

Title of Report:	Planning Committee Report – LA01/2022/1196/O
Committee Report Submitted To:	Planning Committee
Date of Meeting:	27th September 2023
For Decision or For Information	For Decision – Referred Application by Alderman John Mc Auley

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Development Management and Enforcement Manager

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:

	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

No: LA01/2022/1196/O **Ward:** Dundooan

App Type: Outline

Address: Directly Adj to the South of 26 Atlantic Road Coleraine

Proposal: Site for new Dwelling and Garage infilling gap within built-up frontage to laneway

Con Area: N/A **Valid Date:** 10.11.2022

Listed Building Grade: N/A

Agent: J O Dallas, 31 Abbey Street, Coleraine, BT52 1DU

Applicant: Mr Alister McGarvey, 4 Millrush Drive, Portstewart

Objections: 0 **Petitions of Objection:** 0

Support: 0 **Petitions of Support:** 0

EXECUTIVE SUMMARY

- Outline planning permission is sought for a new dwelling and garage at lands directly adjacent and to the South of 26 Atlantic Road Coleraine.
- The proposal is contrary to Planning Policy Statement 21, Sustainable Development in the Countryside, Policy CTY 1 and CTY 8, in that the site is not considered a gap site as it is not located within a substantial and continuously built-up frontage and there are no overriding reasons why the development is essential and could not be located in a settlement.
- Refusal is recommended

Drawings and additional information are available to view on the Planning Portal-
<https://planningregister.planningssystemni.gov.uk/simple-search>

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** outline planning permission subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located on lands directly adjacent and to the South of 26 Atlantic Road Coleraine.
- 2.2 The site comprises a cut from an agricultural field which accesses onto an existing laneway. The Laneway accesses onto the Atlantic Road, a protected route. The site is relatively flat. The northern boundary to no. 26 is defined by a mature hedgerow. The eastern boundary of the field is defined by hedgerow and an access gate. A private laneway runs to the eastern boundary which runs south-west to access no. 24 and other buildings and agricultural land. Mature trees are planted along this laneway. The southern boundary is defined by post and wire fencing and hedgerow. The rear/western boundary is undefined and open to the remainder of the agricultural field.
- 2.3 The site is located within the rural area outside any settlement development limit as defined in the Northern Area Plan 2016. There are a number of dwellings in the vicinity of the site to the south and north. The Portrush Road Roundabout is located further south of the site.

3 RELEVANT HISTORY

- 3.1 There is no planning history on the application site.

4 THE APPLICATION

- 4.1 This is an outline application for a new dwelling and garage at lands directly adjacent and to the South of 26 Atlantic Road Coleraine. The application has been submitted as an infill.

5 PUBLICITY & CONSULTATIONS

5.1 External

Advertising: Advertised in the Coleraine Chronicle on the 14.11.2022.

Neighbours: Neighbours were notified on 16.11.2022.

No letters of support or objection were received on this application.

5.2 Internal

NI Water: no objections.

Environmental Health: no objections.

DFI Roads: no objections.

HED: no objections.

NIEA: no objections.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 6.2 The development plan is:

- The Northern Area Plan 2016 (NAP)

- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking

Planning Policy Statement 21 – Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, visual integration/impact on rural character and access.

Principle of development

- 8.2 The proposal must be considered having regard to the NAP 2016, SPPS, and PPS policy documents specified above.
- 8.3 Planning Policy Statement 21 – Sustainable development in the Countryside, Policy CTY 1 notes 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, one of which is the infilling of a gap site in accordance with Policy CTY 8.

- 8.4 Policy CTY 8 notes that planning permission will be refused for a building which creates or adds to a ribbon of development. 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.
- 8.5 Firstly CTY 8 requires a small gap site to be within an otherwise substantial and continuously built-up frontage, which is defined as a line of 3 or more buildings along a road frontage. There is one dwelling to the immediate north of the site (no. 26) which has a frontage to Atlantic Road. There are 2 buildings further south-west of the site (no. 24 and garage) but these buildings do not have a frontage to Atlantic Road and have a frontage to the private laneway only. The laneway is heavily vegetated with mature trees and no. 24 and garage does not read with a frontage to Atlantic Road. The site is therefore not located within a substantial and built-up frontage. There is no development to the immediate south of the site, and the development to the north and further south-west have frontages to separate roads/lanes.
- 8.6 PAC decision reference 2016/A0160 is relevant to the case. The decision notes, "The buildings at Nos 26, 28 & 30 Ballycreely Road are separated from the appeal site by the Ballybeen Road. This road has two lanes with road markings and it constitutes a break in the built development along the frontage of the Ballycreely Road. Consequently, there is no continuous (my emphasis) built up frontage along this part of the road. The proposal therefore relies on development along two frontages, albeit along the same road. The policy refers to frontage; not frontages. In this case, there is no small gap site within a line of three or more buildings along a singular frontage to meet the policy definition."

- 8.7 There is no line of 3 or more buildings along a road frontage as required by policy. The proposal fails to meet policy CTY 8.
- 8.8 There is no overriding reasons why the development is essential and could not be located within the development limit and fails CTY 1.

Visual integration/impact on rural character

- 8.9 Planning Policy Statement 21 – Sustainable development in the Countryside CTY 13 notes 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. A new building will be unacceptable where:
 - (a) It is a prominent feature in the landscape; or
 - (b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
 - (c) It relies primarily on the use of new landscaping for integration; or
 - (d) Ancillary works do not integrate with their surroundings; or
 - (e) The design of the building is inappropriate for the site and its locality; or
 - (f) It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
 - (g) In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.
- 8.10 Policy CTY 14 notes 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. A new building will be unacceptable where:
 - (a) it is unduly prominent in the landscape; or
 - (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
 - (c) it does not respect the traditional pattern of settlement exhibited in that area; or
 - (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
 - (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

- 8.11 The northern boundary to no. 26 is defined by mature hedgerow. The eastern boundary is defined by hedgerow. The southern boundary is defined by post and wire fencing and hedgerow. The western boundary is undefined and open to the remainder of the agricultural field. A private laneway runs to the eastern boundary which runs south-west. Mature trees are planted along this laneway. The existing mature boundaries on site as well as the mature planting to the adjacent laneway provides a degree of integration at this location. The existing development to the immediate north and further south-west will screen views on approach from the north and south along Atlantic Road. The site is relatively flat and a dwelling at this location will not be a prominent feature in the landscape. There will be no long ranging views of the site and a dwelling at this location will not damage rural character.
- 8.12 The application is not associated with a dwelling on the farm.
- 8.13 As this is an outline application detailed design drawings have not been submitted.
- 8.14 Overall, it is considered a dwelling on this site will visually integrate into the surrounding landscape and not damage rural character and meets CTY 13 and CTY 14.

Access

- 8.15 PPS 3, Policy AMP 2, Access to Public Roads notes planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.
- 8.16 Annex 1 of PPS 21 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking - Policy AMP 3 - Access to Protected Routes (Consequential Revision) notes planning permission will only be granted for a development proposal involving access onto this category of Protected Route in the following cases:
- (a) A Replacement Dwelling – where the building to be replaced would meet the criteria set out in Policy CTY 3 of PPS 21 and there is an existing vehicular access onto the Protected Route.

(b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

(c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development set out in Policy CTY 7 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

(d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

8.17 DFI Roads were consulted in relation to this application and in their consultation response dated 17.11.2022 recommended refusal on the basis that it was a new access onto a protected route.

8.18 Atlantic Road is a protected Route, however the proposal does not involve access directly onto a protected route but will access onto the existing laneway. Annex 1 of PPS 21 the consequential amendment to Policy AMP 3 is not enacted. Roads have not raised objection under AMP 2 of PPS 3.

Habitats Regulation Assessment

8.19 The potential impact this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The Proposal would not be likely to have a significant effect on the Features, conservation objectives or status of any of these sites.

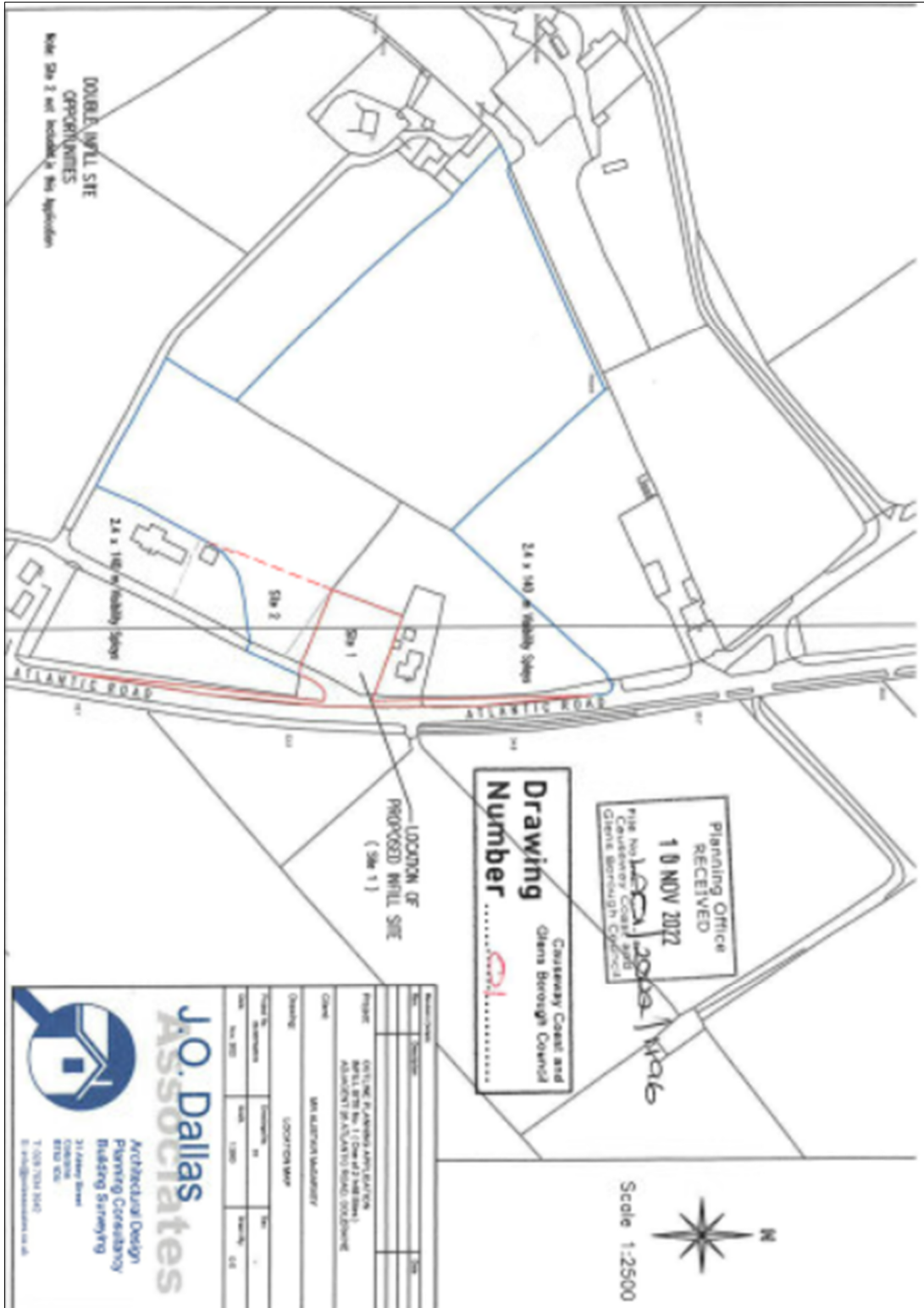
9 CONCLUSION

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations including Planning Policy Statement 21 – Sustainable development in the Countryside, CTY 1 and CTY 8, in that the site is not considered a gap site as it is not located within a substantial and continuously built-up frontage and there are no overriding reasons why the development is essential and could not be located in a settlement.

10 Reasons for Refusal

1. The proposal is contrary to Planning Policy Statement 21, Sustainable development in the Countryside Policy CTY 1 and CTY 8, in that the site is not considered a gap site as it is not located within a substantial and continuously built-up frontage and there are no overriding reasons why the development is essential and could not be located in a settlement.

Site location Map





Referral Request

From: John McAuley <john.mcauley.dup@gmail.com>

Sent: Friday, June 16, 2023 10:34 AM

To: Planning <Planning@causewaycoastandglens.gov.uk>

Subject: RE: LA01/2022/1196

Good Morning

I wish to call in the following planning application for decision by the planning committee -

In practical terms, a reasonable viewpoint would be to consider this to be linear infilling along the roadway especially considering the historical context and linear appearance when viewed when approaching from Portrush.

Regards

John McAuley

Annex 1 - PAC Decision 2016/A0160

Appeal Decision

Appeal Reference:	2016/A0160
Appeal by:	Mr John McIlveen
Appeal against:	The refusal of outline planning permission
Proposed Development:	Two dwellings
Location:	North of No 14 Ballycreely Road, Comber
Planning Authority:	North Down & Ards Borough Council
Application Reference:	LA06/2016/0158/O
Procedure:	Written Representations with Commissioners Site Visit on 29 March 2017
Decision by:	Commissioner Pamela O'Donnell, dated 10 April 2017

Decision

1. The appeal is dismissed.

Reasoning

2. The main issues in the appeal are whether the proposal is acceptable in principle in the countryside and whether it would adversely impact on rural character.
3. The Planning Act (NI) 2015 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. The Ards and Down Area Plan 2015 operates as the local development plan for the area where the appeal site is located. The site lies in the countryside, outside any settlement identified in the plan. The plan contains no policies relevant to the site or the appeal proposal. The other material considerations are discussed below.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area and it retains certain existing planning policy statements. Amongst these is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). This provides the relevant policy context for the appeal proposal. Policy CTY1 thereof indicates that there are types of development acceptable in principle in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. It follows that if a proposal satisfies Policy CTY8, it would also satisfy Policy CTY1.
5. Policy CTY8 of PPS21 is entitled Ribbon Development and it states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 indicates that ribbon development is detrimental to

the character, appearance and amenity of the countryside. Though this type of development has been consistently opposed, policy goes on to say that an exception will be permitted. This exception relates to 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, 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. The policy defines a substantial and built up frontage as including a line of three or more buildings along a road frontage without accompanying development to the rear.

6. The appeal site lies on the outside of a bend on the Ballycreely Road. No 14 Ballycreely Road, a detached dwelling with outbuildings is located to the south of the site. The junction with the Ballybeen Road lies immediately to the north of the site. Beyond this road junction, to the north east there are a further three dwellings comprising Nos 26, 28 and 30 Ballycreely Road. The aforementioned dwellings have frontage to the Ballycreely Road as the plots on which they stand abut the road. No 26 also has a detached garage. The appeal site has a frontage of around 55m to the Ballycreely Road. The Appellant argues that the appeal site is within a substantial and continuously built up frontage comprising the buildings at No 14, 26, 28 and 30 Ballycreely Road.
7. The buildings at Nos 26, 28 & 30 Ballycreely Road are separated from the appeal site by the Ballybeen Road. This road has two lanes with road markings and it constitutes a break in the built development along the frontage of the Ballycreely Road. Consequently, there is no continuous (my emphasis) built up frontage along this part of the road. The proposal therefore relies on development along two frontages, albeit along the same road. The policy refers to frontage; not frontages. In this case, there is no small gap site within a line of three or more buildings along a singular frontage to meet the policy definition. Appeal decisions 2013/A0037 and 2015/A0091 both relate to development along one frontage so they are distinguishable to this case. There was no argument made by the Council that the proposal would fail to respect the development pattern in the area.
8. Appeal decision 2014/A0241 was relied on by the Council to support their position. However, the Appellant sought to distinguish it from the circumstances of this appeal. In that case, No 84 Battlefield Road was separated from the appeal site and the other dwellings at Nos 52 and 54 Battlefield Road by a road, similar to the circumstances of this case. It was found that the dwelling at No 84 had a frontage to the main Battleford Road, like Nos 52 and 54 irrespective of its access orientation. I concur with that position. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with the road and in establishing if a building has a frontage, it does not matter whether or not it takes access from the road. In that appeal, like this, it was also found that the proposal relied on development along two frontages. The Councils' reliance on that appeal was therefore justified.
9. Paragraph 5.33 of PPS21 gives examples of instances that can represent ribbon development. It states that a ribbon does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. Paragraph 5.33 relates to circumstances that can constitute ribbon development;

not those that can make up a substantial and continuously built up frontage. A ribbon of development can comprise buildings that do not share a frontage provided they are visually linked. However, in order that buildings constitute a substantial and continuously built up frontage, they must be along a frontage and there is no requirement for visual linkage or sequential awareness. Appeal decision 2013/A0248 reaffirms this.

10. Policy CTY14 of PPS21 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 the area. It then specifies five situations where a new building will be unacceptable. One of these is where it would create or add to a ribbon of development. This criterion is cross-referenced with Policy CTY8.
11. The proposal would visually link with the buildings at Nos 26, 28 and 30 on approach to the site from the east irrespective of the road alignment. It would also visually link with the buildings at Nos 14 and 26 on approach to the site from the south. Accordingly, the proposal would form a ribbon of buildings to the detriment of rural character. For these reasons and those outlined above, the proposal does not comply with Policy CTY8 or Policy CTY14. The first and second reasons for refusal are therefore sustained. In appeal 2014/A0241 the dual frontage nature of that site meant that ribbon development would have been created along the minor road. In this case, ribbon development would only be along the Ballycreely Road. Other issues that were raised in the appeal are considered below.
12. The proposal would involve removing two small agricultural sheds. These sheds are on a small portion of the overall site and their presence does not mean that the site cannot be considered for infill development given the policy wording. The two infill dwellings approved between Nos 12 and 14 Ballycreely Road (X/2014/0276) are not germane to my consideration as (i) they have not been built and (ii) they are not relied upon by the Appellant. I concur that that approval does not assist as the wording of Policy CTY8 does not allow for 'potential' development to be considered. Furthermore, I see nothing wrong with that decision so it does not demonstrate any inconsistency in the decision making of the Council. The small amount of additional traffic that would be generated by the proposal would not compromise road safety. Given its size and characteristics, I do not consider the Ballybeen Road to be a little wider than a typical access road or farm lane and as stated, I find that it constitutes a break in development. Compliance with planning policy is a matter of acknowledged importance and in not complying with policy, this particular proposal would result in demonstrable harm for the reasons stated.
13. Policy CTY1 goes on to say 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. No evidence was presented to demonstrate that the proposal is essential. As such, it is also contrary to Policy CTY1 of PPS 21. The third reason for refusal is sustained. The appeal must therefore fail.

This decision is based on the Site Location Map (Drawing No LM-01) @ 1:1250, Site Concept Plan (Drawing No LM-01) @ 1:2000 and the illustrative Site Layout Map (Drawing No 1:500) @ 1:500 stamped refused by the Council on 15 September 2016.

COMMISSIONER PAMELA O'DONNELL

List of Appearances

Planning Authority:- Mr K McDowell (Ards & Down Borough Council)

Appellant(s):- Mr D Donaldson (Agent)

List of Documents

Planning Authority:- "A" Statement of Case
"C" Rebuttal

Appellant(s):- "B" Statement of Case
"D" Rebuttal

Addendum

LA01/2022/1196/O

1.0 Update

1.1 Correspondence was received from the agent via email on 21.08.23. This included a letter and annotated site location map.

1.2 The letter advised that;

- “The main basis of refusal by the Planning Department is that the ‘substantial built-up road frontage’ is divided between the Atlantic Road and a Private Laneway and should be regarded as 2 separate different frontages”.
- I believe that this is one continuous frontage as the Policy CTY8 clearly states the term ‘road frontage’ applies to private laneways as well as public roads.
- As you travel south towards the site there is ‘road frontage’ present to the right hand side of the Atlantic Road. As you veer off into the laneway this is still ‘road frontage’ on the right hand side of the laneway. It is continuous and uninterrupted. By definition given in Policy CTY 8 this is all ‘road frontage’. It is either road frontage as defined in policy or it is not. The Policy does not differentiate.
- Planning Department quote Planning Appeal Ref: 2016/A0160...It has no bearing on our proposal.
- This site is set on family farmland... Mr McGarvey would dearly love to return to live on the farm and re-commence farming. As the original farmhouse and farmyard have...been sold off this application is his only realistic opportunity for this to happen.”

1.3 An annotated site location map was also provided.

1.4 Correspondence was submitted on 08.09.2023 from an MLA in support of the application. The correspondence questioned the relevance of a Judicial Review in Drunsumn to the application.

2.0 Consideration:

- 2.1 The issue is the presence of two separate frontages. The site has a frontage to the private laneway as does no 24 and the associated garage. However, no. 26 to the north has a frontage to Atlantic Road and does not have a frontage to the private laneway. The application site is therefore relying on a dwelling (26) with a frontage to a separate road. This is not a continuous frontage and is contrary to CTY 8.
- 2.2 In the amplification of policy CTY8 (para 5.33), for the purposes of CTY8 a road frontage includes a footpath or private lane. However, it is equally important to note that the term “road frontage” is singular and only allows for a gap site in a substantially and continuously built up frontage onto one road, one footpath or one private laneway. The policy is not applicable where the site relies on development on two separate frontages i.e a road and a private lane by which to achieve the required number of buildings within which to infill.
- 2.3 PAC decision 2022/A0050 (Lough Road/Belshaws Road, Ballinderry, see map below) is relevant in consideration of this. In this appeal the applicant was relying on buildings with a frontage onto two separate roads, the Lough Road and the Belshaws Road. The Commissioner dismissed this appeal noting, “consequently the buildings at 2 Belshaws Road do not have road frontage to the Lough Road. Their frontage is to Belshaws Road. Furthermore, the policy refers to a frontage (singular). Even if these buildings did have frontage onto the Lough Road that frontage would be broken by the Belshaws Road. Therefore, these buildings cannot count towards the substantial and continuously built up frontage given that two frontages would be relied upon.”
- 2.4 Two frontages are relied on in this application, a frontage to the private laneway and a frontage to the Atlantic Road. This is contrary to CTY 8.
- 2.5 In consideration of the letter of support submitted on 8.9.2023, the Planning Department refers to paragraphs 8.5 – 8.8 of the Committee Report and the content of this Addendum which outlines that the proposal is contrary to policy. In terms of the relevance of the Judicial Review at East Road Drumsurn, to this case, the Planning Department would refer to para 18 where the

judgement acknowledged the limitations of planning judgement for three reasons. The second reason stated that “judgement may require to be exercised in matters of evaluation, there are other matters (such as the ascertainment of physical features on the ground) which may require assessment as a matter or fact, rather than the exercise of judgement, where judicial review will lie more readily in the case of a clearly established error”. In the case before Committee, the physical details on the ground are that no 26 fronts onto Atlantic Road, no 24 and its garage front onto the laneway. Two frontages are relied on in this application, a frontage to the private laneway and a frontage to the Atlantic Road. This is contrary to CTY 8.

3.0 Recommendation

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the planning application in accordance with paragraph 1.1 of the Planning Committee Report.

2022/A0050 – Map



PLANNING APPEALS COMMISSION

THE PLANNING ACT (NORTHERN IRELAND) 2011

SECTION 58

Appeal by Mr Ken Brown

against the refusal of outline planning permission for

**2 no. infill dwellings within a gap along a substantially built up frontage
on land between 25b Lough Road and 2 Belshaws Road, Ballinderry, Lisburn**

Report

by

Commissioner Trudy Harbinson

Planning Authority Reference: LA05/2021/0341/O

Procedure: Written Representation

Commissioner's Site Visit: 4th May 2023

Report Date: 30th May 2023

1.0 BACKGROUND



- 1.1 Lisburn and Castlereagh City Council received an application for outline planning permission on 26th March 2021. By notice dated 1st March 2022 the Council refused permission giving the following reasons: -
1. **The proposal is contrary to the SPPS and Policy CTY1 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 SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Lough Road as the site does not fall within a substantial and continuously built up frontage of development.**
 3. **The proposal is contrary to the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape and the proposed buildings would rely primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.**
 4. **The proposal is contrary to the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings; it would, if permitted not respect the traditional pattern of settlement exhibited in the area and would, if permitted add to a ribbon of development along the Lough Road therefore resulting in a detrimental change to (further erode) the rural character of the countryside.**
 5. **The development would be contrary to Paragraphs 4.11 and 4.12 of the SPPS in that it has not been demonstrated that the proximity to adjacent farm buildings would not have an adverse impact upon the amenity of the proposed dwellings by virtue of undue noise, odours and insects.**
 6. **The proposal is contrary to the SPPS and Policy NH2 and NH5 of Planning Policy Statement 2 'Natural Heritage' and Section 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 in that insufficient information has been submitted to enable the proper determination of the application as the Biodiversity Checklist requested by the Council has not been made available. It therefore has not been demonstrated that the development will not adversely impact upon noted features of natural heritage importance i.e. birds, bats and/or badgers.**
- 1.2 The Commission received the appeal on 21st June 2022 and advertised it in the local press on 8th July 2022. Representations from third parties were received at

application and appeal stage. One letter of support received at application stage was forwarded to the Commission.

2.0 SITE AND SURROUNDINGS

- 2.1 The site is located to the south of Lough Road and east of Belshaws Road. It is a corner site cut out of a larger agricultural field. Its southern boundary is undefined. Its eastern boundary is defined by a timber fence. The roadside boundary is defined by a ranch style fence for around a fifth of its length and over its remainder by a hedge some 1.5m in height. This hedge is set behind a grass verge. The western boundary is defined by a hedge. There is a substantial mature tree on the north-western roadside corner and an electricity pole along the western boundary. An internal hedgerow runs north to south through the site with a field gate to the east of the hedgerow which provides access into the field from Lough Road. Levels gently rise across the site from west to east.
- 2.2 A detached bungalow with a detached double garage at 25B Lough Road lies adjacent and to the east of the site. No 25A Lough Road lies further to the east, comprising a detached bungalow with an adjacent outbuilding. To the west of the appeal site lies Belshaws Road which bisects Lough Road at this juncture. A one and a half storey farm dwelling with agricultural outbuildings is located some 10m further west at 2 Belshaws Road. These buildings are set back some 50m from Lough Road and are separated from the Lough Road by an intervening field. There is a mobile home opposite the site.
- 2.3 The wider area is rural in character with agricultural fields interspersed with farm dwellings and outbuildings.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The site is located on the southern side of Lough Road at its junction with Belshaws Road. It consists of a rectangular section of land cut out of two adjacent agricultural fields. Access is gained from the Lough Road. The site area is approximately 0.6ha.
- 3.2 The site boundaries are defined by hedgerow along the northern and western boundaries and in part by post and wire fence along the eastern boundary. The southern boundary is undefined. An internal hedgerow runs across the site in a north-south direction and the land within the site rises gently in an eastern direction.
- 3.3 The land surrounding the site is mainly rural in character and predominantly in use for agricultural purposes. To the east of the site, there are two detached single storey dwellings, with ancillary outbuildings/garages fronting on to Lough Road. To the west of the site there is a 1.5 storey dwelling with associated farm outbuildings, fronting on to Belshaws Road.
- 3.4 The Strategic Planning Policy Statement for Northern Ireland Planning for Sustainable Development (SPPS) outlines at Paragraph 6.70 that all development in the countryside must integrate into its setting, respect rural character and be appropriately designed. The application is for 2 infill dwellings. There are no distinguishable differences between the SPPS and the retained Planning Policy

Statement 21 Sustainable Development in the Countryside (PPS21) that need reconciled in favour of the SPPS.

- 3.5 Policy CTY1 Development in the Countryside of PPS21 states that there are a range of types of development which are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8 Ribbon Development.
- 3.6 Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. 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 in terms of size, scale, siting and plot size and that meets other planning and environmental requirements. For the purposes 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.
- 3.7 The proposed site is not located within an otherwise substantial and continuously built up frontage of development. Therefore, to permit the development as proposed would extend (add to) the extremities of an existing ribbon of development, which is noted along this section of the Lough Road via numbers 25a and 25b.
- 3.8 Numbers 25a and 25b Lough Road are seen to have a frontage onto the Lough Road. To the west of the site, the dwelling at 2 Belshaws Road and its associated outbuildings present a frontage on to Belshaws Road only.
- 3.9 The agent contends that the curtilage and garden of the farm plot extends along Belshaws Road to the Lough Road and includes a long established orchard, readable as part of the overall sites curtilage and not a separate agricultural field. They refer to and include a map of a previous planning application for 2 Belshaws Road (S/2003/0748/F) which shows the red line extending around the garden fronting onto Lough Road.
- 3.10 A detailed inspection established that the curtilage of 2 Belshaws Road does not extend to the Lough Road. There is a small field (orchard) to the north of the existing garden area, with a post and wire fence, demarcating the boundary between the two. This boundary is illustrated on the map. It is noted that the western boundary of this field/orchard area is open and therefore it is seen to be part of a larger field which wraps around the north and west of 2 Belshaws Road and is not part of the curtilage/frontage of 2 Belshaws Road.
- 3.11 Google streetview images of the orchard/field area as seen from Lough Road, (dated September 2008 and June 2012), show that the area has not been maintained as per the garden area which is within the curtilage of 2 Belshaws Road. The grass appears to be unmown and large nettles/weeds are noted. The western boundary is seen to be open and in turn connected to the overall field of which this section is part and parcel. Worn ground from cattle tracks into the area are also apparent.

- 3.12 It is noted that the occupants of 2 Belshaws Road within their objection refer to a separate field between the farm and Lough Road, and to number 2 fronting Belshaws Road and not Lough Road.
- 3.13 The policy test is therefore not met. The site is not considered to be a small gap between three buildings that share the same frontage onto Lough Road. The development as proposed relies upon buildings which front onto two different roads, Lough Road and Belshaws Road. The curtilage of the dwelling on Belshaws Road is separated from the Lough Road by the north eastern corner of a large field which wraps around 2 Belshaws Road.
- 3.14 The proposed development does not respect the existing development pattern along the frontage of the Lough Road in terms of scale, size and orientation. In the event of 2 Belshaws Road being considered to present a frontage to the Lough Road an assessment of the frontages and plot sizes with respect to the existing dwellings shows 25a Lough Road having a frontage of 55.3m, 25b Lough Road 46.0m and 2 Belshaws Road 17.6m. This provides an average frontage of 39.6m. The frontage of the proposed double infill site measures 103m, an average of 51.5m per plot which is in excess of the average plot frontage, and also in excess of the figures of 52m and 44m as put forward by the appellant, illustrating that in terms of frontage size the site would fail to respect the pattern of development along the frontage.
- 3.15 In relation to plot sizes, 25a Lough Road measures 0.3ha, 25b Lough Road 0.2ha and 2 Belshaws 0.4ha, giving an average of 0.3ha. The appeal site measures 0.6ha (0.3ha per plot) and is comparable to adjacent sites in respect of plot size. However as previously outlined the proposal is contrary to Policy CTY8 as the site does not fall within a substantial and continuously built up frontage of development.
- 3.16 Guidance provided on page 71 of Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside (BOT) with respect to the assessment of such development, illustrates that the proposed site would be unacceptable. The appellant states that the dwelling designs submitted were loosely notional and that a condition for a later reserved matters application would ensure that the guidance is satisfied. All applications are assessed based on the information provided for consideration and in this instance the principle of development was deemed unacceptable and the use of a condition to ensure that the guidance is satisfied would not apply.
- 3.17 It follows that if a development complies with Policy CTY8 it will also comply with Policy CTY1. Policy CTY1 goes on to state 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 proposal fails to meet Policy CTY8. There is no evidence to demonstrate that there are overriding reasons why the development is essential. The proposal is unacceptable in principle and contrary to Policy CTY1.
- 3.18 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 is of an appropriate design. A new building will be unacceptable where the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. It is also unacceptable

where it is seen to rely primarily on the use of new landscaping for the purposes of integration.

- 3.19 In this instance it is considered that the site lacks mature site boundaries, and as such, the proposal would have a detrimental visual impact on the surrounding countryside. The development would rely on the use of new landscaping for integration. At present two of the four site boundaries are defined with hedging (northern roadside and western boundary) and an internal hedge is noted.
- 3.20 To provide access to the development a large section of the northern boundary would require removal to provide adequate visibility splays. Transport NI require 2.4m by 93m visibility splays. The resulting hedgerow removal required for access combined with the undefined southern boundary would result in a development that would suffer from poor levels of integration. The roadside hedge would require to be removed and replanted, the undefined southern boundary would require planting and the eastern boundary of the site (common with 25b Lough Road) does not consist of a long established natural boundary and would also require to be planted out with mature landscaping. In turn the development would rely upon new landscaping for integration.
- 3.21 In total the site provides only one established (external) boundary that can remain in place (the western Belshaws Road boundary). The removal of the roadside boundary for access would open the site up to public views and in turn result in a site which would lack integration and one that would harm the rural character of the local area.
- 3.22 Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the principle of development is considered to be unacceptable as it fails the policy tests of CTY8, it is considered therefore, that it would result in a suburban style build-up of development when viewed with existing and approved buildings within the local area. It is therefore considered that the development would not respect the traditional pattern of development found within the area, as it would add to a ribbon of development which is noted in situ, running along this section of the Lough Road. The development would in turn result in a detrimental change to (further eroding) the rural character of the countryside.
- 3.23 Paragraph 4.11 of the SPPS outlines that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. It outlines that the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development. It also advises that the planning system can positively contribute to improving air quality and minimising its harmful impacts. Paragraph 4.12 of the SPPS directs that other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. It advises that adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, these considerations are not exhaustive and planning authorities are best placed to identify and consider, in

consultation with stakeholders, all relevant environment and amenity considerations for their areas.

- 3.24 The Council's Environmental Health Service Unit (EH) has advised that the proposed dwelling would be located approximately 30m from a farm and that farms and associated structures have the potential to cause a loss of amenity in relation to odour, noise and insects. Advice received recommends that there should be a minimum separation distance between farm buildings and their related structures, and non-associated residential dwellings of 75m. Advice also recommends that where the development is permitted within 75m of a farm; odour, noise and insects may cause a loss in amenity and future development and sustainability of the farm could be affected by subsequent nuisance action. EH therefore advise that the proposed development is unsuitable as there may be a loss of amenity due to noise, odour and insects.
- 3.25 Given the proposed relationship between the development and the adjacent farm at 2 Belshaws Road, and the advice received from EH, it is considered that the development as proposed is contrary to paragraphs 4.11 and 4.12 of the SPPS.
- 3.26 The advice from EH was shared with the appellant however no further comment was received. In their Statement of Case they outline that the concerns raised by EH with respect to proximity of the farm buildings is in conflict with Policy CTY10 Dwellings on Farms of PPS21. They question why the 75m distance is an unwritten requirement for Policy CTY8 and the opposite of CTY10 as they are both most likely to be family homes not necessarily connected to farming activity. However, each application is assessed against prevailing policy and in this instance CTY8 is applicable and not CTY10 which requires that dwellings on farms are visually linked or sited to cluster with an established group of buildings on the farm.
- 3.27 The EH response refers to Part 7 of The Planning (General Permitted Development) Order (Northern Ireland) 2015, not planning policy. EH have used this as a tool to assess the merits of the development as proposed in relation to its proximity to 2 Belshaws Road which appears to be a working farm. A farmer applying for a farm dwelling under Policy CTY10 would be most unlikely to make a complaint to EH whereas a third party as would be the case in the scenario presented could (occupant of new dwelling outside of farm holding).
- 3.28 The appellant advises that the house locations submitted were notional and with a redesign to the layout a larger separation distance could be achieved close to the required 75m. They suggest this could be conditioned and addressed at reserved matters. They append a notional layout (appendix 6). This has not had the benefit of comment from EH. It is noted from a cursory assessment that outbuildings within the complex immediately adjacent to the road appear to have been discounted and that the closest dwelling remains within 75m of the in-situ outbuildings within the farm complex at 2 Belshaws Road.
- 3.29 The appellant references a planning approval (LA05/2017/1124/F) for 507 residential units at agricultural land south of Glenavy Road and west of Brokerstown Road. Noise and odour reports were provided to EH for consideration and the owner of the farm in question within this application was the developer. In turn this resulted in the Council utilising a Section 76 agreement which required the retention of a slurry tank

lid and also removed agricultural permitted development rights from the farm. It is considered that this example is not comparable to the situation in this appeal. No reports have been provided in respect of noise or odour, and the farm complex located at 2 Belshaws Road does not have an estate in the land in question. As such a Section 76 agreement would not be an option in this case.

- 3.30 The appellant appends further examples of approvals they consider provide guidance in respect of proximity to operating farms. Each planning application is assessed upon its own merits. In respect of applications: -
- LA05/2020/0270/F 35 Dwellings on lands 130m north of 1-11 Sir Richard Wallace Gardens, Lisburn. EH offered no objections to this.
 - LA05/2017/0732/F 2 dwellings and garages adjacent to 16 Gulf Road, Hillsborough. EH noted the site was adjacent to a number of working farm buildings not associated with the application and advised that farms have the potential to cause loss in amenity with respect to noise, odour and flies. Whilst it is noted that this approval appears similar to the appeal situation, EH offered no objection, which is not the case in the current situation.
 - LA05/2020/0137/RM 2 detached dwellings adjacent to 28d Lough Road, Upper Ballinderry, Lisburn. EH in their response refer to the close proximity of existing commercial concerns and potential for loss of amenity due to noise. Advice is provided on nuisance and no objection offered. EH comments in this instance relate to adjacent commercial premises and not to an adjacent farm yard.
- 3.31 Planning Policy Statement 2 Natural Heritage (PPS2) sets out planning policies for the conservation, protection and enhancement of our natural heritage. Natural heritage is defined as the diversity of our habitats, species, landscapes and earth science features. DAERA Natural Environment Division in their consultation response advise that no ecological information has been provided for comment.
- 3.32 As it appears that a section of roadside hedging is required to be removed to provide access to the site a NI Biodiversity checklist was requested. The requested checklist was not provided.
- 3.33 The appellant advised that engaging an ecologist was difficult as a result of the Covid 19 pandemic. Subsequently, having been advised that initial thoughts were that the principle of the proposal was unacceptable and that it would be recommended for refusal the agent was requested to discuss this matter with the applicant and advise Council of their intentions regarding the outstanding information. No further information was provided.
- 3.34 DAERA's website outlines that a biodiversity survey is a step by step tool which can be used by applicants and their agents to help identify if a development proposal is likely to adversely affect any biodiversity and natural heritage interests and whether further ecological assessments/surveys may be required. As the checklist was not provided as requested, no detailed assessment of the potential impacts (if any) could take place.

- 3.35 As it appears a section of the roadside hedgerow is required to be removed a precautionary approach is taken. The development is considered contrary to the SPPS and Policies NH2 and NH5 of PPS2 insofar as they related to protected species and sites. It is considered that a negative condition for the biodiversity checklist to be provided at reserved matters as suggested by the appellant would not be appropriate.
- 3.36 If the appeal is allowed the following conditions are proposed on a without prejudice basis: -
- Standard time limits;
 - A scale plan at reserved matters showing access to be constructed with visibility splays of 2.4 x 93m on Lough Road;
 - No occupation of dwellings until in curtilage provision is made for 3 car spaces per dwelling;
 - All street furniture or landscaping obscuring or within the proposed carriageway, sight visibility splays or access to be removed, relocated or adjusted;
 - No development on site until the method of sewage disposal has been agreed with NIW or a consent to discharge has been granted;
 - Each building to be provided with sanitary pipework, foul drainage and rain water drainage as necessary for disposal of foul water and rain water;
 - Provision of a detailed site plan at reserved matters indicating the location of the proposed dwellings, the septic tanks/biodiscs and the area of subsoil irrigation for disposal of effluent;
 - No development until a plan is submitted and approved indicating existing and proposed contours, finished floor levels of proposed buildings and the position, height and materials of any retaining walls;
 - The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45m at any point;
 - The proposed dwelling shall have a ridge height of less than 7m above finished floor level;
 - No development until a landscaping scheme is submitted and approved. The approved scheme of planting to be carried out during the first planting season after commencement of development;
 - No occupation of development until the existing roadside banking and native species hedgerow has been reinstated behind the required sight visibility splays;
 - No occupation of development until all new boundaries have been defined by a timber post and wire fence with native species hedgerow/trees and mix woodland species shrub planted on the inside;
 - The existing natural screening defining the western boundary of the site shall be retained; and
 - Full details of drainage plans including attenuation measures to be submitted for approval at reserved matters stage.

4.0 THIRD PARTIES CASE

- 4.1 There are two remote dwellings fronting the Lough Road at numbers 25a and 25b Lough Road. Number 25 Lough Road sits to the upper of 25a with some 300m of agricultural land between. Number 27 Lough Road sits to the lower of 25B with a similar distance, the land between is broken by mature hedgerows, field boundaries

- and Belshaws Road. This would not constitute a substantially built-up frontage to the Lough Road.
- 4.2 Number 2 Belshaws Road sits approximately 50m along the road, it fronts and is only accessible by Belshaws Road. The garden boundary is some 22m from the Lough Road, and the remaining land fronting Belshaws Road and the Lough Road is and always has been agricultural land. This address therefore should not be considered as part of the criteria for the development proposed.
 - 4.3 The appellant claims that Belshaws Road appears as a laneway to the side garden of 2 Belshaws Road. It is a narrow road as 2 cars can pass with caution.
 - 4.4 The appellant claims that the garden of 2 Belshaws Road fronts the Lough Road and refer to a historic planning application showing a red line extending to the Lough Road. The extent of this line was unknown until now. It is assumed that a notional line was drawn by the agent at that time for no reason other than to highlight the location of the house. An original stone built wall runs along the Belshaws Road marking the end of the garden and a hedgerow runs perpendicular to the wall showing the top of the garden. The land fronting Lough Road is mapped and registered with DAERA as agricultural land.
 - 4.5 Environmental issues should be considered. Substantial portions of mature hedgerows would be removed from the Lough Road frontage and field boundaries. Both sites would back on to agricultural land. The boundary of site two would be within 10m of 2 Belshaws Road, a working farm from which there is potential noise and smell. There would also be an impact on wildlife. The appellant suggests they could create a greater distance between the proposed dwelling and the farm buildings and enclose a proposal as shown in appendix 6. The location of the farm buildings fronting on to Belshaws Road is indicated on an appended map (Map 1) showing a distance of some 29m between the closest farm building and proposed site two.
 - 4.6 An approval for two dwellings at 28d Lough Road is referenced with respect to EH proposing an informative only. In that case the farm house and proposed dwellings sat in excess of 60m apart with the farm buildings sited a further distance behind the farm house. The farm in question was also winding down into retirement with all farming activity in the yard stopping soon after.
 - 4.7 Visual impact on the immediate area should be considered. The development of the two proposed sites alongside 25A and 25B Lough Road would be ribbon development not in keeping with the surrounding addresses that are considerably spaced apart.
 - 4.8 Road traffic issues should be considered as the Lough Road is a main route to and from Lough Neagh sand pits and is in constant use with heavy lorries. The proposed entrance for the two sites would further add to a cluster of entrances (private and agricultural) already at this point of the Lough Road.
 - 4.9 Should this application be granted it would invite and encourage similar applications on the Lough Road and along Belshaws Road using loosely similar criteria.

5.0 APPELLANT'S CASE

- 5.1 The proposed site lies to the south west of Lough Road. As you approach the site, travelling west, there are 2 single storey dwellings at Numbers 25a and 25b Lough Road. These dwellings front on to Lough Road and are bound by hedges to the rear and side boundaries with a wooden fence and gate to the front of each site.
- 5.2 The site for the proposed infill dwellings stretches from the boundary of 25b Lough Road, the frontage of approximately 100m divided by a hedge, which leaves approximately 57m between 25b and the first hedge and approximately 47m for the remaining portion of the site.
- 5.3 Further along, Belshaws Road extends as a narrow lane onto the Lough Road, the garden of 2 Belshaws Road (a 1.5 storey dwelling) extends down on to Lough Road. The combination of the frontage at this point is approximately 30m.
- 5.4 The land in the area is fairly level, back from the road and with low hedges either side of the overall frontage between 25a Lough Road and the frontage of the garden for 2 Belshaws Road.
- 5.5 The first four reasons for refusal are based on whether the proposal meets all the requirements of PPS 21 Policies CTY1 and CTY8, which also incorporates CTY13 and CTY14.
- 5.6 CTY1 states that there are a range of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The policy goes on to state that planning permission will be granted for individual dwelling houses in the countryside – in this case the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with CTY8.
- 5.7 CTY8 states an exception to the rule for ribbon development will be allowed if the proposal for infill dwellings respects the existing pattern of development along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. It goes on to state that a substantially built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 5.8 The proposal is to develop an infill gap with two sites similar in size to the existing development at 25a and 25b Lough Road. The frontage of 25a is approximately 53.8m and the frontage of 25b is approximately 48.8m. The site at 2 Belshaws Road has a front garden which extends onto the Lough Road, the view from Lough Road into the Belshaws Road appears more as a laneway to the side of the garden to 2 Belshaws Road. The objector who resides in 2 Belshaws Road states that the land fronting on to Lough Road is agricultural land, but this is a small orchard used for domestic purposes which is evident from its limited size. Farming machinery could not get in and around such a small nook without getting caught in the orchard trees and the centre of the area in question.
- 5.9 The planning department argue that the curtilage of 2 Belshaws Road falls short and is not fronting onto Lough Road, however the map associated with Planning

Application S/2003/0748/F (for extension to dwelling at 2 Belshaws Road) clearly shows the red line extending around the garden fronting onto Lough Road. If this was not correct the Department should have returned the application and requested an application to have the curtilage extended.

- 5.10 The frontage available along the Lough Road will allow only for a maximum of 2 infill dwellings in the gap site within an otherwise substantial and continuous frontage. The frontage to site 1 will be approximately 52m which matches 25a Lough Road (current frontage 53.8m), the frontage to site 2 will be 44m which is similar to 25b measuring 48.8m and allows for access to work the land to the rear.
- 5.11 The area of 25a Lough Road is 2820sqm, the area of 25b Lough Road is 2596sqm, Site 1 is 2880sqm, site 2 is 2625sqm while the area of 2 Belshaws Road (excluding the farmyard) is 2810sqm. The plot sizes and spacing proposed compare favourably with the established plot sizes and spacing noted and would not accommodate more than 2 dwellings. Therefore the proposal respects the existing development in terms of size, scale, siting and plot size.
- 5.12 The planning department say that this is not considered to be a small gap site between 3 buildings that share the same frontage onto Lough Road. Similar applications have however been accepted and approved. LA05/2016/0309/F and LA05/2017/0490/F were acceptable under CTY8 as a gap site although the orientation and access to the building was from another road (Derrynahone Road) but the curtilage borders the Robbery Road – not necessarily with access from the land fronting on to the road in question.
- 5.13 The planning department suggest that the proposal lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. The site would retain all the existing hedges to the side and middle of the field. At the reserved matters stage, proposed planting along the existing fence at 25b Lough Road would only help to soften this boundary and would become a welcome habitat. The hedgerow to the site frontage can be rehabilitated and replanted behind the sightlines and this can also be a reserved matter.
- 5.14 With regard to Policy CTY14 the rural character of the area will not be subject to a detrimental change as this is a gap site in an already built up area and will not result in ribbon development. The 3 existing buildings have a common frontage, are all visually linked and will not have a detrimental effect on the character, appearance and amenity of the countryside. The design of each house at reserved matters stage will be in keeping with the local area. The proposal will not erode the character of the area.
- 5.15 The concern raised by Environmental Health as to the close proximity of the farm buildings at 2 Belshaws Road are in conflict with the stipulations of PPS21 CTY10 in that any proposed dwelling approved on a farm should cluster with the established group of farm buildings. The note from environmental health seems to be taken from the planning policy regarding lawful development for farm buildings on an existing farm, the new farm buildings are required to be 75m from any dwelling not associated with the farming activity. It is questioned why it is an unwritten requirement for PPS21 CTY8 and the opposite for CTY10 as they are both most

likely to be family homes not necessarily connected to farming activity. A person choosing to occupy the proposed dwelling in a rural area would expect to encounter smells and noise from nearby farms. The house locations submitted were only notional, but with a redesign and slight change in the layout, a larger separation distance could be achieved close to the required 75m. A notional layout is included. Distance to the farm yard could be conditioned in the outline application and addressed at reserved matters stage.

- 5.16 Application LA05/2020/0676/O was refused permission as the proposed new dwelling would not cluster with an existing farm building. It would be contradictory under PPS21 if it is a requirement for one dwelling to be sited in close proximity whilst another is penalised and refused permission for a similar distance. Planning approval LA05/2017/1124/F granted a housing development beside a working farm with some separation differences of less than 45m. LA05/2020/0270/F approved 35 dwellings with approximately 50m distance from farm buildings on Beanstown Road. LA05/2017/0732/F granted two dwellings and Environmental Health's noted proximity of farm buildings was a proposed informative. LA05/2020/0137/RM approved one dwelling adjacent to 28d Lough Road, Environmental Health commented on close proximity of commercial buildings in a proposed informative.
- 5.17 A biodiversity checklist was requested. This was not provided for various reasons including covid restrictions at the time. It was indicated by planning that the application would not be recommended for approval and that the biodiversity checklist would not change that outcome and the applicant would avoid the costs involved. It could perhaps of easily been provided with no major issues of concern as there are no existing watercourses; building structures that would have been altered or demolished; there are no known protected or priority species within or adjacent to the site; nor any mature trees that would be removed associated with the proposal. As this is only an outline application, a condition for the submission of the biodiversity checklist could be a requirement for the reserved matters stage.
- 5.18 The dwelling designs submitted were very loosely notional. The planning department deemed that these were against the guidance set out in Building on Tradition and Policy CTY8, but again a condition for a later reserved matters application would ensure that the guidance is satisfied.

6.0 **CONSIDERATION**

6.1 The main issues in this appeal are whether the proposed development would: -

- be acceptable in principle in the countryside;
- integrate into the surrounding landscape;
- further erode the rural character of the countryside;
- have an adverse residential amenity impact; and
- have an adverse impact upon features of natural heritage importance.

6.2 Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the

plan unless material considerations indicate otherwise. In May 2017, the Court of Appeal ruled that the adopted Belfast Metropolitan Plan 2015 (BMAP) had been unlawfully adopted. As a consequence of this decision, and as the Council has not yet adopted a plan strategy for the district as a whole, the Lisburn Area Plan 2001 (LAP) acts as the LDP for this area. In the LAP the appeal site is located in the open countryside outside any settlement limit or rural policy area defined in the plan. A further consequence of the above judgement was that the draft Belfast Metropolitan Area Plan published in 2004 (dBMAP) remains a material consideration. In dBMAP the site is located in the green belt. As the rural policies in both plans are now outdated, having been taken over by a succession of regional policies for rural development, no determining weight can be attached to them in this appeal.

- 6.3 The 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 a Plan Strategy for the whole of the Council area has been adopted. The SPPS sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. There is no conflict between the provisions of the SPPS and the retained policy. Therefore, in accordance with the transitional arrangements set out in the SPPS, the appeal should mainly be considered in accordance with the retained policies of PPS 21 and PPS2.
- 6.4 Policy CTY1 'Development in the Countryside' of PPS21 sets out the types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It states that planning permission will be granted for an individual dwelling house in six specific cases, one of which is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.
- 6.5 Policy CTY8 indicates that planning permission will be refused for a building which creates or adds to a ribbon of development unless the proposal meets the exception test. The exception in Policy CTY8 applies to 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.
- 6.6 To establish whether there is an infill opportunity it must be determined whether the appeal site is within a substantial and built up frontage. Policy defines a substantial and built up frontage as including a line of 3 or more buildings along a road frontage without accompanying development to the rear. In order for a building to have road frontage, the plot on which it stands must abut or share a boundary with the road, footpath or lane.
- 6.7 The dwelling and garage at 25a Lough Road and the dwelling and outbuilding at 25b Lough Road share a common frontage with the Lough Road because the plots on which they stand abut the road. They form a ribbon of development comprising four buildings and present a substantial and continuous built up frontage to the east of the appeal site.

- 6.8 The appellant relies upon the buildings at 2 Belshaws Road to achieve the policy requirement and 'bookend' the gap where the proposed dwellings would be located. However, the dwelling and agricultural outbuildings at 2 Belshaws Road are set back some 50m from the Lough Road. There is an intervening field, some 22m in depth, separating the buildings at 2 Belshaws Road from the Lough Road. From my observations the boundary between the garden of 2 Belshaws Road and the adjacent field or orchard is clearly delineated and consequently the buildings at 2 Belshaws Road do not have road frontage to the Lough Road. Their frontage is to Belshaws Road. Furthermore, the policy refers to a frontage (singular). Even if these buildings did have frontage onto the Lough Road that frontage would be broken by the Belshaws Road. Therefore, these buildings cannot count towards the substantial and continuously built up frontage given that two frontages would be relied upon.
- 6.9 In total there are four buildings with frontage to the Lough Road to the east of the appeal site and no buildings with frontage to the Lough Road to the west of the appeal site. Accordingly, the appeal site does not represent a small gap within a substantial and continuously built-up frontage. Rather, in my opinion, it provides relief and represents an important visual break in the developed appearance of the locality.
- 6.10 A ribbon of development can exist where buildings either have common frontage to the road or are visually linked with each other, or both. I have already concluded that the existing buildings at 25A and 25B Lough Road have common frontage on to the Lough Road. They also visually link with the dwelling and outbuildings at 2 Belshaws Road. The proposed additional two dwellings and garages would result in a further four buildings all with common frontage to the Lough Road. This would extend the existing ribbon of development westwards which would offend the policy. The appeal buildings would also visually link with the existing buildings at 25A Lough Road, 25B Lough Road and with 2 Belshaws Road, again adding to ribbon development in the locality and resulting in a suburban style build-up of development.
- 6.11 The appellant refers to two previous Council decisions permitted under Policy CTY8 to support their case. No detailed information was submitted on these cases so I cannot conclude with any certainty if there were similarities with the appeal proposal. In any event each case falls to be assessed on its own merits.
- 6.12 In any event, for the reasons given, the appeal site is not a small gap within an otherwise substantial and continuously built-up frontage. If approved, the proposal would add to the ribbon of development along Lough Road contrary to the provisions of Policy CTY8. Consequently, the second reason for refusal is sustained.
- 6.13 Policy CTY13 of PPS 21 'Integration and Design of Buildings in the Countryside' states that a new building will be unacceptable where any of seven criteria are engaged. The Council's second reason for refusal refers to criteria (b) and (c) of Policy CTY13. The appeal site has no established vegetation to its south or east boundaries. There is a natural hedgerow, a mature deciduous tree and an electricity pole to the western boundary and the northern boundary is defined in part by the roadside hedgerow, field gate and ranch fence.
- 6.14 The trees within the orchard adjacent to 2 Belshaws Road together with the mature tree in the northwestern corner of the site provide a degree of screening to the site

on approach from the west. However, when travelling from east to west along Lough Road, the absence of any established vegetation boundaries to the east, south and parts of the northern boundary of the site and with only a 1.5m high internal hedgerow to the west, there would be insufficient enclosure for the proposed 'first' dwelling to satisfactorily integrate. While there is a backdrop of trees to the rear of the appeal site, they sit at a lower level and as such they would not afford adequate integration for the proposed 'first' dwelling.

- 6.15 The established internal field hedgerow, western hedge boundary and northern roadside hedges all would provide a greater degree of enclosure for the 'second' proposed dwelling. However, the partial removal of some of the hedgerows to provide a paired access would unacceptably open up this part of the site to transient views along Lough Road. When travelling north along Belshaws Road open views of the proposal would also be available given the absence of any planting to the southern boundary. This means that the proposal would fail to visually integrate into the surrounding landscape.
- 6.16 All in all, I conclude that the site lacks established natural boundaries to provide a suitable degree of enclosure for the proposal as a whole, which in turn results in a reliance on the use of new landscaping for integration purposes. The proposal therefore fails to meet criteria (b) and (c) of Policy CTY13 and the third reason for refusal is sustained.
- 6.17 Policy CTY14 of PPS21 entitled '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. The Council is of the view that the proposal fails to meet criteria (b), (c) and (d) of the policy.
- 6.18 Criterion (b) states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing and approved buildings. The existing buildings at 25A and 25B Lough Road front the Lough Road and visually link with the dwelling and outbuildings at 2 Belshaws Road. The proposed four new buildings would, when read with these existing buildings, result in a suburban style build-up of development which would further erode the rural character of the area.
- 6.19 Criterion (d) of Policy CTY 14 relates to ribbon development. I have already found that the proposal would add to a ribbon of development, and it would not be an exception under Policy CTY8. Accordingly, it would offend criterion (d) of Policy CTY14 as described above.
- 6.20 Criterion (c) states that a new building will be unacceptable where it does not respect the traditional pattern of settlement exhibited in that area. Given that the plot size, frontage and spacings between the proposed dwellings would not be dissimilar to those in the area, I find that the proposal would not offend criterion (c).
- 6.21 Notwithstanding the above, as the appeal proposal fails to comply with criteria (b) and (d) of Policy CTY 14 of PPS 21, the Council's fourth reason for refusal is sustained insofar as stated.

- 6.22 The Council have argued that the proximity of adjacent farm buildings would have an adverse impact upon the amenity of the residents of the proposed dwellings by virtue of undue noise, odours and insects. This position has been taken on the basis of advice contained within the consultation response from the Environmental Health section of the Council during the processing of the application.
- 6.23 This proposal does not seek permission for two dwellings on a farm, therefore Policy CTY10 of PPS21 is not applicable. Furthermore, the 75m requirement, as specified in Part 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015, sets a physical threshold for when development on agricultural land comprised in an agricultural unit requires planning permission. It does not necessarily preclude development within this distance. The fact is that the Council did not provide any details to demonstrate how noise, odour and insects could adversely impact upon future residents and to what extent. There is no persuasive evidence therefore that noise, odour or insects from the existing farm would unacceptably affect the residential amenity of any future residents. The appeal site is located in the rural area where low level odour and noise associated with farming activities and keeping animals is to be expected. From my own observations I did not note any noise, odour or insects at the site, or within the surroundings that would be uncommon in the rural area. Also, any potential purchasers would be aware of the surrounding context, which they would factor into their deliberations before buying a dwelling on the site. Given the particular evidential context before me, I am not persuaded that there would be an adverse impact upon the amenity of future residents. The Council has not sustained their fifth reason for refusal.
- 6.24 Policy NH2 of PPS2 states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species; or not likely to harm other statutorily protected species and which can be adequately mitigated or compensated against. Policy NH5 states planning permission will only be granted for development which is not likely to result in the unacceptable adverse impact on, or damage to, known natural heritage features worthy of protection.
- 6.25 The Council, in refusal reason six, state that the proposal is contrary to Section 3 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 in that insufficient information has been submitted in order to determine the application. However, Section 3 does not have any specific provision for a biodiversity checklist. Despite this, the Council sought such information and objected as it was not provided. I consider that the lack of this particular information cannot be fatal to determining this appeal as its provision is not necessary as per the legislation. The Council say that, in its absence, the appellant has not demonstrated that there will not be an adverse impact upon noted features of natural heritage including birds, bats and/or badgers. The Appellant states that there are no known protected or priority species within or adjacent to the appeal site and that the provision of a biodiversity checklist would have shown no major concerns.
- 6.26 Within their evidence the Council specifically referenced the removal of the roadside hedge to provide the required sight lines as particularly problematic in this regard. They argue that the works to create the access could impact on protected species and natural heritage features. The notional site layout indicates that a paired access would be taken from around the existing field gate where a portion of the hedge has already been removed. It would be a requirement to remove a further portion of the

hedge on either side of this gate to provide the required visibility splays. From my own assessment, given the set back of the hedge behind the grass verge and the relatively straight nature of the road at this point, only a portion of the roadside hedgerow on each side of the paired access would require removal with the remainder trimmed back. As such the roadside hedge would largely remain intact, albeit with a larger gap than present. Furthermore, the replanting of the hedgerow and the provision of other landscaping on the site could enhance biodiversity.

- 6.27 Natural Environment Division (NED) in their consultation response note there is no ecological information accompanying the application and refer the Planning Authority to the DAERA website to assist in the identification and/or assessment of adverse effects to designated sites/other natural heritage features. The DAERA website provides advice and guidance but is not policy or legislation. The Council has provided no evidence of any protected species within the site nor any assessment of any adverse effects of the proposal. The timing of the removal of hedgerows is governed by wildlife legislation and as such I am satisfied that there would be no harm to nesting birds in the event that an additional section of hedgerow was to be removed to provide sight splays. It is for the Council to defend their objections which they have failed to do on this issue. In the particular evidential context before me, I am not persuaded that the removal of a portion of roadside hedgerow is likely to harm protected species or have an unacceptable adverse impact on habitat of natural heritage importance. The sixth reason for refusal is not sustained.
- 6.28 Third party concerns were also raised with respect to road safety. Whilst the Lough Road may be used by heavy lorries, I am not persuaded that an additional two dwellings would overload the local road network or prejudice road safety. I am reinforced in that view given the lack of objection from DfI Roads to the proposal. The issues in this case are specific to this site and its surroundings. The Objectors' concerns with respect to road safety and precedent are not sustained.
- 6.29 All in all, I have found that the appeal proposal does not comply with policies CTY8, CTY13 and CTY14 of PPS21 as stated above. No overriding reasons as to why the development is essential and could not be located in a settlement have been advanced. The appeal proposal would therefore also fail to comply with Policy CTY1 of PPS21. The first four reasons for refusal are sustained and are determining.

7.0 RECOMMENDATION

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

7.2 This recommendation relates to the following drawings: -

Drawing No.	Title	Scale	Date
01	Site Location Map	1:2500	26 th March 2021
02	Notional Site Layout and Context	1:1250	26 th March 2021

List of Documents

Planning Authority:-	A	Written Statement of Case Lisburn and Castlereagh City Council
	A1	Written Rebuttal Statement Lisburn and Castlereagh City Council
Appellant:-	B	Written Statement of Case
	B1	Written Rebuttal Statement
Third Parties	C	Written Statement of Case Mr and Mrs Kennedy (Countersigned by four residents of local addresses)
	C1	Written Rebuttal Statement Mr and Mrs Kennedy