

PLANNING APPEALS COMMISSION

THE PLANNING ACT (NORTHERN IRELAND) 2011

SECTION 58

Appeal by Mr Eddie Connolly

**against the refusal of full planning permission for an extension to curtilage and
domestic storage building**

on land approximately 100m SE of 38a Ballyhill Lane, Crumlin, BT29 4YP

Report

by

Commissioner Rachel Taylor

Planning Authority Reference: LA03/2023/0486/F

Procedure: Written Representations

Commissioner's Site Visit: 6th June 2024

Report Date: 3rd July 2024

1.0 **BACKGROUND**

- 1.1 Antrim and Newtownabbey Borough Council received the application for planning permission on 24th May 2023.
- 1.2 By notice dated 22nd September 2023 the Council refused permission giving the following reasons: -
1. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
 2. **The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY 13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would appear as a prominent feature in the landscape; the site lacks long established boundary treatments; the site relies primarily on new landscaping for integration; the design of the building is inappropriate for the site and locality; the proposal fails to blend with the existing landform; the proposal does not respect the traditional pattern of settlement exhibited in the area.**
 3. **The proposal is contrary to the Strategic Planning Policy Statement and Policy EXT 1 of the Addendum to Planning Policy Statement 7 in that the scale, massing, design and external materials of the proposed storage building is not subordinate to the existing dwelling and would be out of character with the surrounding area.**
 4. **The proposal is contrary to the provisions of the Strategy Planning Policy Statement and Policy FLD 3 of PPS 15 Planning and Flood Risk in that it has not been demonstrated that a satisfactory means of drainage associated with the development has been achieved that would not increase the risk of flooding elsewhere.**
- 1.3 The Commission received the appeal on 19th January 2024 and advertised it in the local press on 31st January 2024.
- 1.4 No representations were received from third parties.

2.0 **SITE AND SURROUNDINGS**

- 2.1 The site is located on land approximately 100 metres south east of No. 38a Ballyhill Lane, Crumlin. No. 38a is a substantial, modern two storey dwelling with three ancillary outbuildings accessed off an existing laneway. The dwelling is located outside of the appeal site and is in the control of the appellant.
- 2.2 The site as a whole comprises agricultural land, which falls in a south easterly direction from the dwelling at No. 38a, which is located at the highest part, through an overgrown field area in the centre down to the south east. The south eastern end

of the site has been excavated and reduced in level by some 3.5 – 4 metres, leaving an exposed embankment along one side. The excavated area is flat in nature and covered in compacted stone.

- 2.3 A compacted stone laneway links the excavated area at the south east to the existing curtilage of No. 38a. The laneway itself traverses along the length of the north eastern site boundary before turning 90 degrees along the south eastern boundary of the curtilage of No. 38a and then through 90 degrees again along the south western boundary of the curtilage where it joins to the existing access for the dwelling. There are three poles with lighting and cameras installed, two located along the laneway and one at the within the excavated area.
- 2.4 The north western boundary that adjoins the existing curtilage of No. 38a is undefined. The north eastern boundary is defined in part by mature trees at the higher part which then becomes a steep bank defined by a post and wire fence. A culvert has been constructed at the south eastern corner. The south eastern boundary is defined by a continuation of this post and wire fence with a large agricultural style gate located centrally along this boundary. The south western boundary is defined primarily by mature hedging which tapers off at the base of the site.
- 2.5 The A52 Ballutoag Road lies a short distance south of the site. The surrounding land use is primarily agricultural in nature with some single dwellings and farm complexes. McKinstry's Skip Hire is located around 500m to the south west on the opposite side of the A52.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 Policy CTY 1 of Planning Policy Statement 21 (PPS 21) indicates that there are certain types of development acceptable in principle in the countryside and that will contribute to the aims of sustainable development. Policy CTY 1 indicates that development not falling into one of the listed categories will be permitted only where there are overriding reasons why it is essential and could not be located within a development limit.
- 3.2 There is no provision for residential land use to be extended further into the neighbouring countryside within Policy CTY 1 which directs consideration of an extension to a dwelling house (in this case domestic shed and extension to dwelling curtilage) to Addendum of PPS 7 'Residential Extensions and Alterations'. Additional policy requirements are included in Policies CTY 13 and CTY 14 of PPS 21.
- 3.3 It is stated that the proposed shed is to be used for the storage of the applicant's vintage vehicles, show lorries and machinery, which the applicant and his son takes to shows and vintage rallies throughout the UK and Ireland. Accompanying the application is a Supporting Statement and various tax books and photos of the vehicles to be kept in the proposed domestic shed. The Statement also contends that no works are to be carried out in the shed other than the general upkeep of vehicles and valeting prior to vehicle shows. At present, these vehicles are being kept at the appellant's business premises EJC Contracts Ltd. at 386a Ballyclare Road and are parked in an open working yard, which the agent states is not suitable due to potential risks of damage from other vehicles manoeuvring within the yard.

- The vehicles are also exposed to adverse weather conditions which can devalue the vehicles and makes preparation for shows very difficult.
- 3.4 The appellant in their Statement of Case (SoC) states that the proposal complies with Policy CTY 1 of PPS 21 as the policy allows for an extension to a dwelling in accordance with the Addendum to APPS 7. It is considered the proposal does not comply with APPS 7, which is discussed in more detail below, and therefore the proposal does not comply with Policy CTY 1 in this regard.
 - 3.5 Policy CTY 1 also allows for essential development that could not be located within a settlement, however the agent considers that this relates specifically to “other types of development” not listed in CTY 1. The Council consider that the proposal is not essential development that would override the policy in this regard.
 - 3.6 It is stated that the existing site curtilage is too small to accommodate the scale of building required to house the appellant’s privately owned show and vintage lorries and that the scale of the building is dictated by the type of vehicle to be stored. However, a number of the ‘vintage’ vehicles listed in the appellant’s SoC are vehicles first registered from 2019 onwards and therefore it is questionable whether this list forms a fleet of vehicles in storage rather than ‘vintage vehicles’ for the appellant’s own personal use.
 - 3.7 The appellant states that the appeal site is the nearest point in proximity to Mr Connolly’s dwelling that can accommodate a building of the scale required. Whilst the Council are of view that the proposed siting is unacceptable, the point made by the appellant would highlight the fact that the building is not of domestic scale or subordinate to the appellant’s existing dwelling.
 - 3.8 Insufficient evidence has been presented to justify that the proposed development is essential in the countryside or that there are extenuating circumstances of sufficient weight to justify why the requirements of Policy CTY 1 should be set aside. Therefore, the proposal is considered unacceptable in principle in the countryside and is contrary to Policy CTY 1 of PPS 21.
 - 3.9 All proposals in the countryside must integrate with their surroundings in accordance with the policy requirements of the SPPS and Policies CTY 13 and CTY 14 of PPS 21. Policy CTY 13 requires a building in the countryside to be visually integrated into the surrounding landscape and is of an appropriate design, whilst Policy CTY 14 requires a new building not to cause a detrimental change to, or further erode the rural character of an area.
 - 3.10 The proposal seeks permission to increase the existing dwelling’s curtilage (4,439.69sqm/0.44ha) into a nearby agricultural field to the southeast. The extended curtilage will encompass the entirety of this agricultural field, have a total depth of 128 metres and total width of 92 metres. Overall, the extended curtilage equates to an additional 1.1ha (11,048.14sqm), some 0.7ha (6,608.45sqm) more than the dwelling’s existing curtilage at present.
 - 3.11 The Council consider that the critical views are on approach from the east. Due to the openness of the site, the development will be highly visible when travelling south west along A54 Ballyutoag Road to Belfast Road over a distance of 400 metres.

Photographs demonstrate the openness of the site and lack of defined boundaries, particularly to its south eastern boundary.

- 3.12 Given the expansive openness of the site, the topography which slopes in a south eastern direction, the lack of intervening boundary treatments and any form of enclosure, it is considered that the extension to curtilage is highly visible, especially when viewed from critical viewpoints when travelling southwest along A52 Ballyutoag Road. Significant new landscaping is required to provide any degree of integration and screening. The proposal is not considered to comply with Policies CTY 13 and CTY 14 of PPS 21.
- 3.13 The appellant in their SoC outlines that the proposal will not have a significant visual impact when viewed from the surrounding limited vantage points. Three photographs have been provided showing where the proposal would be visible from. The appellant's SoC outlines that the proposal will only be visible from an eastern approach from the site.
- 3.14 The appellant considers that on approach to the site from the east along Ballyutoag Road the proposed building will not be a prominent feature in the landscape due to the reduction in site levels, meaning the only part of the building likely to be exposed is the top half of the gable. However, the north western boundary is undefined, with direct open views to the appellant's dwelling at No.38a Ballyhill Lane. The north eastern boundary comprises of post and wire fencing, approximately 1m in height, coupled with several sporadic deciduous trees. The south eastern boundary is defined only by 1m high post and wire fencing and the south western boundary is defined by mature hedging of approximately 2 metres in height. For the most part, the proposed extended curtilage boundaries do not benefit from any element of sufficient natural screening and the site is subject to open public views from the A52 Ballyutoag Road.
- 3.15 The appellant's SoC states that the appeal site benefits from being set back a considerable distance from the main Ballyutoag Road, with intervening vegetation and an abandoned section of road offering enclosure for the building. The Council agree that the proposed shed is set back 80m from the A52 Ballyutoag Road. However, long distance views of the proposal will be seen over a stretch of 400m when travelling in a south westerly direction along the A52 Ballyutoag Road. When approaching the site in a north easterly direction any long-distance views along the A54 Ballyutoag Road, will be limited due to the presence of mature trees lining this portion of roadside boundary. It is acknowledged that the roadside embankment to the south west along the A52 Ballyutoag Road and the presence of the tree lined road boundary to the north east will lessen the views upon approach to the site, there are however critical views clearly evident from the A52 Ballyutoag Road.
- 3.16 The appellant states that the paddock for ponies is not considered suitable for the storage facility as it is at a similar level to the existing dwelling, which would make integration of the proposed building difficult to achieve. However, just because the appellant considers the paddock unsuitable for any such proposal does not make the subject proposal automatically acceptable. In addition, although it is the opinion of the appellant that the appeal site is the least prominent section of land owned, this also does not make the appeal proposal acceptable. The Council would re-iterate that the proposal is considered contrary to Policies CTY 13 and CTY 14 of PPS 21.

- 3.17 The proposed shed occupies a footprint of 600sqm, has a length of 30 metres and a width of 20 metres. The roof is low pitched at a height of 11.4 metres. On the front, north eastern elevation, there are three roller shutter doors measuring 6 metres in height and 4.8 metres in width, allowing access for high-sided vehicles. It is considered that the scale and design of the building appears like an industrial unit and possesses features which are generally associated with industrial buildings and are not of a domestic scale or nature. On this basis, it is considered that the size, scale and design of the building are not sympathetic with the built form and appearance of the existing property and would detract from the appearance and character of the surrounding rural landscape and would therefore be contrary to Policy EXT 1 of APPS 7.
- 3.18 The proposed shed is significantly detached from the dwelling as it is located some 94m to the southwest and thus too far removed to consolidate with the existing built form. Furthermore, the proposed shed is separated from the existing dwelling by an intervening agricultural field giving the impression that it operates independently of the dwelling and is not associated with it.
- 3.19 The appellant's SoC states that the development is typical of other developed sites in the area and makes reference to several other building groups in the area that the appellant contends have extended their residential curtilage and have buildings of a similar size and scale to the appeal proposal.
- 3.20 The appellant's SoC contends that the building is of an appropriate size, scale and design for the countryside and is comparable with other buildings used to store vintage vehicles. A Photograph submitted within the appellant's SoC shows an outline of five building groups in the vicinity, a green dashed line is drawn round each of the building groups. Whilst there is no key alongside the photo it is assumed the green dashed line is representing what the appellant believes to be their curtilage. There have been no planning permissions granted for the extension to the residential curtilages of these properties. A number of the buildings within the clusters appear to be agricultural sheds. However, if the applicant is concerned with regards to development taking place without the benefit of planning permission these matters can be referred to the Council's enforcement section. It would appear that a number of these are clusters of longstanding buildings. The building group which appears to be the largest hosts an existing waste management facility at No. 81A Belfast Road, Crumlin, which has expanded over time through a number of planning approvals. An application for an agricultural shed or a waste management facility is assessed under separate planning policy than a residential extension to curtilage and domestic storage building. In addition, each application is assessed on its own merits and as such the appellant's argument in this case is not considered to be determining.
- 3.21 The appellant's SoC refers to Criterion (b) (c) and (d) of Policy EXT 1 of APPS7. The appellant contends that residential amenity is unaffected by the proposal, there is no unacceptable loss of or damage to trees or landscape features and that there is sufficient in-curtilage parking and amenity for vehicles. The Council concurs with this statement and does not believe that the proposal is contrary to criteria (b) (c) and (d) of Policy EXT 1 of Addendum to PPS 7.

- 3.22 The appellant's SoC contends that the proposal consolidates with the built form in an integrated and unobtrusive manner, it blends in with landscape and its close relationship with existing buildings provides an acceptable backdrop. However, the proposed shed is significantly detached from the dwelling as it is located some 94 metres to the southwest and thus too far removed to consolidate with the existing built form.
- 3.23 In accordance with FLD 3 of PPS 15 a Drainage Assessment (DA) would be required for a change of use involving new buildings and/or hardstanding exceeding 1000sqm in area. The proposed access laneway, yard and proposed shed equates to some 3,973.78sqm and given that no detail has been provided in respect to how the proposed access laneway and yard area serving the proposal is to be finished, it is considered that the application is far in excess of the 1000 sqm threshold and therefore requires the submission of a DA in order for an assessment to be made of the development from a flood risk perspective. No DA was submitted, nor was it requested due to the proposed development not being considered acceptable in terms of its principle and its visual impact. Therefore this would have constituted nugatory work and put the applicant to unnecessary expense.
- 3.24 The appellant's DA as contained in their SoC is information not before the Council when it determined the application (22nd September 2023). The submission of additional information at the appeal stage is contrary to Section 59 of The Planning Act 2011 unless the matter could not have been raised before that time; or that it not being raised before that time was a consequence of exceptional circumstances, in this case neither of the aforementioned exceptions have been met.
- 3.25 The Council considers that such new information should not be allowed as part of any appeal submission as the DA was not previously before the Council during the determination of the application and a response from DfI Rivers remains outstanding. The Council considers that withholding this information until the appeal stage represents unreasonable behaviour on the part of the appellant.
- 3.26 Policy FLD 3 of PPS 15 defines clear thresholds where a DA is required to be submitted alongside an application. The submitted DA in Appendix 2 of the appellant's SoC outlines that approximately 4000sqm of hardstanding is proposed which is beyond the 1000sqm threshold defined in Policy FLD 3.
- 3.27 Furthermore, the appellant or their agent could have submitted the DA when they were notified that the application was proceeding to the Planning Committee meeting with a recommendation to refuse or at any point during the processing of the application prior to its determination in September 2023.
- 3.28 Nevertheless, on receipt of the appellant's SoC, the Council consulted with DfI Rivers and the Department of Agriculture, Environment and Rural Affairs (DAERA) Water Management Unit (WMU) to assess the DA and its findings. DAERA WMU responded with no objections to the DA and are content with the proposal from a surface water environment perspective.
- 3.29 A statement from DfI Rivers was appended to the rebuttal statements which still raised concerns which stated that a small portion of the site, on its south-eastern periphery, as indicated on Flood Maps (NI), lies marginally within a 1 in 100 year

strategically modelled fluvial flood plain. The site is also marginally affected by predicted surface water flooding on this same boundary. In accordance with PPS 15 FLD 1, paragraphs D4 & D6, a Flood Risk Assessment is required to better define the extents of the fluvial flood plain. In line with policy, development is not permitted within the 1 in 100 year fluvial flood plain - in this case, the detailed flood plain determined by the model - unless deemed an exception by the planning authority. Additionally, taking the precautionary approach, Rivers Directorate would also advise that development should be outside the modelled 1 in 100 year climate change flood extent.

- 3.30 Rivers Agency confirms the site is bounded at the south east by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973 and is known to Rivers Directorate as: 'Ballyhill Water'. Rivers Directorate has assessed this DA and the information provided is not sufficient to satisfy that flood risk has been adequately dealt with. Currently, there is no Schedule 6 Consent to Discharge provided, although the applicant has lodged an application for consent to discharge on the 29th March 2024.
- 3.31 As part of the DA, additional information is also required in relation to proposed discharge points and a detailed drainage design is required to ensure that surface water run-off will not be increased. Under FLD 1 of PPS 15, an area to the south and south east of the site is shown to lie within the 1 in 100 year Strategic Flood Plain. This area has now been infilled and culverted. In order to ascertain if there is a potential loss of flood plain, a Flood Risk Assessment incorporating a river model, using pre-development ground levels i.e. prior to the culverting and infill works, will be required to better define the extents of the fluvial flood plain. In line with policy, development is not permitted within the 1 in 100 year fluvial flood plain – in this case, the detailed flood plain determined by the model - unless deemed an exception by the Planning Authority. Additionally, taking the precautionary approach, Rivers Directorate would also advise that development should be outside the modelled 1 in 100 year climate change flood extent.
- 3.32 Under FLD 2 of PPS 15, a maintenance strip has not been shown on the drawings provided. Under policy this working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary and be provided with clear access/egress at all times. Culverting of the designated watercourse at this location has already been completed by the applicant for which the Planning Authority will need to determine if it is acceptable under policy FLD 4.
- 3.33 To date, it is also noted that approval has not been granted by Rivers Directorate for these culverting works, although an application has recently been lodged on the 29th March 2024.
- 3.34 Should the appeal be allowed, the following conditions are proposed on a without prejudice basis:
- Time limit;
 - Private domestic use only, ancillary to No. 38a Ballyhill Lane;

- Existing natural boundaries as outlined on drawing 02 shall be retained and allowed to grow on with the hedgerows retained at a minimum of 2 metres and the trees retained at a minimum height of 4 metres;
- Landscaping scheme to be submitted and approved by the Council; and
- Replacement planting of any landscaping removed, damaged or dead within the lifetime of the development.

4.0 APPELLANT'S CASE

- 4.1 The appeal relates to the refusal of permission for the construction of a building for the storage of vintage vehicles/show lorries and machinery. All of the vehicles are owned by the appellant Eddie Connolly and his son David. The building is proposed, in close proximity to the appellant's dwelling, on low lying land adjacent to an abandoned and gated section of Ballyutoag Road. The lands are accessed from Ballyhill Lane and the existing laneway adjacent to the paddock will be extended and upgraded to allow access to the building.
- 4.2 The building will be used solely for the storage of vintage vehicles, show lorries and machinery. No works are carried out in the building other than general upkeep of the vehicles and valeting prior to shows. Vehicle movements to and from the building are limited to occasions when Mr Connolly and his son take the vehicles to shows and vintage rallies throughout Ireland and the UK.
- 4.3 At present, Mr Connolly keeps the vehicles at his business premises at 386a Ballyclare Road, Newtownabbey. They are parked in an open working yard which is not suitable for show and vintage vehicles as there is a constant risk of damage from other vehicles manoeuvring in the yard. The vehicles are also open to adverse weather conditions which de-values the vehicles and makes preparation for show extremely difficult.
- 4.4 The policy context is provided by the Local Development Plan (LDP); the Strategic Planning Policy Statement (SPPS); PPS 21 – Sustainable Development in the Countryside and the Addendum to PPS 7 – Residential Extensions and Alterations (APPS 7).
- 4.5 Section 45 (1) and Section 6 of the Planning Act (NI) 2011 requires that regard must be had to the Local Development Plan (LDP), in so far as material to the application, and to any other material considerations. The SPPS sets out the transitional arrangements that will operate until the Council has formally adopted a new plan.
- 4.6 In the absence of an adopted Plan Strategy, retained policies including the SPPS and relevant Planning Policy Statements apply. The SPPS carries a presumption in favour of development and states that sustainable development should be permitted, having regard to the development plan and all other material; considerations unless the proposal will cause demonstrable harm to interests of acknowledged importance.
- 4.7 Section 6.73 of the SPPS relates to development that is acceptable in the countryside, Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings,

must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations’.

- 4.8 Policy CTY 1 of PPS 21 sets out a range of types of development that in principle are considered acceptable in the countryside and that will contribute to the aims of sustainable development. The policy advises that an extension to a dwelling will be granted where it is in accordance with APPS 7. While the development does not involve an extension to a residential unit, the “Preamble” states that, proposals for a domestic garage or outbuilding, or other built development ancillary to residential property are considered under the provisions of this Addendum.
- 4.9 The first reason for refusal states that there are no over-riding reasons why the development is essential and could not be located within a settlement. The specific wording used by Council is a direct quote from CTY 1 which we would contend relates directly to “other types of development” not listed in Policy CTY 1. It is our understanding that, should the proposal comply with the requirements of the listed criteria in the APPS 7 then Policy CTY 1 will also be met.
- 4.10 We remain of the view that the Council mis-directed themselves by placing emphasis on “other types of development” not listed in Policy CTY 1. The Addendum to PPS 7 is listed, we would therefore contend that the Council comments relating to “essential” and extenuating circumstances” to justify setting aside the requirements of PPS 21 are not relevant.
- 4.11 The proposal involves the construction of a domestic garage within the extended curtilage of a rural dwelling. The existing site curtilage is too small to accommodate the scale of building required to house the appellant’s privately owned show lorries and vintage lorries. It was considered that to construct the building in the paddock adjacent to the appellant’s dwelling would render the building a prominent feature in the landscape.
- 4.12 The proposed site which is at a much lower level than both the paddock and the appellant’s dwelling, allows a greater level of integration. Lowering and levelling the appeal site means the development nestles into the landscape with the existing dwelling providing a strong backdrop when viewed from the Ballyutoag Road. The site is the nearest possible point in proximity to Mr Connolly’s dwelling that can accommodate a building of the scale required.
- 4.13 The scale of building is dictated by the type of vehicle to be stored. As outlined above the appellant and his son have a private collection of vintage vehicles and show lorries. The vehicles by their absolute scale require considerable parking space inside the building and circulation space outside the building.
- 4.14 Reasons for not siting in the paddock were that it was considered a prominent location in the landscape and the scale would be difficult to integrate. The vintage and show lorries are extremely valuable and for obvious reasons of security, insurance, surveillance and personal enjoyment the vehicles need to be kept in close proximity to Mr Connolly’s home.
- 4.15 We do not agree with the Council that the proposal is at odds with the stated policies. The visual impact is insignificant when viewed from the surrounding very

limited vantage points due to topography of the landscape, mature vegetation, set-back from the public road and alignment of the Ballyutoag Road.

- 4.16 As previously pointed out the site will only be visible from an eastern approach where the line of trees adjacent to Ballyutoag Road terminates. From this vantage point the proposed building will not be a prominent feature and we would contend it blends unobtrusively into the landscape and that a satisfactory level of integration will be achieved with the existing building group.
- 4.17 The reduction in site levels means that the only part of the building likely to be visible from the applicant's own dwelling will be the top half of the gable. The remainder of the building will be below the existing ground level of the paddock and the appellant's dwelling beyond. The applicant also proposes to carry out additional planting around the site and augment existing vegetation as necessary as per the landscaping details.
- 4.18 On approach from the east the views are limited due to the roadside embankment and mature vegetation. As pointed out in Para 3.58 of Policy CTY 13 the determination of whether a building integrates is not a test of invisibility but rather an assessment of the extent to which the development will blend unobtrusively with its immediate wider surroundings.
- 4.19 The development benefits from being set back a considerable distance from the main Ballyutoag Road with intervening vegetation and the abandoned section of road offering enclosure for the building. Outside of the site frontage peripheral, filtered views of the building only will be available. Where views are possible, we would contend that an acceptable level of integration and consolidation of the grouping will result.
- 4.20 The existing laneway adjacent to the paddock will be upgraded to access the proposed building. The laneway will be contiguous with the boundary hedge, therefore no impact on rural character will result. The area of land between the appellant's dwelling and the appeal site while used as a paddock for ponies is not considered suitable for the storage facility as it is at a similar level to the existing dwelling which would make integration of the proposed building difficult to achieve.
- 4.21 A Photograph submitted within the Council's SoC is taken from beyond the hard shoulder on the northern periphery of Ballyutoag Road, a view mainly available to pedestrians. The photograph confirms that the site is set back a considerable distance from Ballyutoag Road, plus the presence of significant intervening topographical features and vegetation all which contribute to achieving a satisfactory level of integration and enclosure. The dwelling visible to the rear of the appeal site is a neighbouring property with detached garage, which is actually positioned outside the established curtilage of the dwelling. The buildings combine to have a strong backdrop for the proposed development.
- 4.22 Another photograph within the Council's SoC seems to be taken from the top of the embankment located between Ballyutoag Road and the abandoned section of Ballyutoag Road with we suspect a zoom lens. The appeal site is actually 85 metres, from the Ballyutoag road and the aforementioned embankment offers enclosure for the site. The dwelling in the background of this photograph is the appellant's home.

The proposed building is set at a much lower level than both the dwelling and adjacent paddock. We would contend that the photographs demonstrate a satisfactory level of integration can be achieved and that the settlement pattern would not be disrupted.

- 4.23 Policy CTY 14 relates to rural character. The Council state that the proposal does not respect the settlement pattern. It is our view that the development is typical of other developed sites in the area, and we would contend has minimal impact on rural character. Many building groups have extended beyond the recognised residential curtilage and many buildings of a scale, design and finishes comparable with the appeal proposal.
- 4.24 The SPPS is no more prescriptive than retained policies in the planning consideration of this type of application. The SPPS does however recognise that there are major difference across the region and advise that the policy approach is to reflect those differences and be sensitive to local needs and the ability of the particular landscape to manage and absorb a range of development. We consider the site appropriate for the scale of building required. The design and finishes are also typical of many buildings within the countryside.
- 4.25 Policy EXT 1 of APPS 7 consists of four criteria that must be met and states that the guidance set out in Annex A of the Addendum will be taken into account when assessing proposals against those criteria.
- 4.26 APPS 7 acknowledges that extensions beyond established curtilages can occur. Paragraph A25 of the Addendum advises that, where insufficient space within a residential plot exists, greater emphasis is required to ensure that the development integrates with the existing dwelling and surrounding landscape.
- 4.27 Criterion (a) of Policy EXT 1 requires the scale, massing, design and external materials of the proposal to be sympathetic with the built form and appearance of the existing property and not to detract from the appearance and character of the surrounding area.
- 4.28 We would contend that the building is appropriate in terms of scale, massing, design and external finishes. The building is comparable with other buildings used for the storage of vintage/show vehicles. While the building is outside the established curtilage of the appellant's dwelling it is adjacent to the site boundary and on the least prominent section of land owned by our client.
- 4.29 The proposed building will be constructed with corrugated cladding set on a block wall rendered in smooth plaster, similar to the appellant's dwelling. The cladding will be grey in colour and typical of many rural buildings. The building has a shallow pitched roof and is 10m in height to the ridge. The building is orientated to present the gable elevation to Ballyutoag Road which is some 85m away.
- 4.30 The Council's opposition in terms of scale would appear to relate to having industrial roller shutter doors. They seem to be neglecting the fact that the building is to accommodate high sided vehicles. Many building groups in the immediate vicinity have extended beyond the recognised residential curtilage and many have buildings of a scale, design and finishes comparable with the appeal proposal.

- 4.31 Criterion (b) of EXT 1 requires that proposals do not unduly affect the privacy or amenity of neighbouring residents.
- 4.32 The vehicles would only be out of the building occasionally to attend shows and vintage rallies around Ireland and GB. The roller shutter doors facilitate vehicle movements to and from the building with minimal disruption and are directed away from the nearest residential properties. The combination of site levels, orientation of the building, the appellant's dwelling and existing boundary vegetation, ensure views from neighbouring properties is at best filtered. We would contend that minimal impact on residential amenity will result.
- 4.33 Criterion (c) advises that the proposal should not cause unacceptable loss or damage to trees or landscape features which contribute significantly to local environmental quality.
- 4.34 The proposal complies fully with this criterion as there are no plans to remove any trees, all existing hedgerows are being retained and additional planting is proposed as indicated in the 1/500 scale block plan.
- 4.35 Criterion (d) requires that sufficient in-curtilage amenity and parking/manoeuvring for vehicles will be retained.
- 4.36 The site is of sufficient size to fully comply with this criterion. The hard surfaced area is to facilitate vehicle movements entering and leaving the building. Vehicles will not be parked in this area.
- 4.37 We acknowledge that the building is large however the scale of building has been dictated by the type of vehicle to be stored. The building is not out of scale in the surrounding context. The building is set adjacent to the site curtilage on poor quality agricultural land. The section of garden between the existing dwelling and the proposed building is used as a paddock area for ponies which is similar in level to the appellant's dwelling and the appeal site is at a much lower level. The site has also been further reduced to ensure the building blends naturally into the landscape.
- 4.38 We consider the proposal to comply fully with Policy EXT 1. Planning policy does not require a new building to duplicate the existing dwelling in terms of materials or design. Paragraph A13 of Annex A states "in the countryside, ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings". It is our view that the building blends into the landscape and its close relationship with existing buildings provide an acceptable backdrop and, combined with the limited views available ensure the building achieves an acceptable level of integration.
- 4.39 The building is currently outside the residential curtilage however, it is at the nearest point possible to the existing dwelling and outbuilding which we would contend consolidates the built form in an integrated and unobtrusive manner. We would contend that the scale of building is subordinate and appropriate. It is our opinion that the building is acceptable as it is ancillary to the residential use of the property and will be used for domestic purposes only.

- 4.40 Residential amenity is fully protected and the limited views of the building from public vantage points will ensure minimal impact on rural character. The building is used for storage of show and vintage vehicles only and is incidental to the enjoyment of the dwelling. Its location adjacent to Mr Connolly's home offers security for both the building and the vehicles. This is not a business and is directly associated with the applicant's hobby.
- 4.41 The appellant would accept a condition to ensure the building is retained as ancillary to the residential use of the property.
- 4.42 The building does not encroach in the area referred to as potential flood risk. Only a very small section of the site curtilage encroaches on the area highlighted. This section of the site will be fully landscaped and laid in grass. A DA is submitted which demonstrates the proposed development complies with all relevant policies. A Schedule 6 Consent for Discharge application has been submitted to Rivers Agency.
- 4.43 It is considered that the fourth reason for refusal has now been fully addressed. In view of the fact the building and circulation pace are not impacted by potential flood risk we would contend that, the issue could easily have been covered by attaching a pre-commencement condition. The block plan attached to the DA also provides landscaping details to demonstrate that the development will achieve a satisfactory level of integration into the landscape.

5.0 CONSIDERATION

Preliminary Matter

- 5.1 The Council expresses concern that the new information was provided in the appellant's SoC which was not presented during the application, namely the provision of a Drainage Assessment (DA). The Council consider that approximately 4000m sq. of hardstanding is proposed, which is beyond the 1000m sq. threshold defined in Policy FLD 3, therefore a DA should have been submitted alongside the application in order for an assessment to be made of the development from a flood risk perspective.
- 5.2 Section 59 (1) of the Planning Act (NI) 2011 states that a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate (a) that the matter could not have been raised before that time or (b) that it not being raised before that time was a consequence of exceptional circumstances.
- 5.3 From the evidence before me, the matter of drainage was before the Council at the application stage as they have included it as a reason for refusal and they provided their rationale for not asking for the DA at the time of processing the planning application.
- 5.4 The appellant submitted the information in response to the Council's refusal reason regarding PPS 15. The issue was before the Council during the application process and the Council chose not to request the information. I am satisfied that the matter was already before the Council and it is not a new matter. Accordingly, the submission of the DA is not at odds with Section 59 (1) of the Act.

5.5 Moreover, the appellant is entitled to address the Council's concerns in this appeal and the Council was given the opportunity to comment on the DA through the exchange of appeal evidence. It has not been prejudiced.

Reasoning

5.6 The main issues in this appeal are whether the proposal is: -

- acceptable in principle in the countryside;
- appropriate in terms of integration and rural character; and
- acceptable in terms of drainage and flood risk.

5.7 Section 45(1) of 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 Local Development Plan (LDP), the determination must be made in accordance with the plan unless material considerations indicate otherwise.

5.8 The Antrim Area Plan 1984-2001 (AAP) operates as the LDP for the area wherein the appeal site is located. The appeal site is within the countryside and outside any defined settlement limit. The A52 Ballyutoag Road is designated as a main route for protection in the AAP. The Roads Frontage Policy, which is outside of greenbelt designation, protects the main roads under the pressure of scattered road frontage and ribbon development. The policy area extends 100m on either side of the road and the application site falls within 85m of the road so is therefore partially within it. The proposed access is via the existing access to the dwelling at no. 38a Ballyhill Lane therefore the policy is not relevant as it only seeks to prohibit new accesses within this area. The relevant rural policies in the LDP are now outdated having been overtaken by a succession of regional policies for rural development and no determining weight can be attached to them.

5.9 The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS sets out transitional arrangements that will operate until a Plan Strategy (PS) is adopted for the area. As no PS has been adopted for the Antrim and Newtownabbey Borough Council area, both the SPPS and other regional policies apply. In line with the transitional arrangements, as there is no conflict or change in policy direction between the provisions of the SPPS and retained policy; Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21), the Addendum to Planning Policy Statement 7 'Residential Extensions and Alterations' (APPS 7) and Revised Planning Policy Statement 15 'Planning and Flood Risk' (PPS 15) provide the policy context for assessing this appeal.

5.10 Policy CTY 1 of PPS 21 states that planning permission will be granted for an extension to a dwelling house in the countryside where it complies with the APPS 7. The preamble to APPS 7 states that the policy contained in this Addendum will apply to all dwelling houses throughout the region, including single dwellings in the countryside. An extension to the residential curtilage of a dwelling in the countryside involves a material change of use of the land. The preamble also advises that

proposals for a domestic garage or an outbuilding or other built development ancillary to a residential property will be considered under its provisions.

- 5.11 Policy EXT 1 of APPS 7 advises that planning permission will be granted to extend or alter a residential property where all four criteria are met. The Council's concerns fall under criterion (a) of Policy EXT 1 in that that the scale, massing, design and external materials of the proposed storage building are not subordinate to the existing dwelling and would be out of character with the surrounding area. Whilst the Council raise concerns regarding the scale of the extended curtilage, this is not reflected within the refusal reason. Policy EXT 1 goes on to state that the guidance set out in Annex A will be taken into account when assessing proposals against these criteria. These issues crosscut with those of CTY 13 and 14 insofar as they relate to design, pattern of development and impact on rural character. Policy CTY 13 – 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. In addition, Policy CTY 14 – Rural Character states that 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.
- 5.12 The appellant states within their SoC that the building will be grey in colour which is at odds with the submitted drawings which indicate green. Whilst unhelpful, the colour is capable of being conditioned. There is also disagreement on the height of the building whereby the appellant states that it is 10 metres in height and the Council contend that it measures 11.4 metres. Having taken a measurement from the scaled drawing, I agree that the Council measurement is more accurate.
- 5.13 With regards to the countryside, Paragraph A24 of Annex A informs that 'the impact of an extension or alteration on the visual amenity of the countryside and, in particular, Areas of Outstanding Natural Beauty, needs to be considered. Proposals should be in keeping with the character of the existing property and its countryside setting. Through poor design the individual and cumulative effect of extensions and alterations which are disproportionate in size to the existing property, or which require the use of land outside the established curtilage of the property, will result in a detrimental change to rural character'. Furthermore, Paragraph A25 states that 'many rural dwellings occupy larger plots than their urban counterparts. Whilst there may be sufficient room on the plot to accommodate an extension in physical terms, great sensitivity is required to ensure the proposal integrates with the existing dwelling and surrounding landscape'.
- 5.14 The extension of the curtilage is an additional 0.7ha more than the existing curtilage at No. 38a (0.44ha), based on the Council's evidence. The extension would encompass the adjacent field to the south-east, comprising a total depth of approximately 128 metres, total width of approximately 92 metres and an overall curtilage of approximately 1.1ha.
- 5.15 The argument is made that the storage building is needed for the appellant's vintage vehicles/show lorries and machinery which he currently stores at his business premises on Ballyclare Road.

- 5.16 I have been presented with four V5 Vehicle Registration forms all of which are registered to the company EJC Plant Hire at 386 Ballyclare Road for lorries dating from 2003 to 2020 in age. A further typed fleet list was submitted indicating 2 jet ski's, 2 trailers and 4 car/4x4's but without any further supporting evidence to substantiate ownership and current storage arrangements. This does little to assist me with establishing that they are privately owned vehicles for showing and not forming part of the appellant's business where they are registered to.
- 5.17 The appellant comments that the existing site curtilage is too small to accommodate the scale of building required and to construct the building in the paddock adjacent to the appellant's dwelling would render the building prominent in the landscape. Thus, this is the nearest possible point in proximity to Mr Connolly's dwelling that can accommodate a building of the scale required which is dictated by the type of vehicle to be stored.
- 5.18 The existing curtilage is generous with two large ancillary buildings. Notwithstanding cutting into the site, an 11 metre high building in relation to the existing two storey house would not be sympathetic to the built form and appearance of the existing property. The extensive use of cladding on the proposed building compared to the main dwelling, which is predominantly render, combined with three roller shutter doors would give an industrial appearance. All of this in combination would not be sympathetic with the built form of the existing dwelling. The appeal building is not domestic in scale, therefore most domestic curtilages would struggle to accommodate something of this size. There has been no conclusive evidence provided of private ownership of the listed vehicles, which are currently registered and stored at EJC Plant Hire business and are typical of vehicles associated with that type of business.
- 5.19 The appellant has articulated arguments for the building's siting and separation being on lower ground. However, there has been excavation of approximately 4m in depth into what was formerly a sloping site in order to create an artificial base large enough for the proposed building. The proposed extension of the curtilage would result in a disproportionately large plot for No. 38a. The framing of Policy EXT 1 and its justification and amplification are such that large scale extensions to existing curtilages are not envisaged. The physical and visual separation between the dwelling and the proposed building, reinforced by the substantial cutting into the landform to facilitate the area for the building, are such that No. 38a and the proposed building would read as separate entities in the landscape, irrespective of the linking laneway. Furthermore, the industrial scale and utilitarian design of the building are such that it would not present as a domestic building set within a residential curtilage, irrespective of the potential colour it would be painted. Nor would it be subordinate to the host property.
- 5.20 From my observations on site there are views into the site from the south west at the corner of the Ballyhill Lane where part of the road has been abandoned. On approach from the south west there are views into the site which are interrupted by mature vegetation located on the embanked area to the north of the A52. There are short distance, peripheral views into the site once this section of vegetation has been passed when travelling in a north easterly direction for approximately 100 metres. However, the critical views of the appeal development are travelling in a south westerly direction along the A52 for approximately 450 metres, after which the site is

obscured by other vegetation and embankments. A building of this scale, massing and design will be visually prominent from these viewpoints and compounded by the physical separation from the dwelling will appear as akin to an industrial building in the countryside and again, will not read as part of the existing property or its curtilage. Given my above conclusions and the required land-take outwith the established curtilage of the property, it would detract from the appearance of the surrounding area resulting in a detrimental change to the rural character of the area.

- 5.21 I am in agreement with the Council that a significant proportion of the new boundaries are undefined or defined only by post and wire fencing and given the openness to public views mentioned above, proposed planting would do little to ameliorate a building of this scale given the topography of the site.
- 5.22 Whilst the proposed building will be located at the lowest part of the site, the sheer size and scale of the building is inappropriate for the site and its locality given it is not domestic, will fail to blend in with the existing landform and be a prominent feature in the landscape, notwithstanding the alterations to the levels which have already occurred.
- 5.23 In terms of character, the appellant submitted an aerial image showing 5 neighbouring properties to demonstrate other developed sites in the area, many of which are said to extend beyond their residential curtilage and have buildings of a scale, design and finish akin to the appeal site. No details of those properties or their planning histories have been provided therefore it is unclear how they compare to the appeal site. From my own observations on site, one seems to be McKinsty Skip Hire which is an established commercial enterprise. The other four sites indicated appear to be farm complexes or agricultural style buildings. No argument has been advanced how these are comparable to the appeal site or that they are ancillary buildings which have been erected in extended curtilages. The Council, however, confirm that none have approval for extensions to their curtilages. The examples raised would not justify the development.
- 5.24 For the reasons stated above the appeal proposal will adversely impact on the character and countryside setting of the property. The intervening 'paddock' area between the proposed building and the existing dwelling and outbuildings would result in the appeal development not being grouped with the existing buildings when viewed in transit along both the Ballyhill Lane and Ballyutoag Road. The appeal building has not been designed as an integral part of the overall layout that would result in an integrated rural group of buildings. The overall extension of built form into the adjacent field will not respect the traditional pattern of settlement exhibited in the area and result in a detrimental change to rural character.
- 5.25 For the reasons given above, I find the appeal development is not in accordance with criterion (a) of Policy EXT 1 of APPS 7, nor given the critical nature of that criterion in relation to the appeal development, the policy read as a whole, nor policies CTY 13 and CTY 14 of PPS 21. The second and third refusal reasons are sustained.
- 5.26 Policy FLD 3 of PPS 15, entitled, Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains states that a DA will be required for all development proposals that exceed any of the listed thresholds one of which is a change of use involving new buildings and / or hardsurfacing exceeding 1000m sq. in area. Such

development will be permitted where it is demonstrated through the DA that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere.

- 5.27 Both parties are in agreement that a DA is required as the proposed development exceeds the hard surfacing of in excess of 1000m sq. For the reasons stated, above I have found the DA submitted in the appellant's SoC to be admissible.
- 5.28 The submitted DA confirms discharge rates into Ballyhill Water will be limited to greenfield run off rate of 6.6l/s. A Schedule 6 Consent to Discharge application has been submitted to Dfl Rivers but not been agreed. Attenuation in the form of oversized pipes and a 'vortex' control, system are stated as being required to deliver this run off rate. A Schedule 6 application for retrospective culverting has also been submitted to Rivers Agency. Further mitigation in the form of perforated filter pipe, 600mm freeboard, a working strip and 10% exceedance of the 1 in 100 year flood event were also listed as being required.
- 5.29 The Council confirmed that they consulted with Dfl Rivers and DAERA, WMU to assess the DA and its findings. DAERA WMU responded with no objections to the DA and are content with the proposal from a surface water perspective. However, a response from Dfl Rivers confirmed the information provided was not sufficient to satisfy Rivers Directorate that flood risk has been adequately dealt with. Currently, there is no Schedule 6 Consent to Discharge provided, although the appellant has lodged an application for consent to discharge on the 29th March 2024. The response continues that additional information is required in relation to proposed discharge points and a detailed drainage design is required to ensure that surface water run-off will not be increased in relation to FLD 3.
- 5.30 Despite the provision of a DA, given that the levels of the site have already been altered substantially, as well as culverting having taken place, it is unclear what potential effects the appeal development would have in respect to surface water flooding. The overlaid flood maps submitted by the appellant are that relating to the land before the culverting and alteration had occurred therefore cannot be relied upon in terms of their impact. Full details of the measures required to effectively mitigate the flood risk in relation to drainage design, discharge points and relevant consents have not been presented. Given the lack of a comprehensive picture in respect to the issue, I find that the appeal development is therefore contrary to Policy FLD 3 of PPS 15. The Council's fourth reason for refusal is sustained.
- 5.31 Other matters were raised within Dfl Rivers comments provided by the Council in terms of infilling within the floodplain, culverting, a Flood Risk Assessment including pre development levels and maintenance strips. However, these matters fall outside of the reason for refusal and given my overall conclusions in relation to flooding, I need not address them.
- 5.32 For reasons given earlier, the appeal development does not comply with APPS 7. There is no evidence to suggest that the proposal is acceptable in principle in the countryside. The appellant's rationale for the need for the appeal development to protect his vehicles does not outweigh the objections to it, nor persuade me that there are any overriding reasons why the development is essential and could not be

located in a settlement. The proposal is thus contrary to Policy CTY 1 and the related provisions of the SPPS. The Council's first reason for refusal is sustained.

6.0 **RECOMMENDATION**

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

6.2 This recommendation relates to the following drawings: -

Drawing No.	Title	Scale	Date stamp refused
01	Site survey & Location Plan	1:500	22/09/2023
02	Block Plan	1:500	22/09/2023
03	Block Plan	1:100	22/09/2023

List of Documents

Planning Authority: -	A	Statement of Case Antrim & Newtownabbey Borough Council
	A1	Rebuttal Statement Antrim & Newtownabbey Borough Council
Appellant: -	B	D.M Kearney Design
	B1	D.M Kearney Design