

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by Mr David Carr
against the refusal of outline planning permission for the erection of a replacement
dwelling and detached garage with retention of existing building as store
Approximately 60m South West of 13 Drumanphy Road, Roughan, Portadown.**

**Report
by
Commissioner Gareth McCallion**

Planning Authority Reference: LA08/2021/1086/O

Procedure: Written Representations

Date of Site Visit: 13th February 2024

Report Date: 19th February 2024

1.0 BACKGROUND

- 1.1. Armagh City, Banbridge and Craigavon Borough Council (the Council) received the planning application on 16th July 2021. By notice dated 12th August 2022 the Council refused outline planning permission giving the following reasons: -
- 1. The proposal is contrary to the Strategic Planning Policy Statement and to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
 - 2. The proposal is contrary to the Strategic Planning Policy Statement and to Policy CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be replaced fails to exhibit the essential characteristics of a dwelling.**
- 1.2. The Commission received the appeal on 6th December 2022 and advertised it in the local press on 10th March 2023. No representations were received from third parties.

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal site lies southwest of Nos. 11 and 13 Drumanphy Road. It is a roadside site, with a residential property adjoining the southeast boundary of the appeal area. The character of the surrounding area is rural, with farmlands and rural dwellings located off the Drumanphy Road.
- 2.2 The appeal site comprises part of an agricultural field. It contains the appeal building which is located close to the southeastern corner. A concrete yard, cattle crush and an animal pen are located to the front of the building. An enclosed paddock, layered with sand, is located adjacent to the eastern gable wall of the building. The northern boundary of the appeal site is undefined. The roadside hedgerow has been maintained at a height of c. 1metre. The host field is bounded to the south, west and east by mature hedgerows.
- 2.3 The appeal building fronts onto the Drumanphy Road. Access to the appeal site is taken directly from the road. An agricultural gate is in place to secure access to and from the site.
- 2.4 The appeal building is single storey and is of a vernacular form. A small addition has been added to the western gable wall of the building. There are four exterior doorways into the building, all of which face towards the Drumanphy Road. Externally, the walls at the front and eastern gable of the building have been rendered with an uneven, textured finish. The external walls are all load bearing and support a corrugated tin roof. Black uPVC guttering runs the length of the front of the building, directly beneath the south facing eave. The external rear elevation contains six apertures, four of which have been full blocked up and two with small gaps remaining, of various sizes and lack symmetry and regularity.

- 2.5 A residential property, No. 10 Drumanphy Road, is located opposite the appeal site. This dwelling is a double fronted 1 ½ storey red brick dwelling with a detached double garage. To the rear of No. 10 Drumnaphy Road there are several large sheds constructed from block work and corrugated metal. Two dwellings are located to the southeast of the appeal site. These comprise a 2-storey house with a single storey southeasterly return, built largely from red brick and a bungalow, mostly rendered, and painted white, respectively. Both properties are set back from the Drumanphy Road with sizable private gardens to the front. The lands to the northwest of the appeal site comprise of agricultural lands and fields containing plantations (orchards).

3.0 PLANNING AUTHORITY'S CASE

- 3.1 As defined by the Craigavon Area Plan 2010 (CAP), the appeal site is in a rural area. There are no designations or zonings pursuant to the CAP which affect the appeal site. The policy provisions of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) are applicable to the proposed development. The proposed development was refused for failing to comply with policies, CTY 1 'Development in the Countryside' and CTY 3 'Replacement Dwellings', of PPS 21.
- 3.2 Policy CTY 1 identifies a range of development types which are acceptable in principle in the countryside. One type of development is a replacement dwelling in accordance with Policy CTY 3. It follows that if the proposed development complies with Policy CTY 3 it will also comply with Policy CTY 1.
- 3.3 The appeal site comprises of land within the rural area. It is considered that the development is unacceptable and does not comply with the types as listed in Policy CTY 1. There are no overriding reasons why the proposed development is essential in this rural location and could not be located within a settlement. Therefore, the proposal is contrary to the SPPS and Policy CTY 1 of PPS 21.
- 3.4 Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and, as a minimum, all external structural walls are substantially intact. The existing building is a single storey, linear building with the walls built using stone/mud with a tin roof. The building's external walls are intact. Presently, it is used for storage and as stables.
- 3.5 The essential characteristics of a dwelling are not prescribed by policy. The Planning Appeals Commission (PAC) has detailed that it would not be unreasonable to expect to see a chimney, domestic scaled window and door openings, a chimney breast and some internal room divisions all of which would give a building the appearance of a dwelling. There are domestic scaled door openings on the front elevation of the building. There are no other openings on any of the other elevations. Whilst the size of the door openings is commensurate with a traditional rural dwelling, the number and positioning are not typical. The doors and lack of window openings on the elevation facing the roadside are at odds with what one would expect a dwelling, with frontage to the road, to exhibit.

- 3.6 From the outside, the building exhibits all the characteristics of a stable block. There are no signs of a chimney or a flue on the building. Both would be considered as evidence of residential use. Internally, the building consists of three rooms. Two of these rooms are used as stables. The remaining room is used as a store. The stable floors are lined with straw and contain water buckets and hay nets. Both have half doors into them. The later addition to the building has a mono pitched roof and a single door, opening onto the front. Historical maps show that this addition, which is used for storage, was likely to have been constructed post 2003.
- 3.7 The building has no defined boundary or curtilage. It sits in a field with no boundary separating the building beyond that of the yard at the front of it. There is a defined animal pen associated with the building.
- 3.8 The Griffith Evaluation Map of 1864 shows a linear building located at the roadside. However, the historic information is inconclusive as the building denoted within it is more elongated than the present structure and extends across the frontage. This evidence does not provide proof that the building was used as a dwelling.
- 3.9 Following a request to provide evidence that the building was used as a dwelling, no information was forthcoming. A Ms Sarah Doris Giles (formerly Todd) wrote to the Council. In her letter she advised that the property at 13 Drumanphy Road was previously owned and lived in by her father's aunt, a Miss Margaret Todd, until her passing in October 1945. Ms Giles also advised that the property was then left to her uncle, a Mr Thomas John Todd, who rented the property to the Stothers family. The Stothers family lived in the house until 1961. Ms Giles advised that both her and her brother would have regularly visited the home at this time and played there along with the Stothers family children.
- 3.10 Policy CTY 3 'Replacement Dwellings' explicitly states, 'the building to be replaced' must relate to the same building, not the one that has been changed or rebuilt. The proposed replacement building does not exhibit the essential characteristics of a dwelling and does not comply with the policy. Therefore, no replacement opportunity arises in this case.
- 3.11 If the Commission determines that planning permission be granted, the following conditions are recommended without prejudice:
- Time limit;
 - Submission of plans denoting siting, design, external appearance, landscaping, and access arrangements;
 - Restricted use of the retained appeal building;
 - Ridge height of less than 6m above finished floor level;
 - Underbuild no more than 0.45m;
 - Finished floor levels in relation to existing and proposed ground levels;
 - Replacement of any dying or damaged vegetation within first 5 years of planting; and
 - Access details in accordance with DCAN15.

4.0 APPELLANT'S CASE

- 4.1 No statement of case was submitted.

5.0 CONSIDERATION

- 5.1 The main issue in this appeal relates to whether the development would be acceptable in principle in the countryside.
- 5.2 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 (LDP), 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 LDP, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.
- 5.3 The Craigavon Area Plan 2010 currently operates as the relevant LDP where the appeal site is located. As per the Plan, the site is in the countryside. There are no provisions within the LDP which are material to the determination of the appeal.
- 5.4 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 (PS) for their council area. No PS has been adopted for this Council area. During the transitional period, the SPPS retains certain existing Planning Policy Statements (PPS), including PPS 21 'Sustainable Development in the Countryside' (PPS 21). There is no conflict between the provisions of the SPPS and those of the retained policies on the issues raised in this appeal. Therefore, the appeal should be determined in accordance with the retained policies as set out in PPS 21.
- 5.5 Policy CTY 1 'Development in the Countryside' of PPS 21 directs that there are a range of development types which, in principle, are acceptable in the countryside and which will contribute to the aims of sustainable development. It advises that planning permission will be granted for an individual dwelling house in the countryside for a replacement dwelling in accordance with Policy CTY 3 'Replacement Dwellings'. Policy CTY 1 also advises 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*". The Council advised that, on request, no overriding reasons were presented by the Appellant during the planning application process. Likewise, the Appellant did not present a case as to why the development at this location is essential and why it could not be located in a settlement. Therefore, the only matter before the Commission is whether planning permission can be granted for a replacement dwelling in accordance with Policy CTY 3. If it is found that the proposal complies with Policy CTY 3, it follows that it also complies with Policy CTY 1.
- 5.6 PPS 21 Policy CTY 3 states that "*planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact*". It states further that "*all references to 'dwellings' will include buildings previously used as dwellings*". Additionally, it advises that, buildings designed and used for agricultural purposes, such as sheds or stores and, buildings of a temporary construction will not be eligible for replacement under this policy.
- 5.7 The essential characteristics of a dwelling are not prescribed for within Policy CTY 3. The Council has advised that these specifics have been detailed by the PAC.

However, the Council has failed to provide any reference to a specific appeal or append any appeal decisions to its evidence, which is unhelpful.

- 5.8 Annex 2 of PPS 21 advises that the publication of 'A Sense of Loss – The Survival of Rural Traditional Buildings in Ireland' (March 1998) provides a definition of what, in particular, constitutes the rural vernacular dwelling. It helps in describing the essential characteristics of a vernacular dwelling. It states that the "*rural vernacular traditional architecture is the construction of small plain buildings in the countryside (particularly before 1925) where the dominant influence in siting, materials, form and design is local 'folk tradition'. Such vernacular buildings will have been typical, i.e. of a common type in any given locality and will lack the individualistic and 'educated' design features that characterised international fashions in formal architecture during the same period*". Annex 2 provides an inventory of primary and secondary characteristics of a rural vernacular house. It advises that rural vernacular houses may be recognised as such by meeting most of the primary characteristics and some of the secondary characteristics conferred in the list. Therefore, whilst I would agree that it may be reasonable to expect to see a chimney, a chimney breast and some internal room divisions, it is important to inspect every aspect of the building to ascertain if it exhibits the essential characteristics of a dwelling.
- 5.9 The building has been constructed on a linear plan and the external walls are all intact. The building exhibits a vernacular style. It has been constructed in a traditional manner, largely using local materials, including natural stone. The front elevation and eastern gable have been rendered. The depth of the building is approximately 6 metres from front to back. The external structural walls are substantially intact. Therefore, the appeal proposal is compliant with the minimum requirement of Policy CTY 3.
- 5.10 Ostensibly, when viewed from the roadside, the building resembles a shed or stable. There are three stable type wooden doors presented along its front and hay spilling out of the same. Indeed, at the time of my visit, two horses were present in the adjacent paddock.
- 5.11 Externally, the rear wall of the building has been constructed using natural stone. Along this elevation, six original openings have been closed up. They are visually identifiable through the positioning of wood lintels, the arrangement of the stone, together with the composition of materials used to close them up. Two of these openings, on the western end of the rear wall, are not completely sealed with small gaps occurring centrally in both. These six openings lack symmetry, vary in size and have low proportion of void to mass. It is considered that all of these openings are likely to represent former rear facing windows.
- 5.12 My internal inspection confirms that the original walls have been largely constructed from natural stone, including the original internal traverse wall located on the lefthand side as I entered the eastern room. The elevation of all the original external perimeter and internal stone walls remain. However, an additional layer of concrete block (of no more than 2 – 3 blocks in height) in order to raise the roof. The internal inspection also identified a window recess located on the right side of the rear wall, corresponding to the external window opening (now closed) on the buildings rear wall. There was evidence of a former internal doorway, now enclosed, as defined by an immersed wooden lintel and contemporary rendering of the wall directly below it.

This doorway is located near the centre of the original internal wall. The internal floor level of the room has been raised by a distinct layer of concrete and the entrance doorway has been established to accommodate the current use as a stable.

- 5.13 The next room along, essentially the middle of the main building, is again accessed via a modern stable doorway. Two recesses are located along the rear wall of this room. These recesses correspond to the external window openings (now closed) on the buildings rear wall. Within this room there was the evidence of a chimney breast and hearth. The chimney breast extended to the top of the original internal wall. Like the walls examined in the previous room, this internal wall has been vertically extended via a slim layer of concrete blocks to support the extant tin roof. There is also the evidence of a space above the hearth which, due to the protruding stonework and traces of fastenings (nails), most likely contained a possible stone or timber mantel. Additionally, directly attached and to the righthand side of the hearth, was a hinged iron fireplace crane. In all probability, this was used for hanging pots over an open fire. An internal doorway was present to the left-hand side of the hearth, blocked up, which would have provided interconnectivity between this room and the adjoining room. As before, the original floor level has been raised through the application of a layer of concrete.
- 5.14 The final room, which is accessed via modern stable doorway, contained several bales of hay and an assortment of implements. The floor of this room has been raised using, inter alia, wooden pallets. Two recesses are visible along the rear wall. These recesses have small gaps in them, providing ventilation and a degree of natural light into the room and correspond to the external windows (now closed bar small gaps in each) found on the rear wall of the building. Two further internal recesses are located to the left of the entrance door. These recesses are positioned at sill height and give the appeared of being blocked up windows.
- 5.15 The 'lean to', located on the western side of the building, has been largely constructed using natural stone. The stonework on the western gable wall of the 'lean to' appears to have been repointed. The front and rear of the 'lean to' has been rendered and the roof is relatively new by comparison to the age and condition of the tin roof covering the main building. The 'lean to' is accessed via a small metal door. Head space is restricted due to the height of the roof and the floor level, which has been raised by a layer of concrete. The internal wall, to the right-hand side as I entered, would have been the original western gable of the main building. This wall, which has been built using natural stone, is intact. The 'lean to' is used to store tools and animal feed. A diesel generator and an electric control box were also present within this room.
- 5.16 The building is linear in form. The original external and two internal traverse walls remain substantially intact. Moreover, each of the walls has been constructed of mass load-bearing materials. It is considered that due to their height and form, these walls would have borne the weight of a shallower pitched, (possibly thatched) roof. The building's current stature has been vertically extended and modified, with the roof height adapted to allow for the provision of concrete floors and taller doorways to now allow for the accommodation of horses. In any event, for the purposes of Policy CTY 3, all references to 'dwellings' will include buildings previously used as dwellings.

- 5.17 Whilst there is no external evidence of a chimney or flue on the building, due to the vertical extensions to the original walls and the construction of a pitched tin roof, as I found during my inspection, the evidence of a chimney breast and hearth remain identifiable. These characteristics, together with the evidence of a mantel, would indicate the past presence of a conventional cooking hearth and kitchen. Inside, over the three rooms, there are several formal recesses to the external stone walls, with a total of five recesses along the rear wall. These are likely to have been window openings. Pursuant to the secondary characteristics, found in Annex 2 of PPS 21, these windows are small, represent a low proportion of void to mass. They also lack symmetry and regularity.
- 5.18 Internal connectivity between the rooms is evident. Former internal doorways were identified which would have allowed intramural access between each of the three rooms throughout the building. The 'lean to', which is likely to have been a later addition, is only accessible externally.
- 5.19 The historical information and letter, as submitted during the application process, including data held on the Census of Ireland 1911 'House and Building Return', provided a chronology of past occupiers of No. 13 Drumanphy Road. However, neither the letter nor the historical data presents persuasive evidence to support the former use of the building as a dwelling.
- 5.20 Nevertheless, from my assessment of the appeal building, particularly inside, it exhibits most of the primary and some of the secondary characteristics of a dwelling as listed in Annex 2 of PPS 21. Notwithstanding the more recent addition of the 'lean to' on the western gable end, the external modifications, particularly to the front elevation, to allow accommodation of horses, nor the vertical extensions to accommodate the tin roof, the building to be replaced exhibits the essential characteristics of a dwelling. I consider that the proposal meets the main element of Policy CTY 3 and represents a replacement opportunity.
- 5.21 The proposal seeks to retain the appeal building as a store. The policy envisages the retention of non-listed vernacular dwellings in the countryside under two scenarios. Despite the modifications made to the exterior, the building nevertheless could still fall under the category of a non-listed vernacular dwelling. I have no evidence to suggest it makes an important contribution to the heritage, appearance or character of the locality. Where the dwelling does not make an important contribution to the heritage, appearance or character of the locality, retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme.
- 5.22 The appeal site relates to an area of 0.4 hectares and there is adequate scope for the proposed site layout to accommodate a modest dwelling and garage and the retained building. The particular layout, if permission is granted, can be considered at reserved matters stage. The justification and amplification of the policy confers that all permissions for a replacement dwelling, where the building to be replaced is to be retained as part of the overall development scheme, will be subject to a condition restricting the use. A planning condition, in this regard, would be necessary in the event of permission being granted.

- 5.23 Policy CTY 3 advances that, all replacement cases will be assessed against additional criteria and will only be permitted where all the criteria are met. The first criterion is that the proposed replacement dwelling should be sited within the established curtilage of the existing building. Due to its proximity to the public road, where there is limited space to the front of the dwelling and open field to the rear, the dwelling to be replaced does not have a defined curtilage. However, it does not follow that all dwellings to be replaced would have a curtilage and I do not consider this issue to be fatal in this case. A landscaping scheme involving retention of the existing mature hedgerows, save for access purposes, along with new planting along the northern boundary, as well as replacement of any damaged or dying vegetation within the first five years would ensure the appeal development is suitably enclosed and could be conditioned in the event of permission being granted. Furthermore, this, along with a condition restricting the ridge height of the new dwelling to no more than 6.45m above existing ground level would address the second additional criterion insofar as visual integration. Details of the intended design for the appeal development could be addressed through consideration at the reserved matters stage.
- 5.24 The third criterion is that the design of the replacement dwelling should be of a high quality appropriate to the rural setting and have regard to the local distinctiveness. Again, I am satisfied that matters pertaining to the design quality can be conditioned and considered at the reserved matters stage.
- 5.25 Regarding the final two criteria, including the availability or provision of necessary services and access to the public road, which will not prejudice road safety or significantly inconvenience the flow of traffic, there were no objections raised by the Council. NI Water had no objections and advised that there are services located within c. 20m of the proposed development boundary which can adequately service the proposal. The Appellant is proposing a new access onto the public road. The Department for Infrastructure (Roads) consultation response raised no objection subject to the provision of access details including visibility splays of 2.4m x 60m and a forward sight line of 60m. These matters could be conditioned in the event of permission being granted.
- 5.26 In line with the above reasoning, the proposal is compliant with Policy CTY 3. Thus, it follows that the proposal is compliant with Policy CTY 1. For the reasons given above, the Council has not sustained its reasons for refusal.
- 5.27 The submission of site levels, due to the relative matters relating to the requisite ridge height and finished floor levels, will be essential to assess the prominence of the proposed dwelling at this location and in its surrounding environs.

6.0 RECOMMENDATION

- 6.1 I recommend to the Commission that the appeal be allowed, and planning permission is granted subject to the following conditions: -
1. Except as expressly provided for by conditions 2, 3, 4 and 5 the following reserved matters shall be as approved by the planning authority – the siting, design and external appearance of the dwelling and garage and the means of access thereto.

2. Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels for the dwelling and garage, all in relation to a known datum point.
3. The ridge height of the dwelling shall not exceed 6.45 metres above existing ground level at the lowest point within its footprint.
4. The building shaded green on the attached drawing number PAC1 shall not be used for human habitation. The building shall not be occupied at any time other than for purposes ancillary to the use of the replacement dwelling and garage.
5. Access visibility splays of 2.4 metres x 60 metres shall be laid out in both directions onto Drumanphy Road before any building operations commence and thereafter shall be retained and kept clear.
6. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing:
 - trees and hedgerows to be retained along the northern, western and eastern boundaries of the site;
 - new planting along the northern site boundary and to the rear of the visibility splays along Drumanphy Road; and
 - and the location, numbers, species and sizes of trees and shrubs to be planted within the site.

The scheme of planting, as finally approved, shall be carried out during the first planting season after the dwelling is occupied. Trees and shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Planning Authority gives written consent to any variation.
7. An application for approval of reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision.
8. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of the last of the reserved matters to be approved, whichever is the later.

7.2 This recommendation relates to the following drawing -

Drawing No.	Title	Scale	Date:
PAC1	Location Map	1:2500	16th July 2021 (as received by the Planning Authority)

List of Documents

Planning Authority: - Statement of Case (Armagh Banbridge & Craigavon BC)