
Appeal Reference:	2022/A0092
Appeal by:	Mr C Douglas
Appeal against:	The refusal of full planning permission.
Proposed Development:	Proposed erection of a dwelling.
Location:	Lands east of and immediate adjacent to 112b Moy Road, Scotch Street, Portadown and immediately north of 6-9 Timakeel Close, Scotch Street, Portadown.
Planning Authority:	Armagh City, Banbridge and Craigavon Borough Council.
Application Reference:	LA08/2020/1338/F
Procedure:	Written representations and Commissioner's site visit on 27 th August 2024.
Decision by:	Commissioner Jacqueline McParland, dated 5 th September 2024.

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs was made by Mr C Douglas against the Council. This claim is the subject of a separate decision.

Reasons

3. The main issues in this appeal are whether the proposal is acceptable in principle and would result in the loss of existing open space.
4. Section 45(1) of the Planning Act (Northern Ireland) 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.
5. The Craigavon Area Plan 2010 (CAP) operates as the Local Development Plan (LDP) for the area wherein the appeal site is located. In the CAP the site is on unzoned land located within the settlement limit of Scotch Street. There are no policies within the CAP relevant to the appeal proposal.
6. 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 area. The SPPS sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. The retained policy of relevance to this appeal are Planning Policy Statement 7: Quality Residential Environments (PPS 7), the addendum to Planning Policy Statement 7: Safeguarding Areas of Established Residential Character (APPS 7) and Planning Policy Statement 8: Recreation and Open Space (PPS 8). As there is no conflict between the provisions of the SPPS and retained policy, the appeal should be determined in accordance with the retained policies listed above.

7. Planning application N/2012/0413/F granted planning permission on the appeal site for a single storey dwelling on 25th November 2013. All parties were agreed that this planning permission was not implemented and lapsed prior to the submission of the appeal proposal to the Council.
8. The appeal site is bounded by the Moy Road and the road which provides access to Timakeel Close. It is triangular in shape. There is a mound of soil in the middle of the appeal site that is overgrown in rough grass and shrub type vegetation. This overgrown vegetation occupies the majority of the remainder of the appeal site. The appeal site's boundary with No. 112b Moy Road is demarcated by cypress leyandii trees which are around 2 metres tall. The southern boundary is defined by deciduous vegetation around 5 metres in height. The boundary to the southeast is undefined to the remainder of the grassed area at the junction of Timakeel Close and Moy Road. The boundary to the north of the appeal site is undefined to the footpath which runs adjacent to the Moy Road.
9. The surrounding area is characterised primarily by residential development. To the south of the appeal site is Timakeel Close, which are red brick detached chalet bungalows. To the west of the appeal site lies No. 112b and three further detached single storey bungalows sited in a linear form. These dwellings are finished in white pebble dash. To the north of the appeal site lies Moy Road, with Timakeel Grange, a housing development comprising of two storey semi-detached and detached dwellings and single storey dwellings finished with a mixture of red brick and smooth render painted situated to the other side of the Moy Road. Within the wider area there are retail, ecclesiastical and educational land uses. A gospel hall is situated around 180 metres to the northeast, finished in natural stone.
10. Policy OS 1 'Protection of Open Space' of PPS 8 states that planning authorities will not permit development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance. The policy further lists several exceptions to the policy one of which includes that a proposal would be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.
11. Annex A of PPS 8 sets out the definition of open space for the purpose of the interpretation of PPS 8. It states that open space is taken to mean all open space

of public value, including not just land, but also inland bodies of water such as rivers, canals, lakes and reservoirs which offer important opportunities for sport and outdoor recreation and can also act as a visual amenity. Paragraph A2 sets out types of open space that are considered to have public value. The Council consider that the appeal site comprises an amenity green which provides a visual amenity within the settlement limit of Scotch Street. They state that even without public access, people could enjoy having open space near to them to provide an outlook, variety in the urban scene, or as a positive element in the landscape.

12. A mound of soil around 8 metres long, which has become overgrown with rough grass and vegetation occupies the appeal site. Notwithstanding its current state, the appeal site is narrow and is sited in an isolated position between two roads. It is surrounded by development which is the dominant feature in the streetscape. It does not provide a visual break or variety in the urban scene. Given its size, isolated location and the surrounding development, I do not consider that the appeal site comprises a positive element of visual amenity in the landscape or an outlook which contributes to the quality of amenity within the surrounding area. As such I do not consider that it has public value. Accordingly, it does not represent an area of open space which is envisaged by Policy OS 1 of PPS 8 which warrants protection. Consequently, the Council has not sustained its second reason for refusal.
13. Policy QD 1 'Quality in New Residential Developments' of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. Policy QD 1 of PPS 7 requires that criteria (a) to (i) are met. Furthermore, Policy LC1 'Protecting Local Character, Environmental Quality and Residential Amenity' of APPS 7 states in established residential areas 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 PPS 7, and all the additional criteria (a) to (c) are met. The Council consider that the proposal would be contrary to criterion (a) of Policy QD1 of PPS 7 and criterion (b) of Policy LC 1 of APPS 7.
14. Criterion (a) of Policy QD1 of PPS 7 requires that a development proposal 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 surfaced areas. Criterion (b) of Policy LC1 of APPS 7 requires that the pattern of development is in keeping with the overall character and environmental quality of the established residential area. The Council considers that the appeal proposal is not appropriate and would not respect the surrounding character of the area as its layout, scale, proportions, massing and appearance results in a contrasting house type and contrasting finishes that would not compliment the context of the surrounding development.

15. Drawing No. 01B date stamped 8th April 2021 illustrates that the proposed dwelling would consist of two blocks connected by a single storey link. The block adjacent to Timakeel Close would be a linear single storey rectangular block measuring 14.5 metres in length, 4.6 metres wide and 5 metres in height. This block would be finished in grey Tegral Vetigo fibre cement cladding. A 3-metre-high flat roofed entrance hallway serves as the link which connects the two blocks of the dwelling. This link would be finished in Donegal Slate stone. The block adjacent to Moy Road measures 13.3 metres in length, 5.2 metres wide and 6.3 metres in height. This block of the dwelling would have two floors and would be finished in white pebble dash.
16. The parties have different opinions in relation to what the character of the surrounding area and the established residential area (ERA) comprises of. Annex E of APPS 7 defines an ERA as normally taken to mean residential neighbourhoods dominated by medium to low-density single-family housing with associated private amenity space or gardens. These areas may include buildings in commercial, retail or leisure services use, usually clustered together and proportionate in scale to the size of the neighbourhood being served.
17. The appeal proposal would be read together with the existing housing developments of Timakeel Grange and Timakeel Close, the individual dwellings of Nos. 112b, 112, and 113 Moy Road, the Petrol Filling station and associated businesses and the remainder of the development located adjacent to the Moy Road up to and including the gospel hall when travelling in an eastern direction. Accordingly, I consider that these existing developments should encompass the ERA and surrounding area to be considered in this appeal.
18. Within this surrounding area, there are single storey dwellings, chalet bungalows and two storey dwellings. The appeal proposal includes a mixture of proposed heights which are all in keeping with the height of the existing dwellings in the ERA. However, the layout and proportions of the appeal proposal result in a dwelling which will span the width of the appeal site. Whilst the appeal site is narrow, the proposed layout of an almost 'H' shaped dwelling would not respect the existing building line or the linear proportions or massing of the buildings within the ERA. Furthermore, the use of grey fibre cement cladding is also not present on any of the existing buildings within the established residential character area and surrounding area. Consequently, the massing and proportions and the use of the cement cladding would not be in keeping with the character of the surrounding ERA.
19. Notwithstanding this, the gospel hall to the northeast of the appeal site is finished in stone and the pillars and wing walls to the access adjacent to the school to the northeast is also finished in a natural stone material. The dwellings at Nos. 112b, 112a and 113 Moy Road are also finished in white dash and accordingly, I consider both white marble dash and natural stone are suitable materials for use within this ERA.
20. The appellant raised what they considered precedents to further their case in respect of the first reason for refusal including LA08/2018/1083/F and LA08/2016/0354/F. However, as no decision notices or drawings were included within the appellant's evidence, I cannot conduct an assessment as to whether these planning permissions are on all fours with the appeal proposal. Accordingly,

as I have found that the appeal proposal's proportions, massing and the use of grey fibre cement cladding does not respect the character of the established residential character, the appeal fails to meet criterion (a) of Policy QD 1 of PPS 7 and criterion (b) of Policy LC 1 of APPS 7. The Council has sustained its first reason for refusal in so far as stated.

21. As the Council's first reason for refusal has been sustained in so far as stated, and is determining, the appeal fails.

This decision is based on the following drawings: -

Drawing No. 01B, Scale 1:100, 1:200 and 1:1250, 'Scheme Proposals', date stamped 8th April 2021;

Drawing No. 02, Scale 1:50 and 1:500, 'Section', date stamped 4th November 2020; and

Drawing No. 03, Scale 1:500, 'PSD Drawing', date stamped 8th April 2021.

COMMISSIONER JACQUELINE MCPARLAND.

List of Documents

Planning Authority: - "A1" Statement of Case
"A2" Rebuttal

Appellant: - "B1" Statement of Case
"B2" Rebuttal