
Appeal Reference:	2022/A0194
Appeal by:	EJC Contracts Ltd.
Appeal against:	The refusal of full planning permission
Proposed Development:	Extension to existing commercial yard/depot, containing precast concrete material storage bunkers, a storage shed, HGV and car parking and floodlighting
Location:	Lands 85m North of 386a Ballyclare Road, Newtownabbey,
Planning Authority:	Antrim and Newtownabbey Borough Council
Application Reference:	LA03/2021/0809/F
Procedure:	Written representations and Commissioner's site visit on 20 th June 2024
Decision by:	Commissioner Cathy McKeary, dated 17 th July 2024

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal would:
 - be acceptable in principle,
 - have a detrimental impact on rural character and;
 - have a detrimental impact residential amenity.
3. 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, 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.
4. The Belfast Urban Area Plan 2001 (BUAP) operates as the relevant LDP. In that plan the site is located within the greenbelt. Subsequently the Draft Belfast Metropolitan Plan (dBMAP) was published in 2004 and then purportedly adopted, but the 2014 iteration was declared unlawful in 2017. Consequently, dBMAP 2004 is material in certain circumstances. Within dBMAP, the appeal site is within the greenbelt. However, as the greenbelt policy in the plan is now outdated, having been overtaken by regional policy for development in the countryside, no determining weight can be attached to it. The appeal site also falls within the Newtownabbey Plan 2005, however this was never adopted and therefore is not material.

5. The SPPS sets out transitional arrangements that will operate until a Plan Strategy for the Council area is adopted. No Plan Strategy has been adopted for this Council area yet. During the transitional period, the SPPS retains certain Planning Policy Statements (PPSs) including Planning Policy Statement 4 'Planning and Economic Development' (PPS4) and Planning Policy Statement 21 'Sustainable Development in the Countryside (PPS21). There is no conflict between the SPPS and the aforementioned PPSs insofar as they relate to the appeal proposal.
6. The appeal site is an agricultural field located on the southern side of the Ballyclare Road approximately 1.2km northwest of Glengormley. It is currently accessed via an existing concrete laneway which is lined on its eastern boundary with mature trees and hedges, and with intermittent shrubs on its western boundary. The appeal site is defined by mature hedging on the northern and southern boundaries, and shrubs on the eastern boundary. The western boundary is undefined. The land rises in a south westerly direction from the public road towards the rear of the appeal site. The buildings and a storage area of the existing business, to which the appeal is linked, are located immediately beyond a retaining wall which abuts the southern boundary of the appeal site. There is a dwelling at no. 384 Ballyclare Road immediately to the east of the existing business, and a further dwelling at no. 10 Gravelhill Road, on the eastern boundary of the field immediately west of the appeal site. The area is rural in character.
7. The development is a proposed extension to an existing commercial yard including storage bunkers, a storage shed, car parking, circulation space and security floodlighting. The proposed building would be approximately 33m long by 16m wide and 8m high, located in the most southerly section of the appeal site close to the existing buildings. The storage areas, car parking and turning areas would be located immediately around the proposed building and would extend to cover approximately half the area of the appeal site. Beyond the hardstanding, the most northerly section of the site would be landscaped with an earth bund and tree planting set back from the roadside to the rear of a new visibility splay. The plans show removal of existing roadside vegetation at the access onto the public road. Additional landscaping is also proposed along the eastern and western boundaries of the appeal site.
8. Although not explicitly referred to by the Council, Policy CTY1 of PPS21 states that there are a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It says that planning permission will be granted for non-residential development in the countryside for industry and business uses in accordance with PPS4. It also acknowledges that there are a range of other types of non-residential development that may be acceptable in principle in the countryside but that these will continue to be considered in accordance with existing published planning policies. Policy CTY1 also requires that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.

9. Policy PED2 of PPS 4 sets out the policy context for considering economic development in the countryside. Policy PED2 thereof directs the reader to four different policies depending on the nature of the proposal. In this instance, the parties agree that the proposal falls under Policy PED3 'Expansion of an Established Economic Development Use in the Countryside'.
10. Policy PED3 states that proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development. There is no dispute that reuse or extension of existing buildings on site is not possible. Policy PED3 goes on to state that any extension or new building should respect the scale, design and materials of the original buildings on the site and any historic or architectural interest the original property may have. There is no dispute that this element of the policy is not satisfied.
11. Policy PED3 also states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. Policy PED3 is a two part test, with the first part relating to the visual impact of the proposal within the landscape which also cross cuts with Policies CTY13 'Integration and Design of Buildings in the Countryside' (CTY13) and Policy CTY14 'Rural Character' (CTY14) of PPS21, which were also raised by the Council and the third parties. The second part of the policy test is that there should be no major increase in the site area of the enterprise. I will address this element of the policy test first.
12. A third party considered the appeal development would be a major increase in the site area. Based on refused drawings, it appears that the area of the site for the appeal proposal would be at least the same as that of the existing site. The appeal development would therefore approximately double the overall site area of the enterprise. The appellant indicates that the floorspace will be increased by 40% and that much of the site increase is circulation space and landscaping, which appears to constitute approximately half of the proposed extension area. Notwithstanding this, the proposed expansion represents a major increase in the site area of the enterprise and is therefore contrary to this element of Policy PED3.
13. The Council's and third parties' concerns are in relation to the size, scale and nature of the proposal which would have a detrimental impact on the rural character and appearance of the area. The Council considers that the associated structures, buildings and lighting proposed for this commercial development will appear incongruous and will read as a prominent and conspicuous intrusion in the rural area. Some of the third parties also have concerns about the size and scale of the proposed fence and lights. These matters fall under Policies PED3 of PPS4, CTY13 and CTY14 of PPS21.
14. Policy CTY13 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. Policy CTY14 states that planning permission will be granted where the development does not cause a detrimental change to, or further erode the rural character of an area. The proposal involves cutting into the

existing sloped site to locate the proposed building at a lower level than the existing building. Based on the submitted plans, the proposed building would measure approximately 8.2m to the ridge with approximately 4m of it projecting above existing ground level, 30cm of which would be above the existing retaining wall. To achieve this, there would be significant cutting into the site which would result in a new retaining wall of approximately 4m at its highest point along the site's western boundary.

15. Paragraph 5.64 of the justification and amplification of Policy CTY13 states that a new building that relies on significant earth works, such as mounding or cut and fill for integration will be unacceptable. This work would reduce the impact of the building from all critical views to that of an approximately 4m high building which would barely project above the level of the existing retaining wall. However, the appeal building would nevertheless still be unduly prominent in the landscape and fail to blend with the landform, even with the backdrop of the existing buildings given its overall scale and position within the landform. The design of the building would be inappropriate for the site and its locality. These views would be evident travelling along Ballyclare Road in both directions along the site frontage, particularly with the removal of the mature hedge at the roadside and due to the rising topography.
16. Whilst at present the site has a limited degree of enclosure, primarily due to the strong boundary along the site frontage, a sizable part of this is denoted on the plans to be removed. Landscaping in the form of a bund and planting of trees is proposed along the northern section of the appeal site abutting Ballyclare Road to restrict any views along the site frontage. New hedges are also proposed on the eastern and western boundaries which would help reduce the impact of the building on the critical views when travelling in both directions along Ballyclare Road. Even with the new planting scheme to compensate for the loss of the roadside vegetation, due to the height of the building and proximity to the Ballyclare Road, the site would be unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
17. In terms of ancillary development there are four 6m and four 8m high lights proposed around the edge of the site. They would protrude above the landform even when set on the new ground level created by cutting into the site. Even when unilluminated, such structures would be highly incongruous in the rural area, due to their height. The pole mounted lights would not integrate with their surroundings and would damage rural character as they would appear both conspicuous and unduly prominent from critical views along Ballyclare Road and Gravelhill Road. All the proposed lights in their illuminated state and particularly when read alongside the existing development would adversely impact on visual amenity and would damage rural character. A 3m high paladin fence is proposed on the northern boundary along the length of the frontage. Even if painted green, the height and type of this fence would be unacceptably obtrusive in such a prominent position at the front of the site until the proposed trees begin to mature and therefore would damage the rural character.

18. For the reasons stated above, the proposal would be contrary to criteria (a), (b), (c), (d), (e), and (f) of Policy CTY13, and criteria (a) and (e) of Policy CTY14. Overall, for the reasons stated above, the appeal proposal would not integrate as part of the overall development and would harm rural character and the appearance of the local area, thus failing these elements of Policy PED3 of PPS4. However, where a proposal for the major expansion of an existing industrial enterprise does not meet the above policy provisions, Policy PED3 will only permit the development in exceptional circumstances where it is demonstrated that: relocation of the enterprise is not possible for particular operational or employment reasons, the proposal would make a significant contribution to the local economy, and the development would not undermine rural character. The policy also requires that in all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.
19. The appellant seeks to use the extended facility to meet a new contract which requires them to install fibre optic cabling across Northern Ireland. The appellant states that the materials required for this need to be stored on site, as they are ordered in bulk to ensure unnecessary delay in supply. They also state that the additional storage facilities are necessary to store these materials which are valuable, and weather sensitive. The appellant considers that the proposed site will also offer greater security for their plant, machinery and materials. Access to the proposed extended site would be taken from halfway up the existing laneway. The appellant considers that this would mean a reduction in the number of vehicles accessing the existing yard as delivery vehicles would deposit materials at the new storage facility instead. They state that they will hold additional stock (6% increase) which cannot be accommodated in the existing buildings but which must be stored inside due to its value and the potential for weather damage. The third party has also expressed concerns about what would happen to the development at the end of the contract period. While additional storage may be necessary to facilitate the new contract, it does not follow that this is the only solution to achieve this.
20. The appellant also states that they are a significant employer in the area, have gained an additional substantial new contract and therefore make a significant contribution to the local economy. They consider that the new contract provides job security for existing staff, opportunity for new trainees, considerable financial benefit to the Northern Ireland economy, and unfettered access to modern technology for Northern Ireland's residents. The level of employment and its contribution to the local economy, however, is disputed by the other parties. I accept that the appellant employs approximately 160 people off site plus 12 staff and 16 mechanics on site. However, I have not been given persuasive evidence that the contract could not be met or that any jobs would be lost without the grant of permission for the appeal development. The appellant overall, has not provided persuasive evidence as to why the business as a whole cannot be relocated for either particular operational or employment reasons, nor that the proposal would make a significant contribution to the local economy.
21. Furthermore, the existence of other businesses in the vicinity, which have not been demonstrated to be directly comparable, in themselves would not justify setting aside other policy requirements. Notwithstanding this, given my conclusions above, the proposal would undermine rural character contrary to

Policy PED3. It has not been demonstrated that the proposal is exceptional in accordance with Policy PED3 and overall, for the reasons stated above, would not comply with Policies PED3 of PPS4, CTY13 and CTY14 of PPS21. The Council's first refusal reason and related third party concerns are sustained.

22. Policy PED9, 'General Criteria for Economic Development' of PPS4 requires that any proposal for economic development use, in addition to the other policy provisions of the Statement, will be required to meet a number of other criteria. The Council and third parties consider that the proposal is contrary to criterion (b) of Policy PED9 in that it would have a detrimental impact on residential amenity in terms of noise and lighting.
23. The Council has concerns that the proposal will bring yard activities to within 70 metres of dwellings at No. 10 Gravelhill Road and No. 384 Ballyclare Road. Due to the location of the site extension and position of the proposed building, the proposal would not be significantly closer to either property, even if perceived to be so by the occupants. Their concern is that the size of the proposed extension could cause an increase in noise making activities on the site, which could adversely impact on nearby dwellings and the wider area. However, the appellant states that many of their employees only attend the site infrequently and that the proposed extension would mean that fewer deliveries would be directed to the established site. This infers that activity at the site, even if it is increased overall would be divided over the two service yards which would reduce the adverse impact on the nearby dwellings' amenity. Nevertheless, any increase in the capacity of the business would inevitably bring about some level of increased activity at the site. Though, if accepting the appellant's explanation of how the appeal development would be managed, much of that activity would be concentrated on the access from the public road and part of the laneway, which would serve both the existing business and appeal development.
24. The appellant submitted a noise impact assessment (NIA) which was considered by the Council's Environmental Health Department (EHD). The NIA stated that the proposed building would be used primarily for storage of materials. The NIA was accepted by EHD and the Council did not dispute the findings. They were satisfied that the noise levels generated would not exceed the existing background noise levels, were likely to have a low impact and that amenity could be adequately protected subject to conditions being applied in the event of an approval. While the third party has concerns regarding the limitations of the NIA and considers it to be of limited worth, they have not submitted persuasive evidence that would challenge its conclusions. I accept that the appeal development would inevitably give rise to an increase of activity and associated noise on the site taken as a whole. However, this, taken with my own assessment and the lack of any substantive evidence to the contrary, does not persuade me that any increase in noise and activity would be of a level that would unacceptably harm the amenity of nearby residents.
25. A lighting location plan was provided by the appellant which showed four 6m high wall mounted lights attached to the building facing towards the yard and four 8m high column mounted lights located on the edge of the yard facing towards the building. The drawing also showed the light levels expected within the appeal site and the level of light spill beyond the boundaries of the site. Third parties

commented on the perceived detrimental impact of the proposed lighting but did not provide persuasive evidence that the proposed lighting would further impact on their amenity. The appellant's drawings indicate that there will be minimal light spill beyond the boundaries and none near the neighbouring dwellings. This was not disputed. Notably, the Council's EHD did not require a light impact assessment on this occasion. They stated that residential amenity could be protected subject to the application of conditions.

26. Third party concerns on lighting also related to their visual impact on the locality from their properties. Notwithstanding my earlier conclusions in relation to overspill, at night and during periods of low ambient light when illuminated, any perceived effects from a visual standpoint arising from the floodlights would be heavily filtered from views at the dwellings at 384 Ballyclare Road and 10 Gravelhill Road by intervening vegetation, between the appeal development and those properties. Notwithstanding this, lighting is not always required to be turned on. Siting and restriction of brightness, directed through a lighting plan, which could be secured via planning condition in the event the appeal was to be granted, would ensure no unacceptable adverse impacts on neighbouring dwellings. The third party's concerns regarding the impact of the current lighting are outside the remit of this appeal.
27. For the above reasons I am satisfied that the appeal development would not harm the amenities of nearby residents and criterion (b) of PED9 is met. The Council's second refusal and the related third party concerns are not sustained.
28. The third parties raised a number of concerns regarding traffic generation, parking, flooding on the public road, and road safety. I note that neither the Council nor DfI Roads put forward any concerns about road safety or traffic management. The third parties also raised other concerns including loss of agricultural land, impact on their ability to enjoy their homes, pollution and the general impact on the environment, but did not provide substantive evidence supporting their position. The matter of other retrospective applications and the removal of hedges relating to the existing business are not within the remit of this appeal. In the evidential context these objections either alone or in combination do not merit withholding permission.
29. Policy CTY1 of PPS21 states that *"other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement"*. The arguments made in respect of the need for the appeal development and its stated benefits are not overriding, nor would they persuade me that the development is essential. Furthermore, the appellant did not provide any persuasive evidence why the development could not be located at alternative locations within settlements. Overall, for the reasons given, the proposal is contrary to Policies CTY1, CTY13, and CTY14 of PPS21, and Policy PED3 of PPS4 and the related provisions of the SPPS, insofar as stated above. The Council's first refusal reason and the related third party concerns are sustained and determining. As the Council's reasons for refusal and the related third party concerns have been sustained to the extent specified, the appeal must fail.

This decision is based on the following drawings stamped received by Antrim and Newtownabbey Borough Council:-

Drawing No.	Title	Scale	Date
04	Existing site survey and location map	1:500 @A1	9 th August 2021
05/2	Proposed site plan	1:500 @A1	11 th August 2022
06/2	Proposed floor plan and elevations. Elevations of retaining walls	1:200 and 1:100 @A1	11 th August 2022
07	Ballyclare waste storage external lighting	1:250 @A1	29 th April 2022

COMMISSIONER CATHY MCKEARY

List of Documents

Planning Authority:- Statement of case by Antrim and Newtownabbey Borough Council
Rebuttal by Antrim and Newtownabbey Borough Council

Appellant:- Statement of case by DM Kearney Design on behalf of EJC Contracts Ltd.
Rebuttal by DM Kearney Design on behalf of EJC Contracts Ltd.

Third Parties:- Statement of case by Ashely McBride and Sam Mahon
Rebuttal by Ashley McBride