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<b>Appeal Reference:</b>	2022/A0081
<b>Appeal by:</b>	Michael McShane
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Dwelling and domestic garage
<b>Location:</b>	Adjacent to 17 Strandview Road, Ballycastle
<b>Planning Authority:</b>	Causeway Coast and Glens Borough Council
<b>Application Reference:</b>	LA01/2022/0398/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 1 <sup>st</sup> August 2024
<b>Decision by:</b>	Commissioner Cathy McKeary, dated 20 <sup>th</sup> September 2024

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal would:
  - provide a quality residential environment which respects the existing character of the area;
  - adversely impact on neighbouring residential amenity;
  - adversely impact on road safety;
  - adversely impact on built heritage; and
  - adversely impact natural heritage.
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, 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.
4. The Northern Area Plan 2016 (NAP) operates as the relevant LDP. In the plan, the site is located within the settlement limit of Ballycastle in unzoned whiteland. It is also within the Antrim Coast and Glens Area of Outstanding Natural Beauty (AONB). There are no policies within the plan that are pertinent to this proposal.
5. The Strategic Planning Policy Statement (SPPS) sets out transitional arrangements that will operate until a Plan Strategy for a Council area is adopted. In this Council area, no Plan Strategy has been adopted yet. As such, during the intervening transitional period, the SPPS retains certain Planning Policy

Statements (PPSs) including PPS2 – ‘Natural Heritage’ (PPS2), PPS3 – ‘Access, Movement and Parking (PPS3), PPS6 – ‘Planning, Archaeology and the Built Heritage, (PPS6), PPS7- ‘Quality Residential Environments’ (PPS7), PPS7 Addendum – ‘Safeguarding the Character of Established Residential Areas’ (APPS7). Any conflict arising between the SPPS, and any policy retained under the transitional arrangements must be resolved in favour of the SPPS. As no such conflict arises in this instance, the retained policy contained in the aforementioned PPSs applies. Development Control Advice Note 15 – ‘Vehicular Access Standards’ (DCAN15) is also of relevance.

6. The appeal site is located on a vacant plot adjacent to 17 Strandview Road, Ballycastle. The site is rectangular in shape and comprises of overgrown vegetation. The site boundary to the northwest is a stepped blockwork retaining wall which defines the boundary of no. 17 Strandview Road. The northeastern boundary is defined by the retaining walls and hedging which form the rear boundaries of the properties on Beechwood Avenue. The southeastern boundary is shared with the Leabank Nursing Home and is defined by overgrown planting. The southwestern boundary of the site is undefined. The site slopes steeply downwards in a north easterly direction, towards the boundary with properties at Beechwood Avenue. The site also slopes more gently in a south easterly direction down towards Quay Road which lies to the southeast of the appeal site.
7. Access to the site is currently via a single vehicle width lane which is also a public right of way. The lane connects Strandview Road with Quay Road and currently serves nos. 15 and 17 Strandview Road. It also provides occasional delivery access to Leabank Nursing Home. The portion of the laneway in front of nos. 15 and 17 is finished in tarmac, but beyond that changes to a mix of rough hardcore and grass towards Quay Road. There are no passing bays and no footpath along this laneway. Vehicle access from Quay Road is prevented by a bollard in the middle of the laneway close to the access point onto Quay Road.
8. To the west of the appeal site there are three dwellings at nos. 6, 7 and 8 Silverspring which back onto the laneway which abuts the appeal site. The wider Silverspring housing development consists of eight modern detached dwellings. Five of the dwellings are immediately adjacent to the Grade B1 listed building known as Silversprings House which is located approximately 50m southwest of the appeal site. The character of the area around the appeal site is predominantly residential, comprised of mainly detached dwellings set within large plots.
9. The application was accompanied by a Design and Access Statement (DAS) by virtue of its location within an AONB. Whilst it provides limited information and analysis, I am satisfied that the DAS as submitted meets the minimum legislative requirements under Article (6)(1) of the Planning (General Development Procedure) Order (NI) 2015.
10. Policy QD2 of PPS7 requires the submission of a Design Concept Statement (DCS) to accompany all planning applications for residential development. In paragraph 4.42 of the justification and amplification it states that the DCS will indicate how the design concept has evolved and provide a clear idea of what is intended for the site without the need for fully detailed plans. Paragraph 4.45 of Policy QD2 requires that the design concept statement should outline in writing the

overall design concept and objectives for the site and include an indicative concept plan. The appellant considers that anything beyond the principle of development can be set aside until the submission of a Reserved Matters application and did not provide a DCS. Notwithstanding this, the DAS submitted provides a limited analysis of the site's location, surrounding context and the specific characteristics of the site itself. It references the dwellings at 15 and 17 Strandview Road in terms of size and scale for the proposal but provides no plan in respect of the proposed development. However, given the sloping nature of the site, its restricted size and the proximity of existing dwellings surrounding the site, an indicative concept plan as part of a DCS is necessary. A concept plan would demonstrate how the proposal has taken account of the main features of the site and its context. While the DAS could arguably fulfil the written component of the DCS, there is no indicative concept plan based on the appraisal of the site and its context, nor any diagrammatic layout. There is no DCS in its totality, as required by the policy. Overall, it is not possible to fully determine the impact of a dwelling on this site without this information. As no DCS has been provided, the proposal is contrary to Policy QD2 of PPS7. The Council's second refusal reason is sustained in this regard.

11. The Council and third parties had concerns that the proposed development did not meet criterion (a) of Policy QD1 of PPS7. It requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures, and landscaped and hard surfaces. Paragraph 4.1 of the Justification and Amplification indicates that a high quality design, layout and landscaping are as important as the suitability of the site in deciding whether to grant planning permission.
12. Policy LC1 of APPS7 states that, in established residential areas (ERAs) planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS7, and three additional criteria are met. The Council has concerns that the proposal fails to meet criterion (b) of Policy LC1, which requires that the pattern of development is in keeping with the overall character and environmental quality of the ERA.
13. The appeal site is within a developed urban area, on a steeply sloping site, with other residential properties in close proximity on all sides. The limited information supplied in the DAS indicates that the proposed dwelling would be *"in similar size to numbers 15 and 17 Strandview Road"* and that *"the ridge should not break the existing ridge line along 15-17 Strandview Road."*
14. Strandview Road onto which the appeal site accesses, and Beechwood Avenue, which it backs onto, form the wider environment with which the appeal site has both a physical and visual relationship. This forms the ERA for the purposes of the policy in relation to the appeal development. Silverspring, however, is discrete from this ERA due to it taking its access from Quay Road, along with its location on rising land backing onto a laneway, with intervening walls, vegetation, all of which sever its connectivity in terms of character with the ERA in question. There is no dispute that the plot size itself reflects those of the ERA, but that is only one element of a broader consideration in terms of character. The detached dwellings

at nos. 15 and 17 Strandview Road help establish the immediate character in the vicinity of the site. The character on Beechwood Avenue is more varied with a nursing home, more modest single storey detached dwellings at nos. 5 and 7 and larger two storey dwellings at nos. 9 and 11. On the opposite side of the street the dwellings are all larger detached two storey dwellings. Taken as a whole, I accept that a two-storey detached dwelling on the appeal site, in principle, would not be out of keeping with the character of the ERA.

15. Whilst that may be so, there remains a lack of information in regard to the topography of this steeply sloping site, and the degree of under-build that might be required. There is also inadequate information to assess any proposed dwelling's relationship both to the site itself, and to the surrounding built properties. I am therefore not persuaded that the appeal development would respect the surrounding context and is appropriate to the character and topography of the site. Nor am I persuaded that the pattern of development would be in keeping with the overall character and environmental quality of the ERA. For the reasons given above, criterion (a) of Policy QD1 of PPS7 and criterion (b) of Policy LC1 of APPS7 are not met.
16. The Council and objectors raised concerns that the proposed development would be inappropriate, overbearing, cause loss of light, noise and disturbance and overlooking into the private amenity space of nearby properties. These concerns fall under criterion (h) of Policy QD1; that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.
17. Again, based on the limited information from the DAS, the proposed dwelling would be two storey on the elevation adjacent to the lane. However, it would likely require considerable under-build to accommodate a dwelling on the site, which slopes down to Beechwood Avenue. The elevated nature of the site relative to nos. 5 and 7 Beechwood Avenue is such that it is likely that there would be a pronounced degree of overlooking onto the rear private amenity space and rear rooms of those properties, even with careful window design, because the rear elevation would be sea facing and potentially the focus of any design. In the absence of any evidence to the contrary, the proximity of nos. 5 and 7 Beechwood Avenue, which lie below the lowest part of the site, is such that a two storey dwelling with under-build would also likely present as dominant, overbearing, with possible overshadowing and loss of light to their rear amenity space and rear rooms for large portions of the day. I disagree that such matters could be left to Reserved Matters stage, or conditioned at this point given the limited information before me.
18. The third parties also have concerns about the relationship between the front elevation of the proposal and the rear garden of no. 7 Silverspring in that it would cause overlooking from the upper floor of the proposal into the private amenity area of no. 7. Even though the distance between these elevations would not be significant, the height difference of the sites, and intervening mature vegetation in the rear garden and to the boundary of no. 7 Silverspring would be such that no unacceptable adverse impact would result from the appeal development in this regard. Nevertheless, the lack of information regarding the siting and design,

along with the constraints presented by the sloping nature of the site and with its relationship to adjacent properties, are such that I find criterion (h) of Policy QD1 is not met.

19. For the reasons given above the appeal development does not comply with Policies QD1 of PPS7 and LC1 of APPS7 read as a whole. The Council's first and third refusal reasons and the third party concerns are sustained to the extent specified.
20. Dfl Roads considered that the width of the existing access renders it unacceptable for the intensification of use and is not in accordance with the standards contained in DCAN15 and is contrary to Policy AMP2 of PPS3. Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic.
21. All parties agree that the laneway is a public right of way and the third parties state that it is used regularly as a pedestrian access, including by children walking to school and accessing playing fields. The existing access already serves two dwellings at nos. 15 and 17 as well as being used occasionally by the adjacent nursing home to deliver its fuel. In accordance with paragraph 5.3 of DCAN15, a further dwelling could generate an additional 10 plus vehicle movements per day.
22. Use of the access for HGVs to the nursing home is restricted and is controlled by Condition No. 2 of the associated permission E/2015/0009/F which states that: *"Wood Pellet Deliveries to the site shall be no more than once every 3 weeks. Reason: To safeguard the living conditions of residents in adjoining and nearby properties"*. I agree with the Council that the limited and controlled use of the access by the nursing home renders the number of vehicle movements associated with the delivery of wood pellets low. Therefore, even excluding the restricted wood pellet deliveries to the nursing home, there would still be at least a 50% increase in traffic movements using the lane arising from the appeal development which would result in intensification of use of the access in accordance with paragraph 1.2 of DCAN15.
23. The existing laneway from the site to the public road is narrow and does not allow for the passing of vehicles, nor have any footway for pedestrians. I agree with the third parties that the laneway could not be easily widened to provide two way vehicular access. Such works would likely be extensive and not without difficulty due to the configuration of the existing properties, which immediately abut the laneway, and the necessity for third party lands.
24. Notwithstanding the long established use of the access for the two existing dwellings, an additional dwelling would increase traffic use on the laneway, over which the appellant does not have full control. The third parties consider that the proposal would increase the chances of meeting a vehicle while accessing the laneway, which could result in vehicles having to stop and wait for access to the laneway on Strandview Road, which would both prejudice road safety and inconvenience the flow of traffic. I disagree with the appellant that this is the same as a car waiting to access a single driveway because in this case there would be

three dwellings on the laneway with all their associated vehicle movements rather than a single dwelling and its considerably fewer vehicle movements. I agree with the Council that the additional dwelling on the lane could also result in vehicles having to reverse out onto Strandview Road putting other road users and pedestrians at risk. Even though the laneway would remain private, serving fewer than five dwellings and would not access a protected route, on the basis of the evidence presented and in the absence of any evidence to the contrary, I consider that the appeal development would prejudice road safety and significantly inconvenience the flow of traffic onto Strandview Road contrary to criterion (a) of Policy AMP2 of PPS3. The Council's fifth refusal reason and the third party concerns are sustained.

25. The Council considers that as safe vehicular access to the site cannot be provided, it is not possible to determine that adequate parking can be provided in accordance with criterion (f) of Policy QD1. Paragraph 4.36 of Policy QD1 describes the design considerations to be given to car parking, presumably in relation to criterion (f) of said policy. I do not accept the Council's view that as appropriate access cannot be obtained to the site, that adequate parking could not be achieved. Even with the limited level of information pertaining to the development of the site I am satisfied that the required parking provision for a single dwelling could be met on a site of this size and secured via planning condition in the event of permission being granted. Criterion (f) is not offended and the Council's first refusal reason is not sustained insofar as it relates to this matter.
26. The Council and third parties both have concerns in relation to the impact of the appeal development on the setting of the Grade B1 listed building known as Silversprings House located in Silver Spring cul-de-sac. S91(2) of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, and in considering whether to grant listed building consent for any works, a council or, as the case may be, the Department (in the case of this appeal, the Commission), must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
27. Policy BH11 of PPS6 states that the Department will not normally permit development which would adversely affect the setting of a listed building. Historic Environment Division (HED) advised that the proposal may have an adverse impact on the setting of the listed building, subject to requested information being provided and assessed under the policy requirements of the SPPS (Paragraph 6.12) and Policy BH11 of PPS6, however, the appellant declined to provide any further information. Notwithstanding this, the onus is on the Council to sustain their refusal reasons.
28. The wider Silverspring housing development consists of eight modern detached dwellings, five of which are immediately adjacent to the listed building. The proposal would be located on lower ground, to the rear of dwellings at nos. 6 and 7 Silverspring housing development, on the opposite side of the laneway. These dwellings are storey and a half, and single storey respectively, with strong vegetated boundaries approximately 2.5m high to their rear, between them and the appeal site. The intervening housing development, topography and their

mature vegetated boundaries would preclude any direct views of the appeal site from the listed building, and of the listed building when viewed from the appeal site. Having had special regard to the desirability of preserving the setting of the listed building, I am satisfied that given the distance and intervening features between the appeal site and Silversprings House, the proposal would not unacceptably adversely affect the setting of the listed building contrary to criterion (b) of Policy QD1 of PPS7 and Policy BH11 of PPS6. The Council's first and fourth refusal reasons, and the third party concerns are not sustained in this regard.

29. The third parties have concerns that insufficient information has been presented to demonstrate whether the proposal would adversely impact on the Ballycastle Conservation Area (CA). The proposal is not within the CA and is set back from the nearest section of the designation which runs along Quay Road. Furthermore, there are only very restricted views into and out of the CA from the laneway. The Council has not raised this as a refusal reason and I am satisfied that, in the event of an approval, the design of any dwelling to take account of the CA could be dealt with at Reserved Matters stage.
30. The Council and the third parties both have concerns in relation to Japanese Knotweed, which is an invasive species, growing within the appeal site. Policy NH5 of PPS2 states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to nine defined natural heritage features. The Council has not identified which natural heritage features will be affected, nor provided any evidence of what the adverse impact would be, nor described how this would be unacceptable. Furthermore, their concerns relate to the construction stage of the proposal which may cause spread of Japanese Knotweed and resultant harm, rather than any harm caused by the proposal in itself. The Council's sixth refusal reason and third party concerns in this regard are not sustained.
31. The appeal site, while within the settlement limits of Ballycastle is also located within the AONB. The Council has concerns that the proposal would be contrary to Policy NH6 of PPS2 in that it would have a detrimental impact on the character and appearance of the AONB. They consider that insufficient information has been submitted to demonstrate that a dwelling and garage on this site would result in a detrimental impact on the character and appearance of the AONB. I am not persuaded that a single dwelling within the urban context of Ballycastle town would have an adverse impact on the AONB or would constitute an incongruous form of development in the townscape in relation to the AONB. Notwithstanding that the appellant has failed to provide any detail regarding the siting and design of the proposal, the Council has not provided any evidence as to how the proposal would have a detrimental impact on the character and appearance of the AONB, contrary to Policy NH6 of PPS2. For the reasons given, the Council's seventh refusal reason is not sustained.
32. Nevertheless, for the reasons given above, the proposal is contrary to Policies QD1 and QD2 of PPS7, Policy LC1 of APPS7, and AMP2 of PPS3 and the related provisions of the SPPS. The Council's first, second, third, and fifth refusal reasons are sustained to the extent specified and these are determining. Accordingly, the appeal must fail.

This decision is based on the following drawings stamped received by the Council :-

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Date</b>
01	Location Plan	1:2500@A4	6 <sup>th</sup> April 2022
02	Visibility Splays	1:500 @A3	6 <sup>th</sup> April 2022

**COMMISSIONER CATHY MCKEARY**



**List of Documents**

Planning Authority:- Statement of case by Causeway Coast and Glens Borough Council  
Rebuttal by Causeway Coast and Glens Borough Council

Appellant:- Statement of case by CMI Ltd on behalf of Michael McShane

Third Parties:- Statement of case by Clyde Shanks on behalf of:  
Mr M Henry  
Mr & Mrs D Fothergill  
Mrs S Fothergill  
Mr P Donnelly  
Mr L Quigg  
Ms G Patrick

Rebuttal by Clyde Shanks on behalf of the aforementioned residents