

**PLANNING APPEALS COMMISSION**

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

**Appeal by Mr Richard Topping  
against the refusal of outline planning permission for an infill site for 2 No. dwellings  
with domestic garages  
at lands between 32 and 34 Castle Espie Road, Comber, BT23 5SY**

**Report  
by**

**Commissioner Rachel Taylor**

**Planning Authority Reference: LA06/2022/0346/O**

**Procedure: Written representations**

**Commissioner's Site Visit: 21<sup>st</sup> May 2024**

**Report Date: 17<sup>th</sup> June 2024**

## **1.0 BACKGROUND**

- 1.1 Ards & North Down Borough Council received the application for Planning Permission on 5<sup>th</sup> April 2022.
- 1.2 By notice dated 7<sup>th</sup> December 2022 the Council refused permission giving the following reasons: -
1. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and 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 for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage, and represents a visual break and would, if permitted result in the creation of ribbon development along the Castle Espie Road.**
  3. **The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal fails to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and other planning and environmental requirements along this section of Castle Espie Road.**
  4. **The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:**
    - **the proposed buildings would be a prominent feature in the landscape;**
    - **the proposed buildings would fail to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; and therefore would not integrate into this area of the countryside; and**
    - **the ancillary works will not integrate with their surroundings.**
  5. **The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would if permitted:**
    - **be unduly prominent in the landscape;**
    - **result in a suburban style build-up of development when viewed with existing and approved buildings;**
    - **not respect the traditional pattern of settlement exhibited in that area;**

- create a ribbon of development; and
  - the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.
6. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the siting and scale of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and that of the particular locality and does not respect the traditional development pattern.
- 1.3 The Commission received the appeal on 15<sup>th</sup> February 2023 and advertised it in the local press on 6<sup>th</sup> April 2023.
- 1.4 Four representations were received from third parties during the processing of the planning application. The Council forwarded these to the Commission. A joint statement of case was also received from three of the four third parties at appeal stage.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The appeal site is located on lands between nos. 32 and 34 Castle Espie Road, Comber and is a rectangular shaped parcel of land which forms part of a larger agricultural field. A linear section of the appeal site extends along the rear boundary of the dwelling at no. 30a Castle Espie Road and extends to the location of an existing agricultural field gate along Castle Espie Road.
- 2.2 The site is set at the crest of a small drumlin and falls steeply from in a northern direction. The existing boundaries consist of a well-established tall conifer hedge to the west forming the boundary with no. 32 Castle Espie Road. The western boundary reduces to a hedge at the rear of 30a Castle Espie Road and then transitions to a post and wire fence beyond which the access boundaries are undefined. The northern boundaries are undefined and the southern boundary aligns with an existing laneway consisting of a post and wire fence and double field gate. The eastern boundary is defined partly by a hedge and then a mature tree line separating the site from no. 34 Castle Espie Road. There is a mature hedge along the Castle Espie Road to either side of an existing field gate, which is the proposed point of access.
- 2.3 There is an existing gravel laneway adjacent to no. 32 Castle Espie Road. The laneway serves three dwellings, nos. 34, 36 and 38a. The laneway rises from its entrance at Castle Espie Road to a crest towards the eastern portion of the site and then falls again towards the dwellings at nos. 34 and 36. No. 34 is a single storey dwelling which has two small outbuildings to its west; one a curved roof shed clad in corrugated sheeting and the other a breeze block mono pitched garage style building, set behind the first shed. No. 36 consists of a single storey detached dwelling adjacent to no. 34. No. 38a is a larger, one and a half storey, detached dwelling which sits at the end of the lane around a sharp bend to the east of no. 36.

- 2.4 No. 32 is a one and a half storey dwelling with detached garage sitting to the south and sharing a boundary with the lane. On the opposite side of the lane at the entrance is no. 38 which is a single storey cottage which also shares a boundary with the lane.
- 2.5 The surrounding land use is primarily agricultural with rolling drumlin topography and interspersed with single dwellings.

### **3.0 PLANNING AUTHORITY'S CASE**

- 3.1 The Ards and Down Area Plan 2015 contains no specific policies relating to extensions to domestic curtilages and the erection of domestic outbuildings in the countryside [sic]. The relevant policy context is provided by Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21), which is a retained policy document as set out under paragraph 1.13 of the Strategic Planning Policy Statement for Northern Ireland (SPPS).
- 3.2 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. Policy CTY 1 indicates that development not falling into one of the listed categories will be permitted only where there are overriding reasons why it is essential and could not be located in a settlement. There is no provision for an infill site for 2 no. dwellings with domestic garages within Policy CTY 1 and there have been no overriding reasons provided by the appellant as to why this development is essential. As the proposed development is unacceptable in principle, the Council deems the proposal to fail Policy CTY 1.
- 3.3 Policy CTY 8 relates to the issue of ribbon development in the countryside. It states that planning permission will be refused for a building which creates or adds to a ribbon of development. The headnote of the policy states *“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 purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear”*. As the proposed development is not in accordance with the criteria set out in Policy CTY 8, the Council deems the proposal to fail Policy CTY 1.
- 3.4 The site is located on a narrow rural lane which branches off Castle Espie Road. Immediately adjacent to the vehicular access to the lane on the north side, there is a dwelling and garage at no. 32. The dwelling and garage front on to Castle Espie Road but as the lane runs alongside the southern boundary it can also be described as having a frontage to the lane. The southern and rear boundaries are defined by mature hedging. The appeal site lies beyond the rear boundary of no. 32 and consists of part of a larger agricultural field. The eastern boundary of the site is defined by a mature hedgerow which separates the appeal site from the dwelling at no. 34. The dwelling at no. 34 fronts on to the lane. Two small structures exist close to the western boundary of no. 34 which is the dividing boundary with the appeal site. They sit one behind the other so only the front structure fronts the lane.

However, the Council does not consider this structure to represent a building in the ordinary sense of the word due to its non-permanent nature and appearance. It has corrugated tin sides and roof.

- 3.5 No. 36 is to the east of no. 34 and while the building is orientated to face west, the gable wall of the building abuts the lane and therefore can be described as having a frontage to the lane. To the east of this is no. 38a, its access winds north and its curtilage does not share frontage with the lane and therefore cannot be counted as part of a continuously built-up frontage.
- 3.6 Along the lane there is no. 32 and its garage, the gap site under consideration, then no. 34 and in turn no. 36 which are three buildings which share a common frontage along the lane. Although there are three buildings along the road frontage, the Council does not consider these to represent a continuously built-up frontage due to the visual break that the site represents.
- 3.7 In accordance with Paragraph 5.34 of PPS 21, the justification and amplification to the policy, it is the gap between buildings rather than the application site that should be considered. In addition, the gap site must be sufficient only to accommodate up to a maximum of two dwellings. It must also be able to do so in a manner that respects the existing development pattern and meets other planning and environmental requirements.
- 3.8 It is clear the gap is not the width of the site but rather the distance between the buildings. The gap is considered to be between the dwelling at no. 32 as it shares frontage with the lane and the dwelling at no. 34. The corrugated tin structure is not counted, as previously discussed.
- 3.9 The gap is calculated to be approximately 112m measured from the south-east gable elevation of no. 32 Castle Espie Road to the western gable of no. 34 Castle Espie Road. The frontage width of the proposed site is approximately 74m, meaning that each of the 2 proposed infill plots would have a frontage width of approximately 37m. This theoretically means that up to 3 dwellings could be situated in the gap of 112m. The plot widths for the adjacent plots are 52.5m, 31m and 25.6m for nos. 32, 34 and 36 respectively. The average plot width is 36.4m. It is considered that the gap is not "small" in so far as it would be possible to accommodate more than two houses within the gap whilst maintaining and respecting the existing development pattern.
- 3.10 Furthermore, Building on Tradition (BOT) advises that 'when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots'.
- 3.11 Twice the length of the average plot width is 72.7m and the gap between the buildings is measured as 112m. As per the guidance set out in BOT, the site is unsuitable for infill with two new dwellings as it exceeds the 'twice the length of the average plot width'.
- 3.12 BOT and Policy CTY 8 require an assessment as to whether the gap represents a visual break and whether the loss of the visual break would result in a material change in the developed appearance of the local area.

- 3.13 The site consists of part of a larger agricultural field and is currently accessed via a laneway which branches off the Castle Espie Road. The site is elevated from the Castle Espie Road and is visible when travelling south along it. The site provides a visual break from the dwellings along the Castle Espie Road, nos. 30, 30a and 38, and those to the end of the lane, nos. 32, 34 & 38. The ribbon of development which the development will potentially create will be seen from both the Castle Espie Road and the laneway. When viewed from the Castle Espie Road, the site provides a natural visual break between the dwellings along Castle Espie Road and those at the end of the lane.
- 3.14 When viewed from the laneway the visual break in existing development can be seen which will be removed should this site be developed. This visual break currently has a positive contribution to the character of the area and Area of Outstanding Natural Beauty (AoNB).
- 3.15 The two properties either side of the site, nos. 32 & 34, are not visually linked due to the 112m separation gap and the surrounding mature field boundaries, which reinforces the fact that it cannot be described as a small gap. To develop the site would result in the loss of the visual break between no. 32 and no. 34 and would result in a loss of rural character and have a detrimental impact on the AoNB.
- 3.16 A proposal for infill development under CTY 8 should respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
- 3.17 No. 32 is approximately 1,820sqm, is a square shape with a two-storey dwelling in a central location. The dwelling and garage face west on to Castle Espie Road and the garage sits forward from the building line of the dwelling. No. 32 is accessed to the front with gardens to the front, side and rear.
- 3.18 No. 34 is approximately 1,920sqm, is an irregular square shape with the dwelling fronting on to the lane and almost abutting the lane, with ancillary structures to the north and west of the dwelling. Its vehicle access is in the south-west corner of the plot.
- 3.19 No. 36 is approximately 975sqm and is a rectangular shape, with the dwelling sitting gable-on to the lane and fronting towards Castle Espie Road and abuts the lane. There are no detached ancillary buildings associated with this dwelling and it has gardens to the north.
- 3.20 The average plot size is calculated at 1572sqm, with a range between 975sqm and 1920sqm. The proposed sites are to be approximately 1,648sqm each. As the application is outline there are no details of the dwellings, however a conceptual drawing shows a broad outline for the dwellings and garages. It is likely that the proposed dwellings would front onto the lane. The proposed garages are to be sited to the north of the proposed dwellings. The proposed access consists of a new lane which will cut through two fields to the north of the appeal site from Castle Espie Road.
- 3.21 The Council disagrees with the mathematical calculation provided by the appellant within their Statement of Case (SOC). In order to calculate the average plot widths,

BOT advises that the average plot widths in the adjoining ribbon are used to assess whether proposed plots are suitable for infill in terms of the pattern of development. On this basis the proposed plot widths cannot be included in the average plot width calculation as they do not exist.

- 3.22 The Planning Appeals Commission (PAC) has previously assessed 'gaps' as being the distance between buildings. An example of this is appeal decision 2021/A0144 where it states: *'Whilst the frontage may be characterised by detached dwellings with garages set within sizeable plots, that is not in itself wholly representative of the pattern of development, which must also include consideration of the disposition of those buildings relative to one another and the plots within which they lie'*.
- 3.23 Another example of the assessment of 'gaps' taken by the PAC is set out in appeal decision Reference 2017/A0071 where it states: *'On the ground, there is an awareness of how extensive the gap between the existing buildings actually is. I note that unlike the appeal site, Nos 20B, 20A and 22 all decrease in width as you move away from the road and it is not therefore appropriate to concentrate only on the frontage widths along the roadside as the appellant has done. In these circumstances, I agree with the LPA that it is the gap between the buildings that offers a true representation of the infill width which is considerably greater than the frontage width'*.
- 3.24 The proposed plot sizes would be in keeping with the range of plot sizes within the immediate area, however, although the plot sizes are comparable, the visual break provided by the site ensures the character of the area is respected. The dwellings in this area are dispersed in pattern and the proposed development would join two separate groups of dwellings and form a large group and in doing so, also creating a ribbon of development, which would be detrimental to the character of the area.
- 3.25 Appeal Reference 2021/A0096 submitted by the appellant to support the argument that the ancillary buildings at no. 32 should be counted part of the built-up frontage is acknowledged. The shed in that case was a permanent, structurally sound modern purpose-built building of a much larger scale than the front structure at no. 34. The Council considers the structure at no. 34 Castle Espie Road to be in simple terms a tin shed, that is of a temporary nature that can be put up and quickly dismantled and on this basis is not comparable to the example building given at no. 83 Crossgar Road.
- 3.26 The proposal fundamentally fails Policy CTY 8 in that the site could accommodate more than two dwellings. The site will create a ribbon of development and the proposed dwellings would create a suburban style build-up of development when viewed with existing buildings.
- 3.27 The proposed dwellings are contrary to Policy CTY 13 of PPS 21 in that they will not visually integrate into the surrounding landscape and will be a prominent feature when viewed on approach travelling south along Castle Espie Road. The site is elevated and can be clearly viewed from Castle Espie Road when travelling in a southerly direction. The two proposed dwellings would be a prominent feature in the landscape as there would be a sustained view of them over approximately 800m along the Castle Espie Road travelling south. The proposed dwellings would not only extend the existing development pattern to create a ribbon of development but

would also break the existing line of the horizon when viewed from Castle Espie Road. The visual impact of the proposed two dwellings will therefore be detrimental to the rural character of the area, will create a suburban style build-up of development and create a ribbon of development. The proposal is therefore contrary to Policy CTY 13 of PPS 21.

- 3.28 The proposed dwellings, even with low ridge heights will not integrate with their surroundings and will be a prominent feature when viewed on approach travelling south along Castle Espie Road. The access will be taken from Castle Espie Road and will involve a new laneway extending through two fields to reach the appeal site. Gravel has been introduced in the field at the access point, presumably for agricultural purposes as there is no record of a planning application for this. The recently constructed gravel laneway does not match the route of the proposed laneway as presented in the site layout plan for the proposed dwellings.
- 3.29 The appeal site outlined in red indicates that the proposed dwellings will be accessed via the existing agricultural gate along Castle Espie Road. This proposed access is at odds with the existing pattern of development in the local area. The existing dwellings in the area are on small plots and accessed to the front of their properties. The proposal will, if granted permission, create a long access lane through two fields to reach the proposed dwellings. This will give access to the rear of the proposed dwellings (if they are to front onto the lane) and will not give direct access from the lane onto which they will share a frontage with. This is not in keeping with the character of the area and does not respect the existing pattern of development within the area. The existing dwellings nos. 34, 36 & 38 along the lane, which are accessed via the laneway, integrate into the countryside due to the low-lying land on which they are located, the mature vegetation around them and the access off the lane. The proposed lane will raise further awareness of the two proposed dwellings and will draw attention to them due to the lack of intervening vegetation. With the access to be an ancillary aspect of the development, not including the sight splays, the Council considers that it would damage rural character for the reasons stated above. The lane together with the proposed dwellings on the appeal site will be prominent, will fail to integrate with the surroundings and will rely on proposed planting which is contrary to Policy CTY 13.
- 3.30 It is deemed that the proposed landscaping will take considerable time to become established and provide screening for the proposed lane and dwellings and even then, it will fail to provide adequate screening due to the width and length of the lane. Furthermore, no amount of planting will mitigate against the intruding entrance point along the roadside.
- 3.31 It is therefore considered that the proposal does not comply with Policy CTY 13 in that the proposal will be a prominent feature in the landscape and the ancillary works will not integrate with their surroundings. Nor does it comply with Policy CTY 14 in that the proposal will be unduly prominent in the landscape, it will result in a suburban style build-up of development when viewed with existing and approved buildings, it does not respect the traditional pattern of settlement exhibited in the area, it will create a ribbon of development and the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.



- 3.32 Policy NH 6 of PPS 2 states planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:
- a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and
  - b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and
  - c) the proposal respects: local architectural styles and patterns; traditional boundary details, by retaining features such as hedges, walls, trees and gates; and local materials, design and colour.
- 3.33 This proposal is for two dwellings in the Strangford and Lecale AoNB and if granted permission, it will have a significant impact on the character of the area by eliminating a visual break between two separate groups of existing development. The appeal site is set within a “gap” which is not considered to be small enough to accommodate only two dwellings and development on this site would therefore create a ribbon of development and is contrary to Policy CTY 8. The design of the proposed dwellings has not been shown, however it is the Council’s view that if any development was to take place on this appeal site it would be a prominent feature in the landscape due to the topography of the area. There will be views of the proposed dwellings when travelling along Castle Espie Road and if approved, will be a prominent feature in the landscape. A design and access statement was submitted with this application and was considered during the assessment. The visual break provided by the appeal site ensures the character of the area is respected. The dwellings in this area are dispersed in pattern and the proposed development would join two separate groups and form a large group of dwellings, effectively creating a ribbon of development which would be out of character for this area within the AoNB.
- 3.34 In conclusion it is considered that the proposed development is not acceptable in principle and is contrary to planning policy.
- 3.35 With regards to examples given of other dwellings approved in the AoNB, each application is assessed on its own merits. Each application has its own context and reason for meeting the relevant policy criteria. In the assessment of the appeal proposal, the Council has afforded sufficient weight to all information submitted and following consideration of said information, contends that no exceptional circumstances exist to justify two additional dwellings and a new lane to serve the dwellings. The Council respectfully requests that the appeal is dismissed.
- 3.36 However, should the Commission determine that planning permission be granted, the Council would recommend that the conditions set out below are added to the decision:
- Time Limit;
  - Reserved Matters - details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping;
  - A scale plan and accurate site survey at 1:500 (minimum) showing the access to be in accordance with the attached form RS1;

- A plan indicating floor levels of the proposed dwellings in relation to existing and proposed ground levels;
- The proposed dwellings shall have a ridge height of less than 6.5 metres above finished floor level;
- The depth of underbuilding for the dwellings between finished floor level and existing ground level shall not exceed 0.45 metres at any point;
- A detailed landscaping scheme shall be submitted and carried out as approved and completed during the first available planting season following the occupation of each dwelling; and
- If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

#### **4.0 THIRD PARTIES' CASE**

- 4.1 The main objections we hold in relation to this application echo the six reasons for refusal outlined in the Council report dated 7<sup>th</sup> December 2022. Namely that the proposed development appears to be in direct contravention to CTY 1, CTY 8, CTY 13 and CTY 14 of PPS21 and The Ards and Down Area Plan 2015 (ADAP).
- 4.2 There is no reason why the proposed development is essential in this area, and it mirrors the size and style of housing already in existence in a myriad of other nearby locations (including but not limited to extensive new build development in Ashgrove, Comber; Enler Village, Comber; Lesley Meadows, Whiterock; Whitehem, Ardmillan, and the continued expansion of Millmount Village, Dundonald). This is contrary to CTY 1 of Planning Policy Statement 21, and The ADAP.
- 4.3 The proposed development does not meet criteria for a suitable infill site in accordance with CTY 8 on issues of frontage and lack of visual linking between proposed and existing buildings.
- 4.4 Within the individual letters the issue of the dwellings not fronting the lane was raised, as was the admissibility of no. 32 since it accessed off Castle Espie Road and not the lane. Comments were made regarding the gap being too large and that the site would be prominent, with ancillary works required, contrary to the pattern of development and detrimental to rural character.
- 4.5 Furthermore CTY 8 states “the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear”. We maintain the appeal site fails CTY 8 as the private laneway is not a road or thoroughfare; it is a rough stone laneway which runs perpendicular to the main Castle Espie Road. The proposed houses will not be accessed by this lane, but by new access winding behind current houses fronting onto the Castle Espie Road, cutting through two fields, creating a muddled area of buildings and access.

- 4.6 The proposed site will create development to the rear of the row of buildings at the bottom of the lane (30, 30a, 32, 38), and form a ribbon. The appellant stated that “our site is set back behind other dwellings” confirming that it is development to the rear. No. 34 and 36 are very old vernacular cottages on mature sites almost entirely hidden from view from all sides. They also share no visual similarity with no. 32 which is a 2-storey house around 15 years old. The two separate groups of houses are also not connected visually due to the 112m separation gap and clearly do not form substantial and built-up frontage.
- 4.7 The appellant argues that gap measurements can be taken from the ‘ancillary buildings’ at no. 34. As stated in the Council SOC, the small structures are of a temporary nature, constructed with corrugated iron. If temporary structures should be included in calculations for gap infill sites, this means that any landowner could erect a temporary structure on a boundary and exploit the planning process. We agree that these structures are to be discounted.
- 4.8 The appellant states that, in their interpretation, ‘the ‘gap’ does not relate to the distance between adjoining buildings but (...) refers to the width of the plots on which the buildings stand’. We agree with Council that paragraph 5.34 of PPS 21 states it is the gap between buildings rather than the proposed site that should be considered, and under this policy the site does not constitute a ‘small gap’. The appellant quotes from BOT, and we note that this appealed site is also contrary to other points raised in section 4 – Visual Integration. New buildings should work with the landscape avoiding prominent and elevated locations (4.2.1) and work with the contours (not against them) (pg 66). The appeal site is on an elevated hill location visible from the road, and as the appellant proposes to cut into the hillside, is working against the contours. Furthermore, pg 70 of this document states; 4.4.1 CTY 8 Ribbon Development sets out the circumstances under which a small gap site can, in certain circumstances, be developed to accommodate a maximum of two houses [...] within an otherwise substantial and continuous built-up frontage. [...] the policy requires the applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context.
- 4.9 No. 34 and no. 36 are too far from no. 32 to constitute a substantial and continuous built-up frontage. Due to their hidden nature they do not appear visually to be a continuous built-up frontage, as the lane onto which they front is not part of the road and not a thoroughfare, making true integration of the proposed sites extremely difficult. On pg 71 it clarifies unsuitable gaps for infill. In contrast:
- The proposed development is on a gap with frontage longer than the average plot width;
  - The gap is more than twice the length of the average plot width which according to the guidance makes it often unsuitable; and
  - It could be calculated that the average frontage of the proposed new plots equates to the average plot in the existing ribbon, however as the document clarifies, the gap site also cannot be considered appropriate as it has been judged by the ANDBC to offer an important visual break in the developed appearance of the local area. The visual amenity both from the laneway (not considered by the appellant) and from the road will be heavily impacted by the proposed buildings.

- 4.10 The purpose of gap infill sites is to allow for development in rural areas with minimal impact on the landscape. In an AoNB where there are so few visual breaks from housing, these gaps must be preserved. We believe PPS 21 serves to protect our landscape from overdevelopment.
- 4.11 4.5.0 and 4.5.1 of BOT define what is not a gap site. We agree with ANDBC's calculations on measuring the gap from building to building, disregarding the two non-permanent structures on the site of no. 34. The gap is unsuitable for infill and creates a natural visual break which has a positive contribution to the character of the area and AoNB.
- 4.12 CTY 8's purpose is to allow for development where there is a small gap in continuous frontage. Nos 32, 34 and 36 are clearly not a visually linked, continuous frontage. The proposed buildings would appear as new individual residences on the crest of the hill, rather than simply filling a small gap in substantial built up frontage on a road front.
- 4.13 The appellant argues CTY 8 is satisfied, and the site is a genuine 'infill opportunity', that the proposed development represents the exception, and that the other reasons for refusal are overridden. We believe ANDBC's interpretation of the policy and its application to this case is correct, therefore the other reasons for refusal still stand.
- 4.14 The appellant also has not addressed the reasons why this development is essential in the rural area and could not be located within a settlement. It is not in keeping with sustainable development and at a time when there are huge amounts of development in Comber, Whiterock, and Killinchy, there is no need for this proposed development.
- 4.15 The proposed development seems wholly contrary to CTY 13 and CTY 14 due to:
- a) prominence in the landscape (4 buildings – two dwellings and two garages on the crest of a hill), interrupting the sightlines across the drumlins;
  - b) suburban style build-up;
  - c) not respecting the traditional pattern of development in the area, and
  - d) creating or adding to a ribbon development.
- 4.16 We again highlight the exceptional and unique nature of the Strangford and Lecale AoNB and a protected wildfowl and wetlands reserve one mile from the proposed development. The recently awarded neighbouring Mourne, Gullion and Strangford UNESCO Global Geopark only serves to reinforce the current desire of residents to preserve and protect our unique geographical, environmental, and cultural landscape from pockets of non-essential housing development.
- 4.17 With regards LA06/2020/0372/RM - For the two comparisons within ANDBC, the appellant argues that because other developments have taken place within the AoNB, then theirs should, too. LA06/2020/0372/RM is a new dwelling on a farm, which satisfied CTY 1 of PPS 21, and not comparable. It is on a hillside beside other existing farm buildings and is not forming ribbon development.
- 4.18 LA06/2021/01440/0 - This Killinchy Road proposal met the PPS 21 criteria on the definition of a gap without relying on alternative interpretations of how to measure

the distance between buildings. The report stated “the gap site measured from the gable of each dwelling at 122 and 126”, rather than how the appellant proposes his site should be measured for the purposes of his appeal (site width rather than building to building). This case officer’s assessment stated that this site will have limited impact on rural character as it does not have long distance views (appeal site is deemed to have a sustained view observed approximately 800m along the Castle Espie Road).

- 4.19 LA06/2021/1446/0 - In the Straits site, the topography of the site is different (the land rises behind the site and the planning report states that the ‘site will not be visible over long views’). In addition, and crucially, the measurement of the gap site width on this application was also measured between the buildings. This appears to be the case on all comparisons cited by the appellant. The Straits site does meet CTY 8 appropriately through measurements and is not comparable to the proposed site. The appellant states the appeal site should be treated and dealt with in exactly the same way as this one. If so, then this appeal must be denied.
- 4.20 The appellant includes photographs of the approach to the appeal site. These are taken from an angle such that the site appears more favourable, particularly as roadside vegetation is overgrown at present. The photographs in Council’s SOC provides a more accurate representation of the view of the site and should be relied upon when considering the visual impact of proposed development.
- 4.21 The appellant has included several examples of other developments on elevated locations. To our knowledge these dwellings were not built under current policy and were replacement dwellings, and so are not comparable to entirely new sites.
- 4.22 We appreciate the Council’s careful consideration of our original letters of objection and believe the decision to refuse planning permission was the correct one. The policies for sustainable development in the countryside must be adhered to carefully to avoid unsustainable development, ribbon development, and the loss of our precious rural character.

## **5.0 APPELLANT’S CASE**

- 5.1 Policy CTY8 of PPS 21 applies as the plots front onto the lane off Castle Espie Road, within a row of buildings on each side of the proposed site. Reference in refusal reason 2 relating to CTY 8 which states ‘result in the ribbon development along Castle Espie Road’ and reference in refusal reason 3 relating to CTY 8 which states ‘requirements along this section of Castle Espie Road’ are not entirely accurate in relation to the proposal which, for the purposes of CTY 8, fronts onto the lane and not onto the Castle Espie Road.
- 5.2 No. 32 Castle Espie Road lies to the west of the appeal site and Nos. 34 and 36 to the east, completing the row. All domestic plots run to the lane. Policy does not expect the front of the buildings to face onto lane but that the plot on which they stand must front onto the lane. The emphasis is the frontage of the plot not the front elevation of the building. No. 32 clearly shares a frontage onto the same lane as does Nos. 34 and 36. There are two buildings at no. 32, two at no. 34 and one at no. 36.

- 5.3 The Council contend that the gap is too wide and they discount ancillary buildings at no. 32 [sic]. The comparison of the plot frontage and the plot area are the most important statistics when assessing the suitability of the application. We have included a table of statistics and a plan showing the actual plot frontage widths and the plot areas. Given that the two proposed plot width measurements are within the range for width and plot area they do therefore match the pattern of development. The Council state that smaller ancillary buildings, such as the building to the east of the site, should be discounted in the assessment of those in the frontage. The inclusion of ancillary buildings is fully explained in the provided extract from Planning Appeal 2021/A0096 which did not discount an ancillary building based on its size or position relative to the dwelling. The policy does not state that the buildings should be prominent or that ancillary or subordinate buildings which form part of a residential unit or curtilage are to be discounted. When this correct approach is adopted, the building in question cannot be ignored.
- 5.4 Mathematical analysis has been included in the Case Officers Report (COR) to back up the CTY 8 reason for refusal. The measurement of distance between the buildings has been related to the site frontage. The 'gap' is referred to as the distance between neighbouring buildings. Dividing the distance between the neighbouring buildings by the average plot width does not produce a meaningful statistic. Mathematical statistics relating to the distance between the adjacent buildings cannot be compared with those of the site frontage; these are two completely separate mathematical comparators. The average distance between buildings on adjoining sites is almost always going to exceed the average of the site plot frontage because of the additional distance in the neighbouring side gardens from the site boundaries to the neighbouring buildings. Council state that "It is clear the gap is not the width of the site but rather the distance between the buildings". We strongly disagree.
- 5.5 Even if the distance between the buildings did form part of the overall analysis of the pattern of development, the centre-to-centre spacings of the buildings in the row and how the proposals fill the site are also important. In this case the 100m current distance between no. 32 and the building beside no. 34 will be obviously reduced when the new dwellings are constructed. The analysis of the distance between the buildings must also include the width of the existing side gardens between the neighbouring buildings and the common boundaries; all of which add to the suitability of the new sites. The current side/rear garden arrangement of the 3 existing dwellings in the row will be emulated by the two new proposed dwellings and the row will present as one continuous, evenly spaced row, in full respect of the pattern of development.
- 5.6 The policy states that 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. BOT states that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots. In my interpretation the 'gap' does not relate to the distance between adjoining buildings, but the gap refers to the width of the plots on which the buildings stand. When the policy refers to 'buildings' it includes and assumes that the buildings are set on plots of land, generally with side gardens and those plots of land with buildings on them form the ribbon.

- 5.7 BOT states “A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon”. If this criterion is applied then the current application complies as the average frontage of the new plots is approximately 33.1m and the average plot width in the existing ribbon is approximately 36.4m or the new average is 92% of the existing ribbon. In case LA06/2021/0144/O, a similar situation arose and the case officer concluded the proposed sites were not larger than the average of the frontage plot widths. These plots would therefore be smaller than the average plot widths and depths, however, are still comparable to other plot sizes in the area. It was therefore considered that the proposed plots are in-keeping with the pattern of development of the area.
- 5.8 It is most important that consistency of decision making is achieved, and we feel if this approach is taken our case should be approved. This mathematical comparator is well within an acceptable tolerance and is within reasonable similar size and therefore matches the pattern. The average frontage of the new plot of approximately 33.1m lies neatly within the range of the other 3 existing frontages which are 52.5m, 31m and 25.6m and in this way it also equates and matches the existing frontages.
- 5.9 The main assessment of infill opportunities must be of these plot widths. The plots either side must have buildings on them, which they do. The plot widths of the proposed sites must be similar to the range of the existing plot widths in the row. The plot areas must also lie within the range of the other plot areas in the row. In this case they do, and the application complies with CTY 8.
- 5.10 The COR comments that the dwellings in this area are dispersed in pattern and the proposed development would join two separate groups and form a large group of dwellings which would be out of character for the area. We feel the COR does not capture the essence of CTY 8 which states that the infill of a small gap represents the ‘exception’ within the policy and the exception cases may be permitted.
- 5.11 Under Policy CTY 8, the visual break referred to above are in cases where the gap is too wide and would accommodate more than two dwellings. As this case reasonably accommodates two dwellings it passes the test and represents an ‘exception’. The drawings provided with this application clearly show that two dwellings fit in, the site could not accommodate more than 2 dwellings. The reference above to the linking of two separate groups of dwellings is presented by the case officer as a reason to refuse when policy explains that the infilling of the gap between the buildings represents the ‘exception’.
- 5.12 We feel this describes an excellent example of CTY 8 where the application meets all parts of CTY 8. There are a minimum of 3 buildings in a row, with a gap in between the buildings, all plots of land on which the buildings stand, and the proposed plots all front directly on to the lane and the gap is sufficient to accommodate 2 dwellings.
- 5.13 There are several cases that are similar to the subject case at Castle Espie Road, LA06/2022/0346/O. These examples were approved and if the same approach is applied to our site then it should have been approved too. It is imperative that policy is applied in an equal and fair way.

- 5.14 LA06/2021/0144/O - Two infill dwellings and new access on Lands between 122 and 126 Killinchy Road, Comber. This example is on the main protected route from Comber to Downpatrick, in the same AoNB. but is immediately beside an extremely busy 'A' road with much more traffic. The COR commented that the plots would therefore be smaller than the average plot widths and depths, however, are still comparable to other plot sizes in the area and were therefore considered that to be in-keeping with the pattern of development of the area.
- 5.15 Comparative measurements from the appeal site were transposed into a paragraph extract from the COR for LA06/2021/0144/O which shows that this, and the appeal site are remarkably similar and both represent good examples of infill opportunities; both merited approval.
- 5.16 LA07/2022/0799/F is remarkably similar to the appeal case. It is along a lane, the frontages are similar in size, variation and range, as are the plot sizes. Our plots sizes are all within range yet one of the sites in this case is outside the range. Despite this the application was approved backed up by the statement '*On balance it is considered the development of the application site and the 2 plots will not appear out of character of the pattern of development along this laneway*'. If this approach had been applied to our case it would have been approved.
- 5.17 LA06/2021/1446/O - Infill dwelling and garage on lands between 45a and 47 The Straits Lisbane, Comber. This application was approved last year, it lies in the same AoNB, quite close to the Castle Espie Road and both applications should therefore be treated and dealt with in exactly the same way.
- 5.18 Although this application is for one dwelling the approach taken by the case officer correctly determines that the pattern of development and the regular spacing of the plots mean this is an appropriate approval. The 'ratio' approach was not applied to this one by the case officer but simply that the gap site matches the pattern. The case officer's comments confirm that if the plot width is compatible and in keeping with those along the frontage then the site meets this part of the policy.
- 5.19 LA07/2022/1842/O - Dwelling and garage with associated siteworks 40m South East of 52 Killlyleagh Road, Saintfield. This application was approved just this week (end of July 2023). It's a two-house infill with almost 174m between the buildings with no questions asked or any issue found. The case officer comments that from aerial imagery, they are satisfied that the site does appear to be similar to surrounding sites in terms of plot and appears visually to be a gap site of proportionate scale given the surrounding plot sizes.
- 5.20 In respect to BOT, the Council have used the distance between buildings on adjacent sites to discount this infill application, LA06/2022/0346/O. They interpret bullet point 3 from this page in BOT as meaning they must compare the width between the adjacent buildings with the new plot frontages. I believe this is a misinterpretation of policy and mathematically they are comparing two unconnected figures. They say that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots.
- 5.21 BOT advises infill development is not acceptable when it 1) extends the extremities of a ribbon; 2) where a gap frontage is longer than the average ribbon plot width; 3)



when a gap is more than twice the length of the average plot width; 4) where it creates a new site in the front garden of an existing property. It also advises that 5) a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon.

- 5.22 I understand and agree with No 1. Bullet Point 2 is not referred to in the COR and not relevant to this case, nor is bullet point 4. Bullet Point 3 Direct Quote – *‘When a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots’* I feel this statement mixes up the terms ‘gap’ and ‘plot width’ as two different entities, but I believe the gap and the plot width mean the same thing.
- 5.23 The distance between the adjoining buildings includes the width of their side gardens and the width of the gap site. Mathematically speaking comparing the distance between the ends of the adjacent buildings and the width of the new plots is almost always guaranteed to be more than two. This is especially the case when one or two of the existing plot widths are much wider than those generally in the area. The wider plot widths increase the average plot width and this in turn reduces the ratio. The gap frontage measurement and plot width mean the distance i.e. between the physical boundaries at each end of the existing or proposed plots. It is measured where they abut the road, lane, or footpath; their frontage; plot width is frontage.
- 5.24 Planners say the gap is measured from the gable of the buildings adjacent to the proposed site but the policy does not refer to or require this. It does not mean the distance between adjoining buildings in the ribbon of development.
- 5.25 I believe the policy point 3 should have been one of these two options below:
- “When a gap site frontage is more than twice the length of the average site frontage in the adjoining ribbon it is often unsuitable for infill with two new plots”; or
- “When a gap plot width is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots”
- 5.26 It must also be noted that the bullet point includes the word often and therefore is not an absolute term which always leads to a refusal in all cases. The analysis of these cases should not be determined on the outcome of mathematical criteria but on how the plots fit in the row.
- 5.27 If indeed the gap is interpreted as the distance between adjacent buildings, then a discounting factor must be applied, taking due account of the side gardens of all existing and proposed plots. Analysis such as this is unnecessary when determining an infill application. Incidentally the application at LA06/2021/0144/0 had a gap of more than twice (2.32) yet it was approved. The application at LA07/2022/0799/F had a gap of more than twice (3.73) yet it was approved.
- 5.28 Bullet Point 5 – “A gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon” Although Criterion 5 is not referred to in the COR if it is applied to the appellant’s case then his site complies, the average of the new sites is 33.1m, the average frontage of all plots, new and existing, is 35m and the average plot width of the plots

in the existing ribbon is 36.4m. This 33.1m represents 92% of the existing plot average; very much close to the existing plot average. Our site complies. This point hinges the suitability of the sites on the comparison between the frontage of the new plot widths with the existing plot widths. This is in direct conflict with Bullet Point 3 which hinges the suitability of the sites on the comparison between the new plot widths and the existing distance between adjoining buildings (if the gap is taken as between the adjoining buildings, which I believe to be wrong).

- 5.29 By way of conclusion, analysis of the requirements of BOT against these two examples and a comparison of these against the subject sites concludes that the subject sites meet the policy requirements.
- 5.30 With regards CTY 13 and prominence, the proposed dwellings are in an existing row of buildings with existing dwellings on each side. The dwellings to the west of the proposal are clearly viewed from the Castle Espie Road and will assist in the integration and acceptability of the proposal which will cluster with the existing dwellings. The essence of CTY 8 is that a row of dwellings already exists each side of the proposal, and if the dimensions are suitable then the new dwellings complete the row. There must be development in the first place for the application to be considered therefore it cannot be expected that the new dwellings are completely hidden from public view or not read with other buildings. The proposed dwellings can be conditioned to have a low 5.6m ridge height and they will be sympathetically cut into the site from the lowest level of the footprint, this will naturally set the dwellings 1.5m into the slope and nestle the buildings to blend in and automatically provide a backdrop from the rising ground and vegetation behind. In this way the natural slopes, hedges and landform are of benefit to the integration of the site.
- 5.31 This is an outline application which naturally provides an opportunity to set conditions on the proposed dwellings. The existing natural species boundaries on all four sides of the development (including the existing hedge further to the north) are existing features assisting in the integration of the proposal. These, together with the strong backdrop provided by the rising land to the south and hedges to the rear would satisfactorily provide sufficient enclosure to aid the integration of the dwellings with a restricted ridge height and would not appear prominent. It is also an advantage that the hedges to the south do not have to be removed for access purposes, but will remain in place. Coupled with that, the lane way that runs along the south of the site has a double hedge which provides double and extra back-drop to the proposal. It is never the case that a proposal has to be invisible and there are many dwellings on the Castle Espie Road that are clearly within view but suitably acceptable.
- 5.32 Specific design will be in full in compliance with the BOT. Finishes and all design aspects of the dwellings will be designed to suit the rural setting in the AoNB. Existing boundaries will be retained, enhanced and new boundaries planted from indigenous species of hedging augmented with semi-mature trees from of species.
- 5.33 The existing acceptable level of integration would be further enhanced in time by the proposed hawthorn hedge at the north of the site to be interspersed with rowan and birch trees proposed along the boundaries. The existing hedge further to the north of the proposal will continue to grow and will further screen and integrate the development. Last Winter, 70 new trees were planted by the landowner, 30 around

- the entrance and 40 in the field. These will establish quickly and further integrate the dwellings.
- 5.34 With regards the point that ancillary works do not integrate with their surroundings, the only ancillary works associated with this scheme would be the access. The required splays of 2.4m x 70m in each direction would have minimal affect as the existing verge can accommodate most of the splay and any hedge that does require removal will be reinstated with local species hedging. There is another hedge between the road and the new site so any adjustments to accommodate the splays will have no effect on the site itself. An existing access lane is present on site from the road to the site. The ancillary work will therefore have no ill effect on the integration of the sites. The cutting into the gentle slope will be accommodated using low slopes sown out in grass.
- 5.35 Travelling along the Castle Espie Road in a northerly direction there are no views of the sites. Even when passing the lane and travelling beyond no. 30. Travelling in a southerly direction the sites are partially screened by the existing vegetation and hedges and provide with a full height backdrop by the undulating drumlins. Once you travel as far as no. 30 the sites cannot be viewed at all. There are no views from the east. The only views are fleeting, distant, filtered, screened glimpses from the north.
- 5.36 If accepted as a genuine CTY 8 infill opportunity the refusal reference to CTY 14 criterion (d) is also complied with in terms of ribbon development.
- 5.37 The dwellings will integrate in the surroundings and not be unduly prominent in the landscape. A series of photos with commentary supports this position.
- 5.38 The dwellings will match the style and pattern of the existing dwellings in the area and will not result in a suburban style build-up of development when viewed with those existing and approved buildings and will respect the traditional pattern of settlement exhibited in that area.
- 5.39 The final point in CTY 14 relates to the impact of ancillary works (the policy gives exception to works required for necessary visibility splays). The only ancillary works are those associated with the visibility splays, and these are minimal, with reinstated hedging. These will not damage rural character and therefore the application cannot fall foul of this criterion.
- 5.40 We feel the application will not have a detrimental effect on the rural character.
- 5.41 The site is located in the Strangford and Lecale (AoNB). It is considered that sensitively designed dwellings on this site will be of an appropriate design, size and scale for the locality. The height of the dwelling and boundaries of the site will be conditioned to ensure the special character of the AoNB is maintained and due to the site's location along a laneway, between existing dwellings it will have no adverse impact on the visual amenity of the area. The proposal is therefore considered to be in compliance with Policy NH 6 of PPS 2 in relation to the AoNB and all relevant guidance.
- 5.42 With regards criteria b) of Policy NH 6 the proposal does not adversely affect any features of importance and it respects the landform and retains natural boundaries.

- 5.43 Criteria c) requires the proposal to respect local architectural styles and patterns. There are varying types and styles of dwellings in the area. This is an outline application and will be conditioned to meet the rural design guidelines. The pattern of development in the area are roadside plots, groups of dwellings and dwellings accessed by laneways; the proposals match these architectural patterns. It also requires traditional boundary details, by retaining features such as hedges, walls, trees and gates. All existing natural boundaries are to be respected and retained. Also local materials, design and colour should be used and the design of the proposal will be conditioned to have grey/black flat roof tiles or natural slates, windows designed with a vertical emphasis and painted or grey rendering. All finishes to be to the satisfaction of the Council.
- 5.44 The example of application LA06/2020/0372/RM was deemed acceptable within the Strangford and Lecale AoNB. Under Policy NH 6 the case officer commented that they were satisfied that the design is appropriate for the special character of the AoNB and will not be adversely affected by the proposed dwelling.
- 5.45 Photographs were submitted for comparison purposes and comments are made that the approved siting for LA06/2020/0372/RM is much more prominent than the appeal proposal and along a heavier trafficked road.
- 5.46 A second example of an application which was acceptable within the Strangford and Lecale AoNB is LA06/2021/0144/RM. Under Policy NH 6 the case officer made comment that the location of the site in association with the existing buildings should not result in any detrimental harm to the environmental quality of the AoNB or the locality and given the existing boundary treatments there will be limited long distance public views of the site therefore the proposal will have limited impact upon the rural character of the AoNB.
- 5.47 The appeal development will nestle in and integrate much better than this proposal. As these dwellings are in a prominent location, in view of the A22 road with over 8500 vehicles per day and are found acceptable in the AoNB, then the proposed dwellings with limited views on the unclassified, minor, single carriageway road should be satisfactory too. Again, the appeal development should also be approved on the same basis.
- 5.48 A further example is LA06/2021/1446/O for an infill dwelling and garage on lands between 45a and 47 The Straits Lisbane, Comber. This application was approved last year, it lies in the same AoNB, quite close to the Castle Espie Road and both applications should therefore be treated and dealt with in exactly the same way.
- 5.49 The site is covered in trees and vegetation and an undetermined amount will be removed. The report goes on to say that the application is considered to be in compliance with NH 6. In a similar way we believe that the subject outline application should be approved.
- 5.50 Diagrams were submitted showing the extent of the AoNB and the location of the three referenced examples. These were all approved in the AoNB and if the current proposal had received an equal assessment as these, it too would have been approved.

## 6.0 CONSIDERATION

- 6.1 The main issues in this appeal are whether the proposal would:
- be acceptable in principle in the countryside;
  - result in ribbon development;
  - be a prominent feature in the landscape; and
  - have an adverse impact on rural character and the AoNB.
- 6.2 Section 45(1) of 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.
- 6.3 The Ards and Down Area Plan 2015 (ADAP) operates as the LDP for the area within which the appeal site lies. In it, the appeal site is within the countryside and outside of any settlement limit. The appeal site is also within an Area of Mineral Constraint, the Greenbelt and Strangford and Lecale Area of Outstanding Natural Beauty (AoNB). The LDP directs that the final Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) will take precedence over the plan with regards to single houses in the countryside. Therefore, the rural policies of the LDP are outdated and no determining weight can be given to them.
- 6.4 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. The retained policy of relevance to this appeal is PPS 21 and Planning Policy Statement 2 'Natural Heritage' (PPS 2). As no conflict arises between the policy provisions of the SPPS and retained policy in so far as it relates to the appeal proposal, the latter provides the relevant policy context. Additional guidance is provided in Building on Tradition: A Sustainable Design Guide for The Northern Ireland Countryside (BOT).
- 6.5 Policy CTY 1 of PPS 21 states that there are a range of types of development that are considered in principle to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is the development of a small gap site sufficient only to accommodate up to two houses within an otherwise substantial and continuously built-up frontage, in accordance with Policy CTY 8 of PPS 21. It follows that if Policy CTY 8 is met, then Policy CTY 1 is also satisfied.
- 6.6 Policy CTY 8 of PPS 21 is entitled 'Ribbon Development'. It states that planning permission will be refused for a building which creates or adds to a ribbon of development. It continues 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 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. CTY8 describes a road frontage as including a footpath or private lane and it is therefore appropriate to consider the laneway which runs from 32 to 38a Castle Espie Road as the road frontage in the context of the appeal.

- 6.7 The first step in determining whether the proposal constitutes an exception in accordance with Policy CTY 8 is to determine whether there is a substantial and continuously built-up frontage along the laneway. The third parties contested the inclusion of no. 32 and its garage as having frontage on to the laneway as it fronts on the main Castle Espie Road. A building has a frontage to a road, footpath or lane if the plot on which it stands abuts or shares a boundary with that road, footpath or lane. For the purpose of establishing if a building has a frontage, it does not matter whether the building faces towards the road, footpath or lane, or whether it takes vehicular or pedestrian access from it. I agree with the Council and the appellant that the property comprising the dwelling and garage at no. 32 abut the laneway and therefore have frontage to it.
- 6.8 The Council express the view that the shed in the curtilage of no. 34 does not 'represent a building in the ordinary sense of the word due to its non-permanent nature and appearance'. They refer to it as a structure and that it can be put up quickly and dismantled. The Council did not substantiate their position beyond reference to its corrugated roof and sides in terms of how it is fixed to the ground.
- 6.9 The shed sits fully on the western side of the access point to the dwelling at no. 34 and is not located to the rear. The shed sits alongside the main dwelling. The policy makes no reference to the size of the buildings, their relationship with the main building, and does not discount ancillary or subordinate buildings. From my observations on site the shed is set on a concrete base and is single storey with a curved roof. The vertical support members which provide the framework for the walls are also load bearing in respect of the roof. There was hay present within the shed and a timber gate at the front. The shed appears to have housed animals. Its overall condition was one of a weatherproof building which has been there for a substantial amount of time. I do not find the Council's explanation for exclusion of the shed persuasive. From my assessment, despite its modest size, it is of permanent construction and has, for the purposes of the policy, a frontage to the laneway.
- 6.10 There is a substantial and continuously built-up frontage consisting of no. 32 and its garage, no. 34 and its outbuilding and no. 36.
- 6.11 The second part of the policy test is whether there is a small gap site sufficient only to accommodate up to a maximum of two houses. The appellant strongly disagrees with the gap being measured as the distance between the buildings and not the width of the site, however the justification & amplification of PPS 21 Policy CTY 8 refers to gaps between houses or other buildings.
- 6.12 To be suitable for infilling under the policy, a gap site must not only be physically sufficient to accommodate no more than one or two houses but, must also be able to do so in a manner that respects the existing development pattern and meets other planning and environmental requirements.

- 6.13 There is agreement between the appellant and Council as to the plot widths exhibited which are given to be 52.5m, 31m, and 25.6m respectively for Nos. 32, 34 and 36 giving an average plot width of 36.4m. As I have found the shed to be admissible, I take the measurement of the gap between buildings to be approximately 100m as stated in the appellant's SOC.
- 6.14 There are, however, differing figures given from each party of the plot widths for the proposed appeal sites. The Council states it to be a total of 74m which would equate to two plots at 37m each, whilst the appellant considers the frontage total to be 66.2m with plot widths of 34.4m and 31.8m respectively.
- 6.15 Regardless of which figures are taken for the proposed plot width, the proposed plots are of a similar size to the other plots at this location and would be within an acceptable tolerance. This does not override the policy requirement that the gap should be small. In this case the gap is such that it could fit more than two dwellings. As the gap as a whole could accommodate more than two dwellings, it does not qualify as small and consequently the proposal fails to meet the requirements of the exception.
- 6.16 The Council have not commented regarding the size, scale and siting of the dwellings, despite an indicative layout showing suggested locations of dwellings and garages. Nevertheless, given my conclusions above, I find that the existing development pattern along the frontage would not be respected by virtue of the gap being not 'small' and sufficient to fit more than two dwellings.
- 6.17 Currently the two properties either side of the proposal are not visually linked due to separation distance, topography and mature field boundaries. The appeal site provides relief between the two nodes of development to either side of it. Development on the appeal site would lead to the creation of a ribbon between the properties and as such would result in the loss of an important visual break. It would involve the creation of an extended laneway running to the rear of the properties at 30 and 30a which would be a feature out of keeping with the character of properties in the area. This would have a detrimental impact on rural character. The appellant's analysis, including the indicative site plan, arguments relating to BOT and other material submitted would not persuade me otherwise.
- 6.18 The appeal development, irrespective of siting or design, will result in the creation of ribbon development along the laneway when viewed with existing buildings at nos. 32, 34 and 36 Castle Espie Road. This would also result in a suburban-style build-up of development. The appeal buildings would therefore result in a detrimental change to the rural character of the area. The proposed development would not comply with the requirements of Policies CTY 8 and CTY 14 in this regard.
- 6.19 I consider matters of size, scale and siting are matters that could be reserved in the event of permission being granted, however, the other environmental requirements insofar as they relate to prominence and rural character are considered below.
- 6.20 In respect to application LA07/2022/0799/F, this was an approval in another Council area close to no. 218 Moyad Road. Other than being located up a lane way and with a reference to the measurements which existed in that specific case, I have not been

provided with the full evidential basis for this approval, exactly where it relates to and how it is directly comparable to the appeal site.

- 6.21 Regarding application LA07/2022/1842/O, it related to a dwelling and garage 40m south of 52 Killyleagh Road. The red line drawing shows one half of a double infill site within a gap stated by the appellant to measure 173.8m. The officers in this case were satisfied that the site was similar to surrounding sites in terms of plot and that it appears visually to be a gap site of proportionate scale given the surrounding plot sizes. The plot width was stated to be within the range of adjacent surrounding plots. This is not comparable to the appeal site which is considered it to be an important visual break and the gap is not small with other character and integration issues relevant.
- 6.22 Given my conclusions above the appeal development does not comply with Policy CTY 8. The Council's second and third refusal reasons are sustained, as are the related third party objections.
- 6.23 Policy CTY 13 – Integration and Design of Buildings in the Countryside 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. In addition, Policy CTY 14 – Rural Character 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.
- 6.24 The appellant relies on the buildings along the main Castle Espie Road to aid integration and states the proposal will cluster with the existing dwellings. He contends that a low 5.6m ridge height, along with 1.5m of cut into the landform will help the buildings nestle in and provide a backdrop from the rising ground and vegetation behind.
- 6.25 Whilst the appellant pointed to the appeal site being well enclosed by mature vegetation, the hedge to the south is at the opposite side of the lane from the site, and is not indicated as being within the appellant's ownership. There is no hedge on the southern boundary of the site, but rather a post and wire fence and field gates. There is also no existing planting along the northern boundary which will bi-sect the field and carve out a twinned laneway to both properties, whilst also traversing the rising landform towards the site itself. The proposed planting at this northern boundary would also be of limited value as the rising land and siting of dwellings would be at a higher level.
- 6.26 From my observations there are sustained, transient views of the site on approach from the north from which the appeal development would be visible on the skyline. The site is located at the highest part of the crest of a small hill and at the highest part of the lane. Despite the proposed cutting into the landform, planting along the laneway and a ridge height of 5.6m, the proposed dwellings would still break the skyline from this critical view. Planting along the southern boundary along the laneway would not mitigate this visual impact given it would be set to the rear of the proposed dwellings from this view. Again, the existing vegetation, as well as the proposed planting, would be of little assistance in screening the appeal development due to the rising topography. The proposed dwellings will therefore be a prominent feature in the landscape and fail to blend with the landform, existing trees, buildings,



slopes and other natural features which provide a backdrop. They would not integrate into the landscape and be visually prominent. The Council's and third-party objections with regards to Policies CTY 13 and CTY 14 in this regard are sustained.

- 6.27 The Council raised concerns regarding the impact of ancillary works and the proposal not respecting the traditional pattern of development, causing issues with integration and detrimental impact on the rural character and the AoNB. The Council consider that the proposed access through a field is at odds with the settlement pattern of other dwellings along the lane, which have their accesses directly onto it.
- 6.28 Whilst there will be the removal of some roadside hedgerow for the provision of visibility splays, Policy CTY 14 excludes consideration of this in terms of impact on rural character. Whilst not quantified within the SOC, the splays of 2.4 x 70m in both directions are stated to be capable of being accommodated largely within the verge. From my assessment there would be minimal loss of roadside vegetation and replanting to the rear is capable of being conditioned.
- 6.29 Whilst the Council drew my attention to the existing partial lane from Castle Espie Road into the field not matching the route of the proposed laneway, it is the proposed route which is before me. The proposed access lane would cut through an existing field which would ultimately then branch off into two accesses, one for each dwelling. With the rise in topography and limited existing vegetation, the creation of this configuration of access routes will not integrate sympathetically into the countryside, nor would they follow natural boundaries.
- 6.30 The proposed access will also be to the rear of the dwellings and not the front which is more typical of the area. It is noted on the indicative cross section that the proposed dwellings may front out towards the proposed access and back on to the laneway, but that would not mitigate for the adverse visual impact of the proposed means of access to the appeal development. However, given the contrived nature of the required works, the fact that the proposed new access lacks integration and does not follow existing field boundaries, I agree that the proposed configuration in the round would be at odds with the pattern of settlement exhibited in the area.
- 6.31 In relation to Policy NH 6 of PPS 2, given my conclusions above regarding impact on character and integration and the appeal site being an important visual break, the proposal as a whole is unsympathetic to the character of the AoNB and would not respect the character of the landscape or the traditional pattern of development for the reasons specified.
- 6.32 With regard to application LA06/2020/0372/RM – adjacent to 102 Killinchy Road, it related to development at an elevated position within the AoNB where the appellant comments that the road is more heavily trafficked. This was a reserved matters application where the principle of development had already been established. Whilst the relevant outline application has not been provided, it would appear from the location plan that it was not a dwelling assessed under Policy CTY 8 It has not been demonstrated how this is comparable to the appeal site.
- 6.33 In respect to application LA06/2021/0144/O – between 112 and 126 Killinchy Road, the appellant comments that the sites are prominent and along a road which is more heavily trafficked. A commentary has been provided which substitutes the appeal

site’s mathematical calculations into the case officer’s assessment extract for LA06/2021/0144/O, where the appellant makes the point if the same logic was applied the appeal site would be approved. Whilst I acknowledge from the extract submitted that parallels regarding interpretation could be argued, I have not been furnished with all the facts pertaining to that case to fully assess if it sits on all fours with the appeal site. From my observations on site and having viewed the listed sites within the AoNB which were highlighted by the appellant, the site specifics relating to this case are not on par with the proposal before me. Whilst the sites are roadside, they are flat and not prominent or on rising ground. They front and access onto the road therefore I would not envisage that this single case is comparable with the appeal site based on the evidential context before me.

- 6.34 Application LA06/2021/1446/O – between 45 and 47 The Straights, Lisbane was an outline application approved for an infill dwelling and garage in the AoNB. Other than clipped excerpts from case officers’ reports which discuss the comparable plot widths, it has not been demonstrated from the detail submitted how this is comparable to the appeal site.
- 6.35 The appellant cites planning application decisions in support of this appeal and challenges the consistency of decision making by the Council but did not provide these examples in full. There is insufficient evidence given on the stated examples to draw direct comparisons with the appeal development. In any event, it is rare that direct comparisons can be made between proposals, given that the site-specific circumstances of each case are different.
- 6.36 The Council’s concerns regarding ancillary works, pattern of development and impact on character and AoNB within refusal reasons 4, 5 and 6 are therefore sustained, as are the related third party concerns.
- 6.37 For the reasons given above, the development fails to satisfy Policy CTY8 of PPS21. No overriding reasons have been presented to demonstrate why the appeal development is essential and could not be located in a settlement. The appeal proposal is therefore contrary to CTY1 of PPS21. The first reason for refusal and related concerns of the third parties have been sustained.

**7.0 RECOMMENDATION**

7.1 I recommend to the Commission that the appeal be dismissed.

7.2 This recommendation relates to the following drawings: -

<b>Drawing No.</b>	<b>Title</b>	<b>Scale</b>	<b>Council Date stamped</b>
01	Site Location Plan	1:2500	05 April 2022
02	Site Plan Section through Dwelling	1:500 1:100	28 September 2022

**List of Documents**

Planning Authority: - Statement of Case - Ards & North Down Borough Council

Rebuttal Statement - Ards & North Down Borough Council

Appellant: - Statement of Case – David Burgess

Third Parties: - Statement of Case and Rebuttal statement by residents of 36,  
38 and 38a Castle Espie Road: -

Mrs Donly and Mr Barry  
Mr and Mrs Neild  
Dr Frazer and Dr Boyd