilage or are served by individual accesses, given that an access alone does not constitute frontage, that dwelling (No. 33) and its surrounding farm buildings do not have a frontage onto the lane for the purposes of the policy.
12. The hen house south of the appeal site has its own defined curtilage, is served by an individual access from the lane and its plot abuts the lane. The hen house therefore has frontage. In relation to the small garden-like timber shed south of the hen house, to my mind that shed is not a substantial building given its size and therefore cannot be counted as part of the substantial and built up frontage. In any event, that small timber shed is not served by any individual access from the lane. As the hen house is the only substantial building that has frontage, there is no substantial and built up frontage. Accordingly, there is no small gap site within an otherwise substantial and continuously built up frontage. The appeal proposal would therefore not comply with the exception test of Policy HOU13 of the PS and would therefore create a ribbon of development with the hen house.
13. Given the existing disposition of the hen house and the size of the appeal site, I am satisfied that a two-storey dwelling could be provided on the site that would respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. Nevertheless, I have already concluded that there is no small gap site within an otherwise substantial and continuously built up frontage. The appeal proposal would create a ribbon of development and would offend Policy HOU13 of the PS and the SPPS. The Council's revised second reason for refusal is therefore sustained.
14. The Council argues that there are no overriding reasons why the proposal is essential in this rural location and could not be located within a settlement. However, Policy CS1 of the PS does not envision permitting development in the countryside on the basis of an essential need being identified. In any case, the Appellant did not provide overriding reasons that demonstrate that the appeal proposal is essential at the appeal site. Nevertheless, given that the proposal fails to accord with Policy HOU13 of the PS, it consequently offends Policy CS1 of the PS and the SPPS. The Council's revised first reason for refusal is therefore sustained insofar as stated. As both of the Council's revised reasons for refusal are upheld, the appeal must fail.

This decision relates to the 1:2500 scaled site location plan that is referred to on the decision notice as drawing 01/1. The site location plan is dated by the architect June 2023 and numbered 1923-1.

COMMISSIONER B STEVENSON

List of Appearances

Planning Authority:-

Mr S O’Kane
Mid and East Antrim Borough Council

Appellant: -

Mr N McKernan
Joseph McKernan & Son

List of Documents

Planning Authority: -

A Statement of Case
Mid and East Antrim Borough Council

A1 Rebuttal Comments
Mid and East Antrim Borough Council

Appellant: -

B Statement of Case
Joseph McKernan & Son