
Appeal Reference:	2023/A0085
Appeal by:	Mr. Adam White
Appeal against:	The refusal of full planning permission
Proposed Development:	Change of use from garden room to self contained glamping pod
Location:	40 Loughmourne Road, Carrickfergus
Planning Authority:	Mid & East Antrim Borough Council
Application Reference:	LA02/2022/0199/F
Procedure:	Written representations and accompanied site visit on 6 th August 2024
Decision by:	Commissioner Trudy Harbinson, dated 27 th September 2024

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to 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 Antrim Borough Council Local Development Plan 2030: Plan Strategy (PS) had been adopted since the proposal had been refused and proffered revisions to its refusal reasons. That correspondence was shared with the Appellant by the Commission. The proposed revisions factor in the new countryside, tourism and transport policies in the PS. In any event I must have regard to the adopted PS and given that the Appellant and the Council both had the opportunity to consider the PS in the appeal evidence, no prejudice arises.
3. An appeal against the refusal of the proposed development had previously been made invalid by the Commission as the details of the application had not been advertised in the local press as required by Article 8 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (GDPO). The application was subsequently redetermined by the Council. The Appellant raised concern that the advertisement had included the word 'Refused' and that this should be rectified, with the application process restarted. The Council's press advertisement read '*Application No*', '*2022/0199/F*'; '*Location*', '*40 Loughmourne Rd, Carrickfergus*'; and '*Proposal (in brief)*', '*Change of use from garden room to self contained glamping pod*'. There was no reference to the application having been refused. The information to which the Appellant referred appears to have been application details on the planning portal and not the press advertisement. I am satisfied that the application was advertised in accordance with the requirements of the legislation and that there is a valid appeal before me.

Reasons

4. The main issues in this appeal are whether the appeal proposal would:
 - be an acceptable form of development in the countryside; and
 - prejudice the safety and convenience of road users.

Policy Context

5. In the determination of this appeal, Section 45 (1) of the Act states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise.
6. As referred to earlier, the Council has adopted its PS. In line with the transitional arrangements as set out in the Schedule to the LDP Regulations 2015 (as amended), the LDP now becomes a combination of the Departmental Development Plan (DDP) and the PS read together.
7. The Carrickfergus Area Plan 2001 (CAP) is the DDP. In it the appeal site is located within the North Carrickfergus Countryside Policy Area (NCCPA) designated under Policy CSD2. It states that further unrestricted development would result in the despoilation of this pleasant landscape and erosion of its present rural character, and that the designation is therefore intended to protect the area. Policy and Proposals for tourism are set out at T1 to T4. T1 '*Tourism Strategy*' states that favourable consideration will normally be given to new tourist facilities of an appropriate nature, scale and location in the settlements of the Borough and that in the countryside proposals for tourism development will be balanced against the objectives of protecting the key environmental assets of this area and keeping development to a minimum. Policy T2 states that tourism assets will be protected from unnecessary, inappropriate and excessive development. Policy T3 sets out policy for the re-use of existing buildings for tourist purposes and Policy T4 requires all proposals for new tourism development to be designed to the highest standards.
8. The Draft Belfast Metropolitan Area Plan 2015 (DBMAP) published in 2004 remains a material consideration, within it the appeal site is within the green belt. However, this designation is now outdated having been overtaken by a succession of regional policies for development in the countryside.
9. Whilst the Strategic Planning Policy Statement for Northern Ireland (SPPS) remains material in accordance with paragraph 1.9 thereof, as the Council has adopted its PS, the previously retained policies have now ceased to have effect. The proposal therefore falls to be considered against the provisions of the most up-to-date operational policy for tourism development in the countryside as set out in the DDP and the PS. I now turn to the particular policies of relevance to this appeal in the PS.
10. Policy CS1 '*Sustainable Development in the Countryside*' permits opportunities for development in the countryside through a number of policies, one of which is tourism development in accordance with Policies TOU1 and TOU3 to TOU8. In addition to meeting the relevant policy, all development proposals are also

required to meet the general policy (GP) and accord with the other provisions of the LDP. The legislation requires that any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS. There is no conflict between the DDP and the PS. The relevant policies to this appeal are Policy CS1, Policy TOU3, Policy TOU6, Policy GP1 and Policy TR1 which the Council consider were not met.

The appeal proposal

11. The appeal site is located within the countryside, north of the settlement of Carrickfergus. It is to the east of Loughmourne Road and north of a two storey detached dwelling and its single storey outbuildings at 40 Loughmourne Road. There is a farm across the road to its west and fields to its north and east.
12. The western boundary of the site is the access on to the Loughmourne Road with a ranch style fence flanking either side. The northern boundary is defined by a post and wire fence and mature trees. The eastern boundary has a post and wire fence to the field with clusters of mature trees on either side. The southern boundary is defined by a ranch fence, the driveway into the dwelling at number 40 and a post and wire fence.
13. The appeal site incorporates the access that serves the dwelling at no. 40, a gravel driveway and parking area and a timber curved pod structure. There is some low level planting to the south and west boundaries of the pod itself, a patio area with hot tub and screen to its north and a green amenity area to its south. The pod structure accommodates an open plan sleeping, kitchen, living area and a small bathroom. It is timber clad with glazing to its frontage overlooking the fields to its east. It is proposed to change its use from a garden room to a self contained glamping pod. That use for glamping is already taking place.

Principle of Development

14. Policy TOU1 '*Safeguarding of Tourism Assets*' states that planning permission will not be granted for development that would in itself, or in combination with existing and approved development in the locality, have an adverse impact on a tourism asset such as to compromise its amenity, setting and tourism value. Policy TOU 3 '*All Tourism Development in the Countryside*' states that outside of Special Countryside Areas and other 'Vulnerable Areas' in the countryside, a proposal for a tourism development will be permitted where it meets the requirements of the relevant tourism policy, and that all proposals for tourism development in the countryside must also meet the GP, and accord with other provisions of the LDP including Policy NAT1.
15. The relevant tourism policy for the appeal proposal is Policy TOU6 '*Self Catering Accommodation in the Countryside*'. The policy states that a proposal for self catering units in the countryside will be permitted where it complies with Policy TOU3 and only in either of the following circumstances:
 - a) one or more new units all located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park; or
 - b) a cluster of three or more new units are to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right.

In addition, a number of specific criteria must be met, including the requirement that the self catering development be subsidiary in scale and ancillary to the primary tourism use of the site.

16. Policy GP1 '*General Policy for all Development*' states that planning permission will be granted for sustainable development where the proposal accords with the LDP and there is no demonstrable harm to interests of acknowledged importance. Where this is not the case there will be a presumption to refuse planning permission. It goes on to set out general policy criteria (a) – (e), which development proposals requiring planning permission, with the exception of minor proposals, will be assessed against and will, where relevant, be required to demonstrate compliance. In addition, all development proposals outside settlement limits and within the countryside, are to demonstrate compliance with criteria (f). Policy NAT 1 sets out the relevant policy for European and Ramsar sites, though it is not engaged in this appeal.
17. The appeal proposal is for a single glamping pod in the countryside, adjacent to the dwelling at no. 40 Loughmourne Road. I was presented with no evidence that it is within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park. Nor is it a cluster of three or more new units to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right. The proposal fails both criteria (a) and (b) of Policy TOU6 of the PS. Furthermore, there is no primary tourism use on the site to which the self catering development can be subsidiary in scale and ancillary.
18. The appeal development fails Policy TOU6 read as a whole. It therefore follows that it also fails to comply with Policy TOU3.
19. The Appellant considered that the appeal development finds support in tourism Policy and Proposals of the CAP. There is no conflict between these and the Strategic Growth Tourism Strategy (SGS8) of the PS and its corresponding operational tourism policies. Nevertheless, I will address them in the interests of completeness. With respect to Policy T3 '*Re-use of Existing Buildings for Tourist Purposes*' of the CAP the accompanying text states '*Such re-use of older buildings will help provide an attractive tourist product, provide a local source of income and may assist with the retention of vernacular buildings.*' The appeal structure is not an older building as envisaged by the CAP. Policy TOU5 '*Hotels, Guest Houses and Tourist Hostels in the Countryside*' (a) '*Conversion and re-use of an Existing Rural Building*' of the PS states that such a proposal is assessed under Policy HE8 Unlisted Locally Important Building or Vernacular Building. Given the modern nature of appeal development this policy element is not applicable.
20. The Appellant also referred to Policy TSM5 of Planning Policy Statement 16 '*Tourism*' (PPS16) and Policy CTY1 of PPS21 '*Sustainable Development in the Countryside*'. However, for the reasons set out earlier in this report those policies have been superseded by the PS. In any event the proposal has been considered under the relevant policy in the PS, including Policies CS1 and TOU6. He stated that more favourable consideration would be given if he were applying for 3 or more pods. Whether or not that would be the case, that is not the proposal before me, and even if it were, there are other specific policy criteria to be met, thus it does not necessarily follow that a proposal for 3 pods would result in a favourable

outcome. The Appellant also referenced allowances in policy for farm diversification, which he considered ran contrary to other policies, favouring farmers over other individuals like himself, however such schemes are subject to assessment under a different policy context. The appeal development is not a farm diversification proposal.

21. The Appellant stated that the Council have only considered the appeal development under tourism policies, but that tourism is only a minor use of the pod, the main use being as a respite for local charities. He stated that the pod is let out to members of the public, with money collected covering heating and maintenance costs, and that the purpose of tourism hosting is to pay for the primary use, which is hosting charities and providing respite.
22. The description of development is for a change of use from garden room to self contained glamping pod. There is no reference to any non-profit charitable use. Irrespective of any charity element, it remains that the development applied for is a tourism use, therefore the proposal must be considered under the relevant tourism policies, which I have already concluded it is at odds with.
23. The Council in their evidence included extracts from an AirBnB website detailing the pod for let with 149 online reviews by customers on January 2022 and 263 online reviews on 30th July 2024. The Appellant has included email correspondence between himself and two charities with respect to their use of the pod. However, I have not been provided with any charity number, accounts or inventory of lets to demonstrate that the primary use of the appeal development is for local charity. Whilst the charitable endeavours of the Appellant are admirable, it remains that the glamping pod operates a tourism use as evidenced by the Council and by the Appellant himself, in his submitted arguments relating to demand and need. Whilst it may be the case that any granting of permission would allow for some respite for local charity, in the evidential context before me, that would not in this case outweigh the policy objections.
24. The Appellant put forward an argument that the development is a necessary response to a growing trend for tourism and a high demand for single, private pods in remote locations, outside settlements. He submitted that there is only one operational hotel in Carrickfergus and that the area needs more facilities for tourist accommodation. I was not provided with details of any type of tourist accommodation in the area other than the hotel. Whilst there have been positive customer online reviews from those who have stayed in the pod, and references in supporting representations to a lack of tourist accommodation, I have not been provided with any persuasive evidence that there is an under provision of tourist accommodation in the area. Nor, that those that do exist, are at capacity, or do not meet an identified need.
25. The Appellant refers to the Tourism (NI) Order 1992 and dated policies within the changing landscape of tourism. The appeal development has however been considered under the PS, which is a recently adopted and up-to-date policy document. I do not therefore consider that the policies relevant to the consideration of the appeal development are outdated.
26. The Appellant also put forward a planning gain case, and there was third party support, that the development, if approved, would enhance revenue, support local

businesses, attract visitors, promote sustainable tourism, boost the local economy, create job opportunity and give back to the local community. Whilst that may be the case, I was not provided with any evidence quantifying those benefits and I am not persuaded that the stated benefits would outweigh the policy objections to the development.

27. The Appellant referred to similar applications for glamping pods that he considered set a precedent for the appeal development. No detailed information or planning history was provided for these sites and their associated uses therefore I cannot conclude with any certainty if there are direct similarities with the appeal proposal. In any event each case falls to be assessed on its own merits.
28. As the appeal development offends Policies TOU3 and TOU6, it follows that the appeal proposal is not one which satisfies the requirements of Policy CS1 of the PS. Having taken all the Appellant's arguments and those raised by a number of third party supporters into the round, there are no material considerations, individually or collectively that outweigh the failure of the proposal to comply with policy or justify the appeal development in principle. The Council's first and second reasons for refusal, as amended, are sustained.

Road Safety

29. Policy TR1 '*Access to Public Roads*' requires any development proposal involving direct access or the intensification of the use of an existing access on to a public road will not prejudice road safety or significantly inconvenience the flow of road users, and not conflict with Policy TR2 Access to Protected Routes. The Loughmourne Road is not a protected route therefore the second part of Policy TR1 is not engaged.
30. The appeal site shares access on to the public road with the dwelling at 40 Loughmourne Road. The pod and its associated hardstanding are in front of the access, the driveway then sweeping south into the dwelling. The Council consider that the appeal development would prejudice the safety and convenience of road users, contrary to Policies GP1 and TR1 of the PS, as a visibility splay of 2.4metres x 80metres cannot be provided in a south-westerly direction. They stated that these cannot be achieved within the lands controlled by the Appellant. An objector to the planning application had raised traffic concerns.
31. Policy GP1 (c) '*Criteria relating to Access/Movement/Car Parking*' requires access to be in accordance with the latest guidance which is Development Control Advice Note 15 '*Vehicular Access Standards*' (DCAN15). The appeal site access has the required X distance for the splay but not the required Y distance. The DfI consultation response recorded a Y distance of 18m to the north and 10-11m to the south. The Y distance requirements are set out at Table B of DCAN15, under which note 1 states, that in exceptional circumstances a reduction in the visibility standards may be permitted where, in the judgement of the Department, danger to road users is not likely to be caused.
32. The Appellant stated that the access has been in place in excess of 100 years and is used by numerous persons on a daily basis. He argued that, given the size of the pod and number of visitors, there would be no notable increase in traffic. It would be seasonal and visitor numbers low. Nonetheless, the appeal development introduces a new user to the access, in addition to those using it for domestic

residential purposes. Based on my on site observations of the access and the traffic using the Loughmourne Road I agree that the stated splays would be required. Whilst the glamping pod is already in place, I consider that a suitably worded condition, requiring provision of the splays within a specified period, could be imposed in the event of an approval. If the Appellant were unable to secure the agreement of the third party landowner to provide the required visibility splays, he could not operate the development lawfully on the site.

33. The Appellant stated Council Officers advised him, at a meeting attended by an elected representative, that he could continue charity respite stays in the pod as there was no commercial aspect. He cannot reconcile how that would be acceptable without common sense having been applied to traffic matters also. Advice given to the Appellant by the Council at any meeting outside of the Appeal process is a matter between the two parties.
34. For the reasons given above I consider that a suitably worded condition could be imposed to secure a safe access, and this matter alone would not justify a rejection of the appeal. For these reasons Policies GP1 and TR1 are not offended and the Council's third reason for refusal, as amended, and the objector's related concern are not sustained.

Other Matters

35. The objector raised other matters relating to the visual appearance of the pod and its impact on rural character, natural environment and noise. The pod is small in scale and nestled within a cluster of trees. I do not consider it to be visually obtrusive, nor that it would adversely impact the rural character of the locality. I have been presented with no evidence of unacceptable adverse impact on the natural environment or on local amenity by virtue of noise. Nor have I been presented with evidence of negative impact on local businesses as a result of customers being drawn away from legitimate tourist areas. The objector is aggrieved that the structure is already constructed without planning approval. Whilst this has been done at the Appellant's own risk, there is provision within the legislation to allow permission to be sought retrospectively. Whilst the matter of precedent was raised, given my overall conclusions on the unacceptability of the development, I need not consider it further. The objector's concern on these specific matters is not sustained.
36. The Appellant provided email correspondence of two charities withdrawing support for his application due to the planning portal status reading 'refused' whilst the application remained under consideration. He considered this had been prejudicial to him, jeopardising support for his proposed development. Notwithstanding the error on the portal, which is not a matter for this appeal, there were 18 submissions to the planning application in support of the appeal development which I have taken into consideration above. Those who made representations to the application were notified of the Appeal and it was also advertised, I do not consider prejudice has arisen at appeal stage.
37. The Appellant stated that the refusal notice was issued without the accompanying notes regarding his rights of appeal. Whether or not this was the case, the Appellant has nevertheless submitted an appeal. He stated that due to the absence of those notes he missed the opportunity to appeal against a subsequent enforcement notice (EN) that he received. The Council responded that details of

the appeals process were included in the explanatory notes accompanying the EN. The EN is not before me, and the lack of appeal against it is not a matter that can be rectified through this appeal. Whilst I appreciate that the Appellant stated he has limited knowledge of planning and did not engage the services of a planning consultant, he has engaged in the appeal process and put forward a case in support of the appeal development before me.

38. Matters raised with respect to the time taken by the Council to process a concurrent Certificate of Lawfulness of Existing Use or Development (CLEUD) for the appeal site, and the development not being put on a delegated list for consideration, are for the Council and are not matters for this appeal. Similarly, the Appellant's reliance on the structure being permitted development under the Planning (General Permitted Development) Order (Northern Ireland) 2015, is a separate matter addressed under a concurrent appeal in respect to a CLEUD for a garden room, which despite relating to the same structure, is not the proposal before me in this appeal.

Conclusions

39. For the reasons given above the appeal development is contrary to Policies CS1, TOU3 and TOU6, of the PS. There are no material considerations presented that outweigh the plan policy objections to the proposal. The Council's first and second reasons for refusal, as amended, and related concerns of the objector are sustained and are determining. Accordingly, the appeal must fail.

The decision is based on the following:

Drawing No.01 Location map and Block plan
Drawing No.02 Sketch Scheme

COMMISSIONER TRUDY HARBINSON

List of Appearances

Planning Authority:- Julie Blue
Emma Graham

Appellant:- Lisa White

List of Documents

Planning Authority:- A Written Statement of Case
A1 Rebuttal

Appellant:- B Written Statement of Case