

**PLANNING APPEALS COMMISSION**

**THE PLANNING ACT (NORTHERN IRELAND) 2011  
SECTION 58**

**2024/A0003**

**Appeal by Mr Peter Steele  
against the refusal of outline planning permission for a one a half storey dwelling  
and garage (infill site)  
on lands 50m north of 98 Finvoy Road, Ballymoney, Co. Antrim BT53 7JQ**

**2024/A0004**

**Appeal by Mr Peter Steele  
against the refusal of outline planning permission for a one and a half storey  
dwelling and garage (infill site)  
on lands 100m north of 98 Finvoy Road, Ballymoney, Co. Antrim BT53 7JQ**

**Report  
by**

**Commissioner Rachel Taylor**

**Planning Authority References: LA01/2022/1528/O (2024/A0003)  
LA01/2023/0941/O (2024/A0004)**

**Procedure: Written Representations with Accompanied  
Site Visit on 28<sup>th</sup> August 2024  
Report Date: 3<sup>rd</sup> October 2024**

## 1.0 **BACKGROUND**

1.1 Causeway Coast & Glens Borough Council received applications for planning permission on 8<sup>th</sup> December 2022 (LA01/2022/1528/O) and 13<sup>th</sup> September 2023 (LA01/2023/0941/O) respectively. By notices dated 14<sup>th</sup> February 2024 the Council refused permission for LA01/2022/1528/O giving the following reasons: -

1. **The proposal is contrary to the policy provisions contained in Strategic Planning Policy Statement and Policy CTY1 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 paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY8 of Planning Policy Statement 21 in that it fails to meet with the provisions for an infill dwelling as the application site is not a gap site located within an otherwise substantial and continuously built up frontage and would result in ribbon development.**
3. **This proposal is contrary to the provisions contained in paragraph 6.70 of the Strategic Planning Policy Statement and Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that if a dwelling were to be approved it would be detrimental to the rural character of the area by causing a suburban style build-up of development when viewed with existing buildings and would add to/create [sic] a ribbon of development.**

1.2 By notice dated 12th March 2024 the Council refused planning permission for LA01/2023/0941/O giving the following reasons: -

1. **The proposal is contrary to the policy provisions contained in Strategic Planning Policy Statement and Policy CTY1 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 policy provisions of the Strategic Planning Policy Statement and Policy CTY8 of Planning Policy Statement 21 in that it fails to meet with the provisions for an infill dwelling as the gap can accommodate more than the maximum of two dwellings while respecting the existing pattern of development along the frontage in terms of size and scale.**
3. **The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement and Policy CTY13 of Planning Policy Statement 21 in that a dwelling on this site would fail to integrate into the landscape and with existing buildings.**
4. **This proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that if a dwelling were to**

**be approved it would be detrimental to the rural character of the area by adding to the linear form of ribbon development along this road resulting in a suburban style build-up of development when viewed with existing buildings.**

- 1.3 The Commission received both appeals on 5<sup>th</sup> April 2024 and advertised them in the local press on 18<sup>th</sup> April 2024.
- 1.4 The Council forwarded the single representation it had received at application stage in relation to LA01/2022/1528/O to the Commission.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The sites are located north of No. 98 Finvoy Road, Ballymoney. They form two side by side, rectangular plots cut out of larger adjoining, roadside, agricultural fields which rise gently in an easterly direction.
- 2.2 LA01/2022/1528/O (Site A) is located 50 metres (m) north of No. 98 Finvoy Road. The northern boundary is defined by a post and wire fence and the eastern boundary is undefined. The southern boundary is comprised of a 1.5-1.8m brick wall, which defines the party boundary with No. 96 Finvoy Road. The western boundary is defined by a mature roadside hedge and trees, with a field gate in the north western corner of the site.
- 2.3 LA01/2023/0941/O (Site B) is located 100m north of No. 98 Finvoy Road. The northern and eastern boundaries are undefined, with the southern boundary defined by a post and wire fence and the western roadside boundary defined by a mature roadside hedge, with a field gate in the south western corner.
- 2.4 To the north of the sites is a slim linear portion of field left for an agricultural access, beyond which is Long Lane, a compact cul-de-sac of 8 detached and semi detached bungalows.
- 2.5 To the south of the sites is a newly constructed single storey dwelling and outbuilding at No. 96 Finvoy Road, located along the roadside. No. 98 Finvoy Road, a two storey roadside dwelling and two outbuildings are located further south and adjacent to No. 96. South of No. 98 along the roadside is a dwelling under construction, nearing wall plate level. This site abuts a laneway which accesses a dwelling and farm to the east and further south of the laneway is No. 102 Finvoy Road, a further single storey dwelling and outbuilding located along the roadside.
- 2.6 The surrounding land use is agricultural with some denser compact residential development to the north, and some roadside single dwellings to the south.

## **3.0 PLANNING AUTHORITY'S CASE**

- 3.1 The appeal sites are located within the rural area as identified within the Northern Area Plan (NAP) 2016 on land some 50 metres (m) and 100m north of No. 98 Finvoy Road, Ballymoney respectively.

- 3.2 With regards to Site A, the northern boundary of the site is defined by post and wire fencing whilst the eastern boundary is undefined. The southern boundary is defined by a block wall which defines the northern boundary of property No. 96 Finvoy Road. The roadside (western boundary) is defined by post and wire fencing with mature hedging on the inside along some of its length.
- 3.3 With regards to Site B, the site is roadside and comprises a section of a wider agricultural field. The topography of the site is flat as is the immediate surrounding area. The northern and eastern boundaries of the site are physically undefined, while the southern boundary is defined by a post and wire fence, and the western roadside boundary is defined by post and wire fencing with a mature hedgerow.
- 3.4 The proposals are contrary to the policy provisions of the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21 (PPS 21), Sustainable Development in the Countryside, in that there are no overriding reasons why these developments are essential in this rural location and could not be located within a settlement.
- 3.5 Paragraph 6.73 of the SPPS provides advice on clustering and infill/ribbon development. The SPPS further states that provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. Policy CTY8 – Ribbon Development sets out the criteria to be met for an infill site.
- 3.6 As the proposals do not meet the criteria for CTY8, they fail to meet Policy CTY1.
- 3.7 Policy CTY8 states that planning permission will be refused for a building which creates or adds to ribbon development. It does however, state that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 3.8 There is a significant build-up of development in the immediate area, however, it is considered that the gap sites provide an important visual break. The mature hedge and trees along the sites frontages are a feature of the countryside which separates the two groupings of buildings along Long Lane and Finvoy Road particularly on approach from the south with single roadside dwellings along Finvoy Road to the tighter development of Long Lane. The gap is too large to be considered for infill development when considered in the context of the existing development pattern along the frontage, in terms of size, scale, siting and plot size. The policy requires the gap site to be small in that a maximum of two dwellings could be accommodated. The Justification and Amplification (J&A) text at Paragraph 5.34 is clear that the gap site must be between houses or other buildings. The guidance in Building on Tradition (BoT) indicates that when the gap is more than twice the length of the average plot width, it is often unsuitable for infill with two new plots. The gap between No. 98 Finvoy Road [sic] and 13 Long Lane, measures 104m.

- 3.9 The average plot size of the two plots is therefore more than the maximum of two dwellings [sic]. The appeal site is therefore not a small gap site in accordance with CTY8.
- 3.10 In Appeal 2021/A0106 in regard to Policy CTY8, it states the focus of the policy is whether proposed development will respect the existing development pattern along the frontage taking into account size, scale, siting and plot size. This is not solely a mathematical exercise but should also be based on a visual assessment of the existing pattern of development which in that example was a tight knit form to the south with plots, frontages and spacing between buildings. The Commissioner considered the gap was not small and that the overall frontage could accommodate more than two dwellings based on the existing pattern of development within the frontage. The appeal site also provided an important visual break and helped maintain the rural character. It would also add to the existing ribbon of development as it had common frontage and visual linkage with other development along the substantial and continuously built up frontage, which was considered contrary to Policy CTY8 of PPS 21.
- 3.11 The appellant's Statement of Case (SoC) quotes paragraph 5.33 of PPS 21 as justification for the proposals, arguing that "the buildings are sited in a row and there is visual linkage between the buildings whilst travelling along the Finvoy Road and all have a common frontage to the road." Paragraph 5.33 provides amplification on the pattern of development which constitute ribbon development. Paragraph 5.32 of PPS 21 states that "ribbon development is detrimental to the character, appearance and amenity of the countryside", going on to say, "ribbon development has consistently been opposed and will continue to be unacceptable".
- 3.12 The appellant's SoC claims that the average plot size is approximately 46m. This is calculated on the inexplicable assumption that the 4 dwellings at Long Lane should be measured as one plot of 98m and differing frontage lengths for several of the other dwellings along the frontage.
- 3.13 The following measurements at the ASV confirmed that:
- No. 96 Finvoy Road has a frontage length of 30m;
  - No. 98 Finvoy Road has a frontage length of 44m;
  - Recent approval (Planning Ref. LA01/2023/0151/RM – granted 27/03/2023), has a frontage length of 18m;
  - No. 102 Finvoy Road which is separated from the other dwellings by an access lane, has a frontage length of 35m; and
  - 13 Long Lane has a frontage length of 19m.
- 3.14 With regards to the measurement of dwellings at Long Lane, Policy CTY8, in considering existing development pattern describes the plot size. No consideration is given to amalgamating sites within the policy [sic].
- 3.15 Ribbon development is detrimental to the rural character of an area as it contributes to a localised sense of build-up and fails to respect the traditional settlement pattern of the countryside. As noted above, it is considered the proposed developments do not comply with Policy CTY8 in that the gap is too large to be considered for infill development when considered in the context of the existing development pattern along the frontage, in terms of size, scale, siting and plot size. Therefore, if two

dwellings were approved in these sites it would create a ribbon of development along the Finvoy Road, failing Policy CTY14 of PPS 21.

- 3.16 With regards to Site B, PPS21 states the determination of whether a new building integrates into the landscape is not a test of invisibility but rather it requires an assessment of the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings and not appear incongruous in the landscape when judged from critical views along stretches of the public road network. The siting and design of new buildings are important, to ensure they integrate harmoniously with their surroundings in order to protect the amenity and character of the countryside. It is important to realise the determination of whether a new building integrates into the landscape is not a test of invisibility.
- 3.17 The application Site B and surrounding area is relatively flat, however Site B lacks established natural boundaries and would be unable to provide a suitable degree of enclosure. All boundaries, with the exception of the western roadside boundary lack established natural boundaries. The other appeal Site A was recently refused immediately to the south of Site B. There will be remaining gaps to the north and south of Site B. If a dwelling were approved it would be read as an isolated dwelling, making it appear incongruous in the landscape and failing to integrate, failing Policy CTY13. Critical views of a dwelling on Site B will be achieved when travelling in both directions along the Finvoy Road.
- 3.18 In the event of approval, the following conditions are proposed without prejudice for both appeals:
- Time limit;
  - Reserved siting, design, external appearance, access and landscaping;
  - 0.45m underbuild between finished floor level and existing ground level;
  - 5.5m ridge height to finished floor level and 35-40 degree pitch;
  - 140 sq. m floorspace measured externally;
  - Design in accordance with BoT;
  - Detailed landscaping with replacement landscaping; and
  - 1:500 scale plan in accordance with RS1 form.

#### **4.0 THIRD PARTIES**

- 4.1 At application stage, a third party raised the issue of loss of views from their property in Long Lane and general disturbance from building works impacting upon their complex medical needs.

#### **5.0 APPELLANT'S CASE**

- 5.1 The sites represent a gap within a substantial and continuously built up frontage of approximately 350m. The substantial continuous frontage consists of the dwelling and garage at No. 102 Finvoy Road, the dwelling approved under LA01/2023/0151/RM (under construction), the dwelling and existing large shed at No. 98 Finvoy Road, the dwelling and garage recently constructed adjacent to No. 98 Finvoy Road and the dwellings at Long Lane.

- 5.2 As stated in CTY8 of PPS 21 an exception will be permitted for the infilling of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 5.3 The J&A states a ribbon of development does not have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.
- 5.4 The buildings are sited in a row and there is visual linkage between the buildings whilst travelling along the Finvoy Road and all have a common frontage to the road.
- 5.5 The various existing plot sizes, as agreed during the ASV, are accepted as 18m for the site approved under LA01/2023/0151/RM (under construction), 35m for No. 102 Finvoy Road, 30m for the dwelling constructed between the application site and No. 98 Finvoy Road, 44m for No. 98 Finvoy Road and No. 13 Long Lane in its own plot is 19m. However the continuous built up frontage of Long Lane (including Nos 13, 4, 5 and 6) is 98m.
- 5.6 The proposed sites have frontages of 47m each, which are in keeping with the existing plot sizes.
- 5.7 The land which consists of the appeal sites is large enough to accommodate 2 No. dwellings and garages without adversely affecting the residential amenity of the existing residents.
- 5.8 There is no visual break here and seasonally the site will be more exposed with glimpsed views of both groupings of development intermittently appreciable on travelling in a northerly direction towards Long Lane.
- 5.9 Access to the proposed sites would be via proposed new accesses onto the Finvoy Road, with visibility splays to the satisfaction of DFI Roads.
- 5.10 The proposal complies with the criteria of CTY8 of PPS 21 in that the proposals are within a gap sufficient to accommodate two dwellings within an otherwise substantial and continuously built up frontage that respect the existing pattern along the Finvoy Road in terms of size, scale, siting and plot sizes and that it meets other planning and environmental requirements.

## **6.0 CONSIDERATION**

- 6.1 The main issues in both appeals are whether the proposal would:
- be acceptable in principle;
  - result in ribbon development;
  - have an adverse impact on rural character; and

- in respect to LA01/2023/0941/O (Site B) only, whether it would visually integrate into the surrounding landscape.
- 6.2 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, 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.
- 6.3 The Northern Area Plan 2016 (NAP) operates as the LDP for the area within which the appeal sites are located. In it, the appeal sites lie within the countryside. The NAP has no plans or policies that are relevant to the appeal proposals.
- 6.4 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 retains policies within existing planning policy documents until such times as the local Council adopts a Plan Strategy (PS). No PS has been adopted for this council area. The SPPS retains certain existing Planning Policy Statements (PPSs) including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). There is no conflict between the provisions of the SPPS and those of retained policy regarding issues relevant to this appeal. Therefore, in accordance with the transitional arrangements set out in the SPPS, the appeals should be determined in accordance with the retained policies of PPS 21. Additional guidance is provided in Building on Tradition: A Sustainable Design Guide for The Northern Ireland Countryside (BOT).
- 6.5 Policy CTY1 of PPS 21 is titled ‘Development in the Countryside’. It identifies a range of types of development which, in principle, are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8 titled ‘Ribbon Development’. It follows that if the developments comply with Policy CTY8 they will also comply with Policy CTY1 in relation to the principle of development.
- 6.6 Policy CTY8 of PPS 21 ‘Ribbon Development’ states that ‘planning permission will be refused for a building which creates or adds to a ribbon of development’. However, it goes on to state that ‘an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage (SCBUF) and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements’. The policy indicates that for its purposes, the definition of a SCBUF includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 6.7 Despite the differences in wording of the refusal reasons pertaining to each application regarding Policy CTY8, the Council clarified at the accompanied site visit (ASV) that there was no distinction between them and they both were based on the proposals not meeting the exception to Policy CTY8 and resulting in ribbon development, as the gap was not considered to be a small gap site.



- 6.8 Irrespective of whether the dwelling under construction is a qualifying building, there was no dispute that there was a SCBUF at this location. The issue in respect of each of these appeals under the exception to Policy CTY8 centres on whether there is a small gap site sufficient only to accommodate a maximum of two houses. At the ASV it was clarified by the Council that their reference to the gap between No. 13 Long Lane and No. 98 Finvoy Road was inaccurate and should have referenced the gap between No. 13 Long Lane and No. 96 Finvoy Road but that the gap measurement of approximately 104m between the buildings was correct. This was largely in-keeping with the appellant who agreed that the gap was approximately 100m.
- 6.9 Notwithstanding the issue raised regarding the amalgamation of four plots, at the ASV, there was agreement regarding the existing plot frontages being considered. In any event, given the policy refers to respecting the existing development pattern including size, scale, siting and plot size, I do not agree that it would be appropriate to artificially amalgamate individual plots at Long Lane in order to create a larger plot size that does not reflect the actual disposition of development on the ground. The measurements agreed were 19m for No. 13 Long Lane, 30m for No. 96, 44m for No. 98, 18m for the dwelling under construction (LA01/2023/0151/RM) and 35m for No 102 Finvoy Road. This gives an average of approximately 29.2m. The proposed appeal sites would have frontages of around 47m each, which is larger than the average and exceeds the largest plot along the frontage. This would be obvious on the ground. The policy requirement is that the gap should be small. In this case the gap is such that it could fit more than two dwellings, meaning that it would not respect the development pattern. This is reinforced by the guidance contained in BOT which indicates when a gap is more than twice the length of the average plot width it is often unsuitable for infill. As the gap as a whole could accommodate more than two dwellings, it does not qualify as small and consequently the proposals fail to meet these requirements of the exception to Policy CTY8.
- 6.10 Whilst not expressly mentioned within the reasons for refusal in either case, the Council argue that the sites provide 'an important visual break'. There are two nodes of development, one comprised of the buildings along the road frontage at Long Lane and that of No. 96 and the buildings beyond to the south. The appeal sites provide visual relief between these two nodes and for this reason they represent an important visual break. For the reasons given above the appeal developments do not meet the exception to Policy CTY8 of PPS 21.
- 6.11 Policy CTY14, entitled Rural Character, states planning 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. A new building will be unacceptable where: (b) it results in a suburban style build-up of development when viewed with existing and approved buildings and (d) it creates or adds to a ribbon of development.
- 6.12 As detailed above, the appeal proposals do not represent an exception to Policy CTY8. Furthermore, the proposals would share a common frontage and visually link with existing buildings at 13 Long Lane and Nos. 96 and 98 Finvoy Road to form ribbon development along this section of Finvoy Road. This would also result in a suburban-style build-up of development when viewed with existing and approved buildings. The appeal proposals would therefore result in a detrimental change to the rural character of the area. The proposals are therefore contrary to Policies CTY8 and CTY14 in this regard.

- 6.13 Policy CTY13, entitled 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.
- 6.14 The Council acknowledged on site that the circumstances pertaining to both appeals were similar in terms of lack of boundaries, however Policy CTY13 was only engaged in relation to Site B. The Council considered the situation worse on this site as two boundaries were undefined (north and east), with only a post and wire fence to the south and a good roadside hedge to the west. It was clarified that the roadside boundary could be retained as the proposed access would be via the existing agricultural gate and that the verge at this location is substantial enough not to require the removal of the hedge.
- 6.15 At the site visit the Council confirmed that the determination of whether a new building integrates into the landscape required an assessment of the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings and not appear incongruous in the landscape when judged from critical views along stretches of the public road network.
- 6.16 Whilst the gentle rise in the land and the field boundaries beyond the red line would provide a degree of backdrop for the proposal this would not be sufficient to provide a sense of enclosure. Site B lacks long established natural boundaries on three of its sides to provide a suitable degree of enclosure for the building to integrate into the landscape and is reliant primarily on the use of new landscaping for integration. The critical views from the south and in particular the north on approach to No. 13 Long Lane, allow for sustained views into Site B and its inability to integrate the proposed dwelling into the landscape would be apparent. Site B is therefore contrary to Policy CTY13 of PPS21, for the reasons set out above. The reason for refusal is sustained.
- 6.17 Whilst a third party, in relation to Site B, raised the matter of general disturbance from building works, these would be transitory in nature. This and the other concerns raised would not be sufficient to withhold permission. In any event I have found the appeal development to be unacceptable.
- 6.18 For the reasons given above, both appeal developments fail to satisfy Policy CTY8 of PPS21. No overriding reasons have been presented to demonstrate why the appeal developments are essential and could not be located in a settlement. The appeal proposals are therefore contrary to Policy CTY1 of PPS21. The refusal reasons have been sustained in full for both appeals.

## **7.0 RECOMMENDATION**

- 7.1 I recommend to the Commission that both appeals be dismissed.

7.2 These recommendations relate to the following drawings: -

Appeal 2024/A0003 (Site A)

| <b>Drawing No.</b> | <b>Title</b>         | <b>Scale</b> | <b>Date refused by Council</b> |
|--------------------|----------------------|--------------|--------------------------------|
| 01A                | Location Map         | 1:2500       | 14 <sup>th</sup> February 2024 |
| 02                 | Conceptual Site Plan | 1:1000       | 14 <sup>th</sup> February 2024 |

Appeal 2024/A0004 (Site B)

| <b>Drawing No.</b> | <b>Title</b> | <b>Scale</b> | <b>Date refused by Council</b> |
|--------------------|--------------|--------------|--------------------------------|
| 01                 | Location Map | 1:2500       | 12 <sup>th</sup> March 2024    |

**List of Appearances**

Planning Authority: - Mr Ruairi McGrath on behalf of Causeway Coast & Glens  
Borough Council (C,C & G BC)

Ms Orla Burns (C,C & G BC)

Appellant: - Mr McKernan J E McKernan & Son  
Mr Peter Steele

**List of Documents for 2024/A0003**

Planning Authority: - "A" - Statement of Case by C,C & G BC  
"A1" – Rebuttal Statement by C,C & G BC

Appellant: - "B" – Statement of Case by J E McKernan & Son

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