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<b>Appeal Reference:</b>	2022/A0147
<b>Appeal by:</b>	Mr & Mrs Tony McCarron
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Site for two dwellings
<b>Location:</b>	Site adjacent to / 40m north west of No. 16 Moss Road Aghagallon, Craigavon, with access off Derrymore Road
<b>Planning Authority:</b>	Armagh City, Banbridge & Craigavon Borough Council
<b>Application Reference:</b>	LA08/2020/1475/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 17 <sup>th</sup> October 2024
<b>Decision by:</b>	Commissioner Gareth Kerr, dated 30 <sup>th</sup> October 2024

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside, whether it would be detrimental to the rural character of the countryside and whether it would prejudice road safety.
3. Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Craigavon Area Plan 2010 acts as the LDP for this area as the Council has not yet adopted a plan strategy for the district as a whole. In it, the site is unzoned land in the countryside approximately 350m east of the small settlement of Derrymore. The Plan states that development proposals within the rural remainder will be considered in accordance with prevailing regional planning policies.
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. It also retains certain existing Planning Policy Statements (PPSs) including PPS 3 – Access, Movement and Parking and PPS 21 – Sustainable Development in the Countryside. Development Control Advice Note 15 'Vehicular Access Standards' (DCAN 15) is a material consideration. The SPPS is no more prescriptive than the retained policies 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. Policy CTY1 of PPS 21 sets out the types of development which are considered to be acceptable in principle in the countryside. Under the sub-heading “Housing Development”, six instances where planning permission will be granted are set out. One is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. 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 settlement.
6. Policy CTY8 is entitled “Ribbon Development” and it states that planning permission will be refused for a building which creates or adds to a ribbon of development. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development if they have a common frontage or they are visually linked. However, the policy permits as an exception the development of a small gap site sufficient only to accommodate a maximum of two houses within an otherwise substantial and continuously built up frontage 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 three or more buildings along a road frontage without accompanying development to the rear.
7. The appeal site is relatively flat and comprises the western portion of an agricultural field. It is accessed by a shared laneway off Derrymore Road which serves six existing dwellings. Foundations have been installed for a further dwelling. Most of these dwellings are to the north of the appeal site and one is to the west. To the north is an existing ribbon of development comprising dwellings and associated outbuildings at Nos. 6, 6a and 8 Derrymore Road. Immediately south of the appeal site is a plot containing a dwelling at No. 16 Moss Road (accessed from Moss Road to the east), an old dwelling which it replaced and several outbuildings. This plot also has a gated access to the shared laneway at the point where it turns west towards No. 10a. Although this part of the plot is grassed, there are tyre tracks suggesting that the access has been used by vehicles.
8. The appellants describe the old redundant dwelling as “10 Derrymore Road”, which appears to have been its original address. However, the Council pointed out that the dwelling known as No. 10 Derrymore Road is now located further north along the shared laneway, opposite No. 6. When the old dwelling was replaced to the east in the 1990s and access to the plot was to be taken from Moss Road, the address of this plot became 16 Moss Road. As the number 10 Derrymore Road was no longer in use, it seems to have been re-used for a new development further north along the shared laneway at a later time. To avoid any confusion, I will refer to the replaced dwelling as “the old dwelling at No. 16 Moss Road” from this point onwards.
9. The appellants argue that the appeal site comprises a small gap between No. 8 Derrymore Road and the old dwelling at No. 16 Moss Road in an otherwise substantial and continuously built up frontage. They contend that in accordance with the existing development pattern, the gap could accommodate two dwellings. The Council considers that although the buildings to the rear of No. 16 Moss Road have

access to the shared laneway, they do not have frontage to it, and so the appeal site cannot comprise a small gap in a substantial and continuously built up frontage.

10. Paragraph 5.33 of the Justification and Amplification to Policy CTY8 states that for the purpose of this policy, a road frontage includes a private lane. There is no dispute that the dwellings at Nos. 6, 6a and 8 Derrymore Road have frontage to the road. A building has frontage to a road if the plot on which it stands abuts or shares a boundary with the road. However, an access alone does not constitute frontage.
11. The buildings at No. 16 Moss Road (including the former dwelling and several other outbuildings) are contained within a single plot which is principally accessed from Moss Road to the east. The plot also has a rear access point from the corner of the shared laneway. However, due to the change in direction of the laneway at this point, the plot's only connection to the laneway is the mouth of its access point. It has no other frontage to the laneway and I am not persuaded that the access alone constitutes frontage to the laneway. The appellants argued that the right-angle in the shared laneway was "newly established", but provided no evidence that this was the case, or that the lane had previously continued south past the plot in question. Any such suggestion is belied by the (undated) historical map in their evidence which shows the laneway heading west from the appeal site in its current location.
12. As No. 16 Moss Road only has access to the lane and no frontage to it, the buildings within the plot cannot contribute to a substantial and continuously built up frontage along the laneway. Furthermore, having regard to the layout of the buildings within the plot, the old dwelling at No. 16 Moss Road, relied upon by the appellants, has accompanying development to the rear whereas the policy requires that qualifying buildings are lined out along a road frontage without accompanying development to the rear. Whilst I agree with the appellants that two dwellings in the appeal site would respect the existing development pattern along the frontage, the buildings at No. 16 are not part of a substantial and continuously built up frontage along the laneway, and it follows that the appeal site is not a small gap in such a frontage for the purposes of the policy. I conclude that the proposal would not meet the limited exception provided for in Policy CTY8. Rather, it would add to the existing ribbon of buildings with a common frontage along the shared laneway to the north of the appeal site. The Council's concerns in respect of Policy CTY8 are sustained. As no other overriding reasons why the proposed dwellings are essential in the countryside have been presented, they are also contrary to Policy CTY1. Therefore, the Council has sustained its first and second reasons for refusal.
13. Policy CTY14 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. I have already found that the proposals would add to a ribbon of development, contrary to criterion (d). The Council also argued that they would result in a suburban style build-up of development when viewed with existing and approved buildings, contrary to criterion (b). The appeal sites are located in a relatively flat landscape and I consider that there is already a build-up of development along the shared laneway when viewed both from the laneway and from Moss Road to the east. The development of two further dwellings on the appeal site, which would be intervisible with the existing buildings would act to further suburbanise an area which has a limited capacity to absorb more development given its flat landscape. I do not accept that these concerns could be overcome by

careful design or tree planting, as suggested by the appellants. Accordingly, the Council has sustained its third reason for refusal.

14. Policy AMP2 of PPS 3 concerns access to public roads. It 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. The Justification and Amplification text to this policy indicates that DCAN 15 sets out the current standards for sightlines, radii, gradient etc. that will be applied to both new access and intensified use of an existing vehicular access onto existing public roads. It further states that whatever the type of access, good visibility is essential for the safety and convenience of all road users. The Department will expect applicants to have control over the land required to provide the requisite visibility splays and ensure that they are retained free of any obstruction. It goes on to recognise that it may not always be practicable to comply fully with the appropriate visibility standards. Such standards, like all material considerations, need to be assessed in light of the particular circumstances of the individual case. Exceptionally a relaxation in standards may be acceptable in order to secure other important planning objectives. Visibility standards, however, will not be reduced to such a level that danger is likely to be caused.
15. The existing access where the shared lane joins the Derrymore Road serves six existing dwellings and another is under construction. Some residents expressed concern to the Council regarding the volume of traffic already using the laneway and the potential for this to increase. Its use for two additional dwellings would constitute intensification of the use of the access, so Policy AMP2 is engaged. The Department for Infrastructure, Roads was consulted and stated that the entrance is substandard and would require improved visibility splays and an increase in width at the entrance to allow two vehicles to pass. They suggested that an appropriate standard of visibility would be 2m x 45m, but indicated that some improvement short of this standard may be acceptable. At my site visit, I observed that the existing hedge to both sides of the entrance is close to the road edge, limiting visibility.
16. The appellants do not control the land necessary to provide the improved width or visibility splays. The Council gave them an opportunity to submit improvements, but none were received. The appellants' evidence argued that the provision of the requested visibility splays of 2m x 45m could be conditioned as part of any outline planning approval. However, they did not offer any specific improvements, did not engage at all with the issue of insufficient width for cars to pass and did not discuss the prospect of whether the necessary land could be obtained.
17. I concur with the Council that if the lane was to serve nine dwellings, it would require substantial improvement to visibility along the public road and to its opening width so that a vehicle could wait for another to pass clear of the public road. As no proposal for improvement has been made and the relevant landowners have not been served notice of any proposed improvements, I cannot be assured that improvements are at all practicable and it would not be appropriate to disregard the Council's road safety concerns through the use of a planning condition. As it has not been demonstrated that the development will not prejudice road safety, the Council has sustained its fourth reason for refusal.

18. As the Council's four reasons for refusal have been sustained and are determining, the appeal must fail.

This decision is based on drawing No. 01A, site location map at scale 1:2500, bearing the Council date stamp 01 January 2021.

**COMMISSIONER GARETH KERR**

## **List of Documents**

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| Planning Authority:- | A | Statement of Case<br>Armagh City, Banbridge & Craigavon Borough Council  |
|                      | B | Rebuttal Statement<br>Armagh City, Banbridge & Craigavon Borough Council |
| Appellants:-         | C | Statement of Case<br>NI Planning Permission Ltd.                         |
|                      | D | Rebuttal Statement<br>NI Planning Permission Ltd.                        |