
Appeal Reference:	2022/A0137
Appeal by:	Mr E Crawford
Appeal against:	The refusal of outline planning permission
Proposed Development:	Proposed infill dwelling
Location:	East of No. 15A Aghnamoira Road, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2022/0710/O
Procedure:	Written representations and Commissioner's site visit on 12 th September 2024
Decision by:	Commissioner K S Donaghey, dated 4 th October 2024

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether or not the appeal development would:
 - be acceptable in principle,
 - result in ribbon development,
 - integrate satisfactorily into the landscape, and
 - adversely impact on rural character.
3. Section 45(1) of the Planning Act 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application and any other material considerations. Section 6(4) of the Act requires that where, in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the proposal. The plan locates the appeal site within the Mournes AONB.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. No Plan Strategy has been adopted for this council area. The SPPS also retains certain existing Planning Policy Statements including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). The SPPS is no more prescriptive than PPS 21 on the issues raised in this appeal. Thus, the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.

5. The site comprises a roadside paddock field which is separated from the road to the east by a timber ranch style fence which is around 1m in height. A private laneway runs along the southern boundary of the appeal site which serves as an access for the dwelling at No. 15B Aghnamoira Road which sits to the west of the appeal site. The dwelling at No. 15A Aghnamoira Road which sits immediately adjacent to the appeal site to the west, is separated from the road by the appeal site itself, access to this dwelling runs along the northern boundary of the site. The boundary between the appeal site and No. 15A Aghnamoira Road is defined by a line of well established coniferous hedging. Two further dwellings are situated around this dwelling, No. 15B Aghnamoira Road sits immediately to the west of No 15A Aghnamoira Road. The dwelling at No. 15 Aghnamoira Road is immediately to the north of and adjacent to No. 15A Aghnamoira Road. This dwelling is set back from the road and separated from it by a roadside field. The access to No. 15 Aghnamoira Road is shared with No.15A Aghnamoira Road which runs along the northern boundary of the appeal site.
6. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in principle 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 CTY 8. Policy CTY 8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it goes on to say 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 purposes of this policy the definition of a substantial and continuously built-up frontage includes a line of 3 or more buildings.
7. A substantial and continuously built-up frontage must comprise 3 or more buildings. There are three buildings which sit around the appeal site. None of these dwellings abut or share a boundary with the road. All three are separated from the road by intervening fields. The appeal site sits adjacent to the road. The private access to No 15B Aghnamoira Road sits adjacent to the site to the south and the access to Nos. 15A and 15 Aghnamoira Road sit immediately adjacent to the site to the north. The appellant has stated that the approval for No. 15B shows the red line extending into the appeal site and providing frontage to the road.
8. Whether a site has frontage to the road is a matter of fact. The dwelling at 15B Aghnamoira Road sits around 80 metres to the west of the road. It is separated from the road by No. 15A and the appeal site. The appellant's assertion that part of the appeal site comprises the curtilage of No. 15B and provides frontage onto the road is not evident from my own observations of the appeal site. The appeal site is entirely fenced and appears separated from any defined residential curtilage. The dwelling at 15B Aghnamoira Road is linked to the road by access only. The dwelling at 15 Aghnamoira Road is also linked to the road by access only. An access itself cannot be considered frontage and those buildings do not have a frontage to the road. Therefore, for the purposes of Policy CTY 8 of PPS 21, these buildings do not share a common frontage with the appeal site. For a site to be considered an exception to Policy CTY 8 of PPS 21 it must constitute a

small gap within an otherwise substantial and continuously existing built-up frontage. There is no substantial and continuously built-up frontage at this location. Therefore, the appeal site cannot be considered as a small gap site within a substantial and continuously built-up frontage. The appeal proposal cannot be considered an exception to Policy CTY 8 of PPS 21. Therefore, the Council has sustained its second reason for refusal.

9. Policy CTY 13 of PPS 21 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. The Council allege that the appeal development would be prominent in the landscape and that it lacks long established boundaries to provide a suitable degree of enclosure. The Council also argue that the development would rely primarily on the use of new landscaping to aid integration and that the development would fail to blend with the existing landform, existing trees, buildings, slopes and other natural features which provide a backdrop.
10. The landform of the site rises from the roadside in a westerly direction by around 1.5 metres. The rising land to the rear of the site and the well established boundary of coniferous hedging which sits along the western boundary of the site are adequate to provide a suitable degree of enclosure. Notwithstanding my conclusions above on the exceptional test of Policy CTY8, the site is also enclosed on two sides by existing dwellings. The surrounding landform comprises significant natural and built features immediately adjacent to the site and would provide a backdrop to the proposed development. The proposed development would not be at odds with these existing features, which would allow the development to integrate into the surrounding landscape. The degree of enclosure provided by the existing built and natural features then means that the proposed development does not rely primarily upon new landscaping to aid integration. The surrounding built and natural features also provide a significant backdrop to the proposed development which then allows that it would not be a prominent feature in the landscape. Policy CYT13 of PPS21 is met and the Council's refusal reason in respect of this matter is not sustained.
11. Policy CTY 14 of PPS 21 states that 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. It continues that a new building will be unacceptable in five stated cases one of which is criterion (d), where it would create or add to an existing ribbon of development. The Council also argue that the appeal proposal would result in ribbon development and contribute to a suburban style build-up of development. I have considered above that the proposal is not an exception to Policy CTY8 of PPS 21. In addition, the appeal proposal would visually link with the buildings to the west and north creating the appearance of a ribbon of development. I consider that the proposal would create a ribbon of development and contribute to a suburban style build up of development thereby further eroding the rural character of the area. Therefore, the proposal does not satisfy the requirements of Policy CTY 14 in this regard.
12. It has been considered above that the proposed development would integrate satisfactorily into the landscape and not be a prominent feature in the landscape, therefore the Council's objection in respect of undue prominence as it pertains to Criterion (a) of Policy CTY 14 within its fourth reason for refusal is not sustained.

13. The proposal fails to meet Policy CTY 8 and CTY 14 of PPS 21. Policy CTY 1 of PPS 21 states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a nearby settlement. I was given no persuasive evidence why a new dwelling and garage for the appellant is essential and could not be located in a settlement. The proposed development is therefore contrary to Policy CTY 1 of PPS 21. Therefore, the Council has sustained its first reason for refusal. Three of the Council's reasons for refusal are sustained to the extent specified and are determining. Therefore, the appeal is dismissed.

This decision is based on drawing No. 3247LP Rev A which is a site location plan at a scale of 1:1250, which was received by the Council on 18th May 2023.

COMMISSIONER KENNETH DONAGHEY

List of Documents

Planning Authority:- "A1" – Written statement of case

Appellant:- "B1" – Written statement of case and appendices
"B2" – Written rebuttal statement