
Appeal Reference:	2022/A0143
Appeal by:	Mr P White
Appeal against:	The refusal of outline planning permission
Proposed Development:	Storey and a half dwelling on a farm
Location:	23m north of 21 Island Road, Attical, Kilkeel, BT34 4S
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2022/0080/O
Procedure:	Written representations and Commissioner's site visit on 8 April 2024
Decision by:	Commissioner McShane, dated 23 April 2024.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are:
 - whether the proposed development is acceptable in principle; and
 - its impact on visual amenity and rural character.
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the statutory development plan for the area. The appeal site is in the countryside within the Mourne Area of Outstanding Natural Beauty (AONB). There are no operational planning policies pertinent to the determination of the appeal proposal in the plan. Therefore, I turn to the other material considerations.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications and appeals. Paragraph 6.73 of the SPPS sets out the strategic policy for residential development in the countryside that should be considered in the determination of planning applications. The SPPS identifies Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) as a retained policy document.
5. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are acceptable in the countryside and that will contribute to the aims of sustainable development. Planning permission will be granted for residential development in the countryside in specific circumstances. The Appellant argues that the appeal

proposal comprises a dwelling on a farm in accordance with Policy CTY 10 of PPS 21.

6. Under Policy CTY 10, planning permission will be granted for a dwelling house on a farm where three criteria are met. The parties dispute Criterion (c), which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm.
7. The Justification and Amplification section of Policy CTY 10 states that to help minimise impact on the character and appearance of the landscape, such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.
8. The appeal site, located east of Island Road, comprises a portion of a larger agricultural field. The roadside and southern boundaries are demarcated by drystone wall. The northern and eastern boundaries are undefined. Topography rises from the road to the east.
9. The established farm buildings on which the Appellant is relying are located approximately 75m south of the appeal site. The proposed dwelling would be separated from these buildings by a portion of an agricultural field and thereafter by a modern single storey dwelling (No.21). The latter is not identified as part of the farm holding. As such, the proposed dwelling would not form an integral part of the farm buildings, rather it would read as a standalone development in the countryside. Furthermore, there would be a clear appreciation of the physical separation between the proposed dwelling and the farm buildings, given the intervening field and existing dwelling.
10. The proposed dwelling fails to comply with Criterion (c) of Policy CTY 10. As such, it is also contrary to Criterion (g) of Policy CTY 13, which states that a proposed dwelling on a farm will be unacceptable where it is not visually linked or sited to cluster with an established group of buildings on a farm. The objective of Criterion (g) of Policy CTY 13, which references Policy CTY 10, is to help minimise the impact of development on visual amenity.
11. Policy CTY 10 states that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s). Where an alternative site is proposed under Criterion (c), which is removed from existing buildings on the farm, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive (HSE) or the Environmental Health Department (EHD) of the local Council to justify the siting.
12. The Appellant claims that the appeal site comprises the closest available site to the farm buildings. It is argued that the NIE mains wires crossing the field immediately adjacent to No.21, would preclude the siting of the proposed dwelling at that location. However, no independent evidence from the HSE or EHD to this

effect was provided. Rather, the rationale provided by the Appellant relates to the financial implications of relocating the electricity lines, which it is argued would render the development financially unviable. No independent evidence was submitted on the costs involved. In any event, development costs are a matter for the Appellant and do not justify setting policy aside.

13. The Appellant argues that the “Planning Committee’s” approval of a dwelling 50m south of No.24 Island Road (LA07/2018/1614/O) sets a precedent for approval of the appeal proposal. However, I have not been persuaded that the circumstances pertaining to that case are directly comparable to the appeal proposal. Significantly, in that instance there is no dwelling unrelated to the farm holding between the approved site and the established farm buildings. There is no support for the appeal proposal under Policies CTY 10 and CTY 13. Accordingly, the Council has sustained its second and third reasons for refusal.
14. 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 settlement. I have not been persuaded that there are overriding reasons why the appeal dwelling is essential at this specific location. Accordingly, the Council has sustained its first reason for refusal based upon Policy CTY 1 of PPS 21.
15. 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. Under Criterion (d), a new building will be unacceptable where it creates or adds to a ribbon of development. In this context, reference is made to Policy CTY 8 of PPS 21.
16. Paragraph 5.33 of Policy CTY 8 states that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or are visually linked.
17. From Island Road, the proposed dwelling would read with No.21 and thereafter with the farm buildings. Notwithstanding the gap between the proposed dwelling and No.21, the proposed development would create a ribbon of development that would cause a detrimental change to the character of this rural area. Accordingly, the Council has sustained its fourth reason for refusal based upon Criterion (d) of Policy CTY 14 and Policy CTY 8.
18. The Council has sustained its four reasons for refusal based upon Policies CTY 1, 10, 13, 8 and 14 of PPS 21. Accordingly, the appeal must fail.

This decision is based on the following drawing:-

- App Drwg No.3276 PL LP: Site Location Plan (Scale 1:2500)

COMMISSIONER MCSHANE

List of Documents

Planning Authority:- “LPA 1” Statement of Case and Appendices
(Newry, Mourne and Down District Council)

Appellant:- “APP 1” Statement of Case
“APP 2” Rebuttal Statement
(Cole Partnership)

