
Appeal Reference:	2023/A0112.
Appeal by:	S.a.r.C.
Appeal against:	The refusal of outline planning permission.
Proposed Development:	1 New Dwelling and Garage.
Location:	Opposite 1 Raw Brae Road, Whitehead, Carrickfergus.
Planning Authority:	Mid & East Antrim Borough Council.
Application Reference:	LA02/2024/0037/O.
Procedure:	Written Representations with Commissioner's Site Visit on 7 th August 2024.
Decision by:	Commissioner Kieran O'Connell, dated 27 th August 2024.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the development would:
 - be acceptable in principle in the countryside;
 - mar the distinction between the settlement and the surrounding countryside;
 - result in a suburban-style build-up, and
 - integrate into the surrounding landscape.
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. Mid and East Antrim Borough Council adopted the Mid and East Antrim Borough Council Local Development Plan 2030 - Plan Strategy (PS) on 16th October 2023. The PS sets out the strategic policy framework for that council area. In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations 2015 (as amended), the Local Development Plan now becomes a combination of the Departmental Development Plan (DDP), namely the Carrickfergus Area Plan 2001 (CAP) and the PS read together. Any conflict between a policy contained in the DDP and those of the PS must be resolved in favour of the PS. The Draft Belfast Metropolitan Area Plan 2015 (DBMAP) published in 2004 remains a material consideration.

5. The appeal site lies within the 'Belfast Urban Greenbelt' as designated within the CAP and draft BMAP. However, this designation is now outdated having been overtaken by a succession of regional policies for development in the countryside. The proposal therefore falls to be considered against the provisions of the most up-to-date operational policy for development in the countryside as set out in the DDP and the PS as there is no conflict between both plans pertaining to the appeal proposal.
6. The appeal site is adjacent to Belfast Road, which is identified as a protected route. However, as the access to the site would be onto a minor road, the protected route policies are not engaged. The draft BMAP identifies the site as being within a Local Landscape Policy Area (LLPA) for Whitehead. However, no objections were raised regarding the impact of the proposal on the LLPA.
7. The appeal site also falls within the PS designated area of constraint on high structures referred to by the Council as 'Islandmagee East and Whitehead Areas of Constraint on High Structures (ACHS)'. The corresponding Policy CS3 states that ACHS are designated at several locations identified on the Proposals Maps within the PS to protect the distinctive and vulnerable landscapes and the assets associated with the natural and historic environment of these areas. It goes on to state the circumstances in which structures over 15m and 25m+ in height would be acceptable. Again, whilst a plan policy, no objections were raised by the parties on this matter so I must infer, in the evidential context, that the proposal accords with such policies.
8. The appeal site is broadly triangular in shape and is an 'island site', framed by Larne Road/Belfast Road to the northeast, Raw Brae Road to the south/southwest and an access road serving Raw Brae Service Station and a series of dwellings including Nos. 1 and 3 Raw Brae Road to the northwest. The appeal site comprises overgrown grassland. The topography rises in a south-westerly direction from Larne/Belfast Road. The northwestern boundary of the appeal site is defined by a hedgerow approximately 2-3m high. The remainder of the northwestern boundary is defined by an agricultural type of field gate that provides access to the site and there is a wooden fence (circa 1.2-1.5m) that extends along the perimeter of the northeastern and south/southwestern boundaries. The lands to the south of the appeal site are agricultural, whilst the north and northeast of the site is characterised by residential development which backs onto Belfast Road from the nearby Brooklands Park. To the north, there is a café/restaurant and a golf course. To the west and southwest of the appeal site, there is a row of dwellings that extend from No.1 Raw Brae Road to No. 33 Raw Brae Road. Unlike the dwellings in Brooklands Park, these lie outside of the designated settlement limit of Whitehead.
9. Policy CS1 of the PS is entitled 'Sustainable Development in the Countryside' and it sets out 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. The policy expands to say that opportunities for development in the countryside are permitted through a number of policies before concluding that all proposals must meet the 'General Policy' and accord with other provisions of the LDP.

10. The Appellant recognises within his written evidence that the appeal site is within the countryside and outside of any defined settlement limit. However, he does not engage with Policy CS1 to identify which type of development his proposal would accord with. Rather, he refers to Policy GP1 'General Policy for all Development' and criterion (f) thereof titled 'Criteria relating to Development in the Countryside'.
11. The Council argues that the appeal proposal does not meet any of the opportunities for residential development listed under Policy CS1. Regarding such, no evidence has been provided by the Appellant to suggest that the proposed dwelling would be sited within an existing cluster of buildings, be a dwelling on a farm. Nor would it entail the development of a small gap site or represent a replacement opportunity for example. Furthermore, no special personal or domestic circumstances have been advanced, nor has it been indicated that the proposed dwelling would be for travellers accommodation, affordable housing or to meet the essential needs of a non-agricultural business. Given the paucity of information provided by the Appellant in respect of the nature of his proposal in principle, I can only conclude that the appeal proposal is not a development opportunity supported by Policy CS1. The Council's first reason for refusal based on Policy CS1 is sustained.
12. The second reason for refusal relates to Policy GP1 criterion (f) of the PS. The issues identified by the Council broadly relate to subsections (i) which deals with integration, (vi) which refers to suburban style build-up and (viii) which covers the distinction between a settlement and the surrounding countryside.
13. The Council argue that the site lacks long-established natural boundaries and is open and exposed to views when travelling along the surrounding road network, particularly along the Belfast Road, Raw Brae Road and Slaughterford Road. They further argue that the proposal would be an obtrusive feature which would fail to integrate into the landscape. The Appellant disagrees arguing that the site is not open and exposed from the views identified. He argues that the appeal site is screened from direct views by existing development which fronts onto the road including Raw Brae Garage. When travelling southeast to northwest along Belfast Road/Larne Road, he argues the appeal site is screened from direct views by a combination of the road alignment, the embankment and mature vegetation. Furthermore, the Appellant argues, that when travelling eastward along Raw Brae Road, the downward direction of the road, and the position of the appeal site is such that a dwelling sited thereon would read alongside the existing development and against the backdrop of the residential development comprising Brooklands Crescent and the rising landform beyond.
14. Paragraph 6.1.17 of the PS requires that *'satisfactory integration of new development and ancillary works (including buildings and accesses) into the surrounding landscape will be required. Essentially, this means that the site has the capacity to absorb the development without adverse impact on visual amenity. It further states that while new tree planting for integration purposes will be considered together with existing landscape features, new planting alone will not be sufficient and that a building on an unacceptable site cannot be successfully integrated into the countryside by the use of landscaping'*.
15. From my observations on site, the existing buildings on the southeastern approach along the Larne/Belfast Road would obstruct direct views of the proposal over long

distances. However, a dwelling, whilst set back from the Belfast/Larne Road, would be readily apparent on passing Raw Brae garage given the lack of an established northeastern site boundary and its elevated position relative to the Belfast/Larne Road. When travelling northwest along Belfast/Larne Road, the topography of the site combined with the lack of natural boundaries along the northeastern, southern and southeastern sides mean that the proposed dwelling would read as an obtrusive feature within the landscape. The existing buildings and landscaping adjacent to Raw Brae Garage and Nos 1-3 Raw Brae Road would do little to help to absorb a dwelling irrespective of its height and size into the landscape from this direction given the disposition of the aforementioned buildings to the appeal site to the.

16. When travelling eastward along Raw Brae Road, even though it would be downhill, a dwelling would be conspicuous within the landscape over a sustained distance given the appeal site's lack of boundary definition. Furthermore, the degree of separation between the proposal and the buildings to the west and northwest means that the proposal would read in isolation rather than with these buildings as a consolidating element. Whilst the Appellant argues that the development within Brooklands Crescent and the rising landform beyond help with integration from this vantage point, Brooklands Crescent is within the settlement limit and separated from the appeal site by the Belfast/Larne Road which helps distinguish the urban development from the adjacent rural area. Furthermore, any rising ground beyond Brooklands Crescent is at such a distance that it would not assist in integrating the proposed dwelling into the landscape irrespective of its detailed design, retention of vegetation and any proposed new landscaping. For the reasons given, the Council's concerns relating to Criterion (f) as stated above are sustained.
17. I now turn to consider whether the proposal would mar the distinction between a settlement and the surrounding countryside or create urban sprawl.
18. Paragraph 6.1.22 of the PS states that '*landscapes surrounding a settlement are important in maintaining a clear distinction between the urban entity and the countryside, in providing a setting to the built up area, and in preventing the coalescence of settlements in locations where they are in relatively close proximity*'. It further states that '*the General Policy in regard to development in the countryside, aims to manage development in these peripheral areas so as to ensure that the landscape setting of settlements is maintained and not marred by development that would prejudice its various roles or otherwise contribute to urban sprawl*'.
19. Given the island-like nature of the appeal site between three public and private roads, its location is such that a dwelling, would 'jut out' and read in isolation and as set apart from the settlement on the eastern side of Belfast Road and the nearby development to the west. This would be apparent from the Raw Brae Road, Belfast/Larne Road and Slaughterford Road as identified by the Council's 'critical views map'. The appeal development would be a conspicuous feature, thus marring the distinction between the development limit of Whitehead, which runs along the eastern side of the Belfast/Larne Road and the countryside on its western side. It would result in urban sprawl and create suburban-style build-up of development detrimental to the rural character of the area. Accordingly, the Council's second reason for refusal is sustained.

20. Whilst the Third Party's outlook from his property would be impacted by the proposal, I am not persuaded that a suitably located and designed dwelling could not be accommodated on site to ensure that there would be no unacceptable adverse effect on neighbouring property to the extent that it would warrant the withholding of planning permission.
21. The Third Party raised concerns regarding the Appellant's ability to achieve the necessary visibility splay of 2m x 33m to the left-hand side as required by DfI Roads. Whilst this matter was not raised as a refusal reason by the Council, having reviewed the Appellant's site location map, I am satisfied that the necessary access requirements are capable of being provided subject to the imposition of negative conditions in the event of an approval. As such, I am not persuaded that this matter warrants rejection of the proposal.
22. The Third Party also raised concerns regarding the public sewerage system. The Appellant indicates that sewage would be directed to the mains system. NI Water however advised that there are network capacity issues that could have a detrimental effect on the environment and existing properties and recommends that connections to the public sewerage system be curtailed. They further state that the downstream catchment is constrained by an overloaded sewer, where existing properties have suffered internal and/or external flooding and remain at risk of further flooding. The Council, the ultimate decision maker, has not raised this matter as an objection, but states that the *'applicant may wish to consider the use of a septic tank or package plant but as the principle of development is not acceptable, this issue has not been explored'*. I am broadly satisfied that the proposal could be served by a septic tank/package treatment plant given the size of the site. Details of such could be conditioned should planning permission be granted to ensure that adequate infrastructure is put in place to deal with foul sewage associated with a single dwelling. This matter is not determining in the appeal.
23. In conclusion, for the reasons outlined above, the proposal is not one of the types of development considered to be acceptable in the countryside under Policy CS1, nor does it comply with the provisions of Policy GP1 criterion (f) of the PS. There are no material considerations presented to outweigh the plan policy objections to the proposal. The Council's and Third-Party concerns are sustained as specified above. Accordingly, the appeal must fail.

This decision is based on the following drawing: -

- 1:1250 Scale 'Site Location Map', Drawing No. 01 (L-01) dated October 2023.
- 1:500 Scale 'Site Layout Map', Drawing No. 02 (LM-01) dated October 2023.

COMMISSIONER KIERAN O'CONNELL

List of Documents

Planning Authority: - Statement of Case by Mid and East Antrim Borough Council.

Appellant: - Statement of Case by HR Jess Ltd.

Third Party: - Statement of Case by Mr. Crooks.

Rebuttal Statement by Mr. Crooks.