
Appeal Reference:	2023/A0092.
Appeal by:	Barry McMahon.
Appeal against:	The refusal of outline planning permission.
Proposed Development:	2 No. infill dwellings and garages.
Location:	30m North of 6 Cross Lane, Lisburn.
Planning Authority:	Lisburn & Castlereagh City Council.
Application Reference:	LA05/2021/0609/O.
Procedure:	Written representation with Accompanied Site Visit on 12 th June 2024.
Decision by:	Commissioner Kieran O’Connell, dated 8 th July 2024.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether or not the development would:
 - be acceptable in principle in the countryside;
 - add to a ribbon of development; and
 - adversely impact on the rural character of the area.
3. 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 (LDP) 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.
4. The Lisburn and Castlereagh City Council Local Development Plan 2032 Plan Strategy (PS) sets out the strategic policy framework for the Council area. In line with the transitional arrangements set out in the Schedule to the Planning (Local Development Plan) Regulations (NI) 2015 (as amended), the Local Development Plan (LDP) now becomes a combination of the Departmental Development Plan (DDP) and the PS read together. In accordance with the subject legislation, any conflict between a policy contained in the DDP and those of the Plan Strategy must be resolved in favour of the Plan Strategy.
5. The Lisburn Area Plan 2001 (LAP) operates as the DDP for the area, with draft Belfast Metropolitan Area Plan 2004 remaining a material consideration in certain

circumstances. Within the LAP, the appeal site is within the countryside and the greenbelt. The LAP contains no policies relevant to the appeal proposal and directs to the Planning Strategy for Rural Northern Ireland, which was superseded by Planning Policy Statement 21 – Sustainable Development in the Countryside. The appeal site also falls within the greenbelt designated within the draft BMAP 2004; however, it too does not contain any policies material to the appeal development.

6. Accordingly, in this Council area, as the PS has been adopted, in accordance with paragraph 1.9 of the Strategic Planning Policy Statement for Northern Ireland (SPPS), the previously retained policies such as the Planning Policy Statements now cease to have effect. There is no conflict between the DDP and the PS. Guidance provided in 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside' (BoT) is also pertinent to the assessment.
7. The appeal site is located on the eastern side of Cross Lane and in part comprises an overgrown rectangular-shaped roadside field. The northwestern and southeastern boundaries are undefined and are part of a larger field. The northeastern boundary is defined by mature trees approximately 6-8m high. The westernmost boundary is defined by a hedgerow and is separated from the remainder of the site by the public road, which is defined by a roadside hedge. The southwestern field boundary in which the appeal site sits is defined by mature trees approximately 6-8m high set back from a shallow verge on the eastern side of Cross Lane.
8. To the north of the appeal site, there is a derelict roadside building overgrown by vegetation which sits adjacent to Cross Lane and Lissue Lane. To the south there are three two-storey roadside dwellings, No's 2, 4 & 6 Cross Lane with 'RL Services' forklift sales, services and hire premises to the rear of No. 2 and No. 4. The western side of Cross Lane is characterised by agricultural lands.
9. Policy COU 1 of the PS 'Development in the Countryside' states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of the acceptable types of development is the development of a small gap, within an otherwise substantial and continuously built-up frontage, in accordance with Policy COU 8 'Infill/Ribbon Development'. Policy COU 1 goes on to state that any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU 15 'Integration and Design of Buildings in the Countryside' and COU 16 'Rural Character and Other Criteria'.
10. Policy COU 8 states that *'planning permission will be refused for a building which creates or adds to a ribbon of development'*. However, exceptionally it allows for the development of a small gap, sufficient to accommodate two dwellings within an otherwise substantial and continuously built-up frontage provided that the proposed dwellings respect the existing pattern of development in terms of siting and design and be appropriate to the existing size, scale, plot size and width of neighbouring buildings that constitute the frontage of development.
11. For the purpose of this policy, the definition of a substantial and built-up frontage is *'a line of four or more buildings, of which at least two must be dwellings, excluding domestic ancillary buildings such as garages, sheds, and greenhouses, adjacent*

to a public road or private laneway. Policy COU 8 also requires buildings forming a substantial and continuously built-up frontage to be visually linked. It is common case between the parties that the dwellings at No's. 2, 4 & 6 Cross Lane, south of the appeal site and the derelict building to the north of the appeal site, are adjacent to Cross Lane and are visually linked, making up a substantial and continuously built-up frontage. The dispute, however, centres on whether there is a small gap suitable to accommodate two dwellings while respecting the existing pattern of development along the frontage.

12. The Council argued that the gap is between the two closest buildings, namely, the dwelling at No. 6 Cross Lane, south of the appeal site and the derelict building to the north. The Appellant contends that neither Policy COU 8 nor its Justification and Amplification (J&A) state that the gap must be between the two closest existing buildings on either side of the appeal site. The first paragraph of the J&A to the policy states that *'most frontages are not intensively built up and have substantial gaps between buildings (my emphasis), giving visual breaks in the developed appearance of the locality'*. In order for a site to be a gap site, there must be an existing built-up frontage on either side and as per the above emphasised wording. As such, the gap to be considered is between buildings within the substantial and continuously built-up frontage. In this case, it is evident from the plan and my on-site observations that the gap is between No. 6 and the derelict building. Even if I were to consider the Appellant's point to have merit, he has not stated where the gap should be between. The parties also referenced an extant planning approval for a replacement dwelling (LA05/2018/0826/F) on the site of the derelict building to the north of the appeal site. However, as this permission is unimplemented, it does not form part of my consideration. In any event, the derelict building is in situ and is a qualifying building in the evidential context before me.
13. The Council referred to the guidance set out within 'BoT' which advises that, *'when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots'*. Whilst this is helpful, the assessment of whether a site is suitable for infill development is not merely a mathematical exercise, but rather one of planning judgment based on what one ascertains on the ground.
14. There is no dispute that the average plot widths within the substantial and continuously built-up frontage are circa 21-22m. The Council argues that the aforementioned gap is 61m and that it could accommodate more than two dwellings based on the average plot widths along the frontage. To be suitable for infilling under the policy, a gap site must not only be physically sufficient to accommodate no more than two houses but, must also be able to do so in a manner that respects the existing development pattern. I agree with the Council that the gap could accommodate more than two dwellings taking into account the average plot width and the range of plot sizes identified by the Appellant along the road frontage. Whilst this indicates that the gap may be unsuitable for infill development, other factors are still to be considered.
15. The Appellant provided a proposed site layout plan for consideration. It seeks to demonstrate how two dwellings could be accommodated on the appeal site whilst respecting the pattern of development. It also proposes a shared central access point and driveway onto Cross Lane. Having considered the analysis provided by

both parties, I find favour with that of the Council because, the proposed communal access point and driveway would separate much of the southernmost dwelling's frontage to Cross Lane. This means a significantly shorter frontage would be available for the southernmost dwelling, which would be uncharacteristic in this area.

16. The Appellant further argues that the average plot size of the existing dwellings at No's 2, 4, and 6 Cross Lane and the derelict building indicated on his site location plan is approximately 0.16ha. The plot size for each of the proposed dwellings is argued to be approximately 0.058ha and therefore would in his opinion respect the existing pattern of development along the frontage. Whilst the Council provided no comments in relation to this discrete matter, having visited the site, I find these plots sizes difficult to reconcile with what I observed on the ground as the plots to the rear of No. 2 and No. 4 Cross Lane incorporate 'RL Services' business premises. Even if I were to agree with the Appellant's suggested figures, each of the proposed plot sizes (0.058ha) would be significantly smaller than the Appellant's stated average plot size of 0.16ha, which again would be out of keeping with the development pattern. Even though the gap could accommodate two dwellings of similar-sized footprints to the other dwellings within the substantial and continuously built-up frontage, for the reasons given, I find that the appeal development would not respect the existing pattern of development within the frontage. Furthermore, the appeal site is not a small gap, sufficient only to accommodate two dwellings within an otherwise substantial and continuously built-up frontage. The appeal development does not therefore meet the exceptional test within Policy COU 8 of the PS.
17. The Justification and Amplification of Policy COU 8 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*'. It also notes that most frontages are not intensively built up and have substantial gaps between buildings, giving visual breaks in the developed appearance of the locality. It further states that the infilling of these gaps is visually undesirable and, in most cases, creates or adds to a ribbon of development. The Council considered that as the appeal development would not be an exception to Policy COU 8, it would add to a ribbon of development along Cross Lane.
18. At the Accompanied Site Visit, the Council witness clarified that the ribbon of development comprised of the dwellings at No's. 2, 4 & 6 Cross Lane with the appeal development adding to this. From my on-site observations, I agree with the Council that No's 2, 4, and 6 Cross Lane front onto the road and are beside one another forming a ribbon of development. The appeal development would clearly add to this ribbon by introducing another two dwellings, which policy warns against. Furthermore, given the size of the gap, the introduction of two additional dwellings would also remove an important visual break in the developed appearance of this section of Cross Lane. Taken in the round, the Council's concerns in relation to the proposed development are well-founded. The second reason for refusal is sustained.
19. The third reason for refusal relates to Policy COU 16 of the PS. It requires that 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. It goes on to list nine instances where new development will be unacceptable. The Council

raised concern that the appeal development would be contrary to criterion (c) and (e) of Policy COU 16 in that the proposal does not respect the traditional pattern of settlement exhibited in the area and as such would have an adverse impact on the rural character of the area. Given my conclusions above regarding such matters, the proposal would also fail to comply with criterion (c) and (e) of Policy COU 16. The Council's concerns in relation to rural character are therefore sustained.

20. Third parties raised concerns regarding potential impacts on wildlife, including bats. The Council witness advised that they had not seen any bats on site and highlighted that the Northern Ireland Environment Agency (NIEA) had no objections to the proposal. While any new development in the countryside would inevitably bring about some disturbance to the existing physical environment, careful construction practices can minimise any potential negative impacts on existing vegetation along the site boundaries. Even in the event of permission being granted, conditions could be attached to retain existing vegetation where appropriate, further minimising potential impacts. In any event, I have no persuasive evidence to suggest that the development of the appeal site would cause harm to any species, protected or otherwise. I am reinforced in this by NIEA's consultation response, which states that, on the basis of the information provided, it has no concerns. These matters would therefore not warrant the withholding of planning permission in the evidential context provided.
21. In conclusion, the appeal development is not one of the types of development that is acceptable in the countryside under Policy COU 8, nor does not comply with the provisions of Policy COU 16. It therefore also fails to comply with Policy COU 1 of the PS. The Council's concerns in relation to the appeal development are sustained. Accordingly, the appeal must fail.

This decision is based on the following drawing: -

- 1:1250 scale 'Site Location Map', Drawing No. 01/3 date stamped received by Council on 03rd November 2022.
- 1:500 scale, 'Site Layout Map', Drawing No. 02/4 date stamped received by Council on 03rd November 2022.
- 1:100 scale, 'New Access plan', Drawing No. 03/1 date stamped received by Council on 3rd March 2021 date stamped received by Council on 03rd November 2022.
- 1:500 scale 'Existing Topographical Survey' Drawing No. 04 date stamped received by Council on 02nd August 2022.

COMMISSIONER KIERAN O'CONNELL

List of Appearances

Planning Authority: - Ms Cara Breen, Lisburn & Castlereagh City Council.
Ms Gillian Milligan, Lisburn & Castlereagh City Council.

List of Documents

Planning Authority: - Statement of Case by Lisburn & Castlereagh City Council.
Rebuttal Statement by Lisburn & Castlereagh City Council.

Appellant: - Statement of Case by HR Jess Ltd.
Rebuttal Statement by HR Jess Ltd.