



**From:** Michael Howe <[redacted]>

**Sent:** 26 April 2022 09:42

**To:** Jennifer Lundy <[redacted]>

**Subject:** Appeal relating to Mountsandel Road

Jenny

Please find enclosed the appeal, this is remarkably similar and I think that Causeway need to look again at this site.

Based on this then I think the principle should be acceptable and we are really just talking design.

Let me know what you think.

Kindest Regards

Michael Howe

Senior Architect

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<b>Appeal Reference:</b>	2013/A0133
<b>Appeal by:</b>	Mr. Martin Geddis against the refusal of full planning permission.
<b>Development:</b>	Dwelling.
<b>Location:</b>	Lands to rear of 48 Halfpenny Gate Road, Broomhedge, Lisburn.
<b>Application Reference:</b>	S/2012/0121/F
<b>Procedure:</b>	Written Representations and Commissioner's Site Visit on 30 July 2014.
<b>Decision by:</b>	Commissioner Alistair Beggs, dated 7 August 2014.

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## Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions stated below.

## Reasons

2. Commissioner Boomer issued a decision on this appeal on 12 February 2014. However, following an application for judicial review, the Commission agreed to that decision being quashed and remitted. I have considered the appeal afresh, taking account of the written evidence previously submitted, as well as the new evidence submitted subsequent to the appeal being remitted.
3. The appellant submitted additional and amended plans in their Supplementary Statement of Case. The only changes in these plans to the proposed dwelling is the reduction of its ridge height by about a metre and a change of finishing material to the front entrance gable. The additional plans provide ground levels and sections, and landscaping details. Given the nature of the additional plans and the limited nature of the change in the amended plans (reducing the proposal's impact) there would be no prejudice to potentially interested parties if the appeal proceeded on their basis. I therefore consider the amended plans in my consideration.
4. The issues in this appeal are whether the proposal would be unacceptable in principle in the countryside and whether it mars the distinction between the built-up area and the surrounding countryside.

5. The appeal site consists of the property at No. 48 Halfpenny Gate. While the dwelling lies within the adopted settlement limit for Halfpenny Gate as defined by the Lisburn Area Plan 2001 (LAP), the northern part of its curtilage on which the proposed dwelling would be built lies outside that settlement limit. The settlement limit includes the land abutting the appeal site's eastern boundary as it extends around the frontage development at Nos. 50, 59a and 50b Halfpenny Gate Road and No 2 Damhead Road to their rear. The limit also includes properties along Mill Hill Lane which extend down to the watercourse forming the appeal site's northern boundary. To the west of the appeal site the settlement limit encapsulates the frontage development at Nos. 46a and 46b Halfpenny Gate Road, but not the land to their rear. The only alteration proposed to the settlement by the draft Belfast Metropolitan Area Plan 2015 (BMAP) is the inclusion of road frontage lands along Halfpenny Gate Road, including Nos. 42, 44 and 44a farther to the west of the appeal site. As the PAC report to the Department on the Public Examination into objections to the draft Plan made no recommendations that the draft settlement limit be changed, weight must be attached to that proposed limit.
6. Policy CTY 1 of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) forms the basis of the Department's first reason for refusal. It 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 has not been argued that the appeal proposal is one of the types of development specified as being acceptable under Policy CTY1. Policy CTY1 also 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. There is no persuasive evidence to demonstrate that the proposal is essential and could not be located in a settlement. Thus, the proposal is contrary to Policy CTY1.
7. The Department's second reason for refusal relates to PPS21's Policy CTY15 – The Setting of Settlements. This policy is engaged in circumstances where a proposal meets one of the exceptions in CTY1 and is not therefore a free standing policy. This policy states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. The settlement limit at this point encloses the northern part of the appeal site on three sides and the proposed dwelling and its plot lie within this part of the site. The ground levels of the appeal site fall down towards the watercourse at the northern site boundary. The dwelling would sit several metres lower of both road level and adjoining roadside properties. The northern (overgrown) part of the site also benefits from high mature boundary vegetation on its northern, western and eastern sides, though the eastern boundary vegetation has some gaps. Given this, and existing road side development and associated vegetation, views of the proposal from the Halfpenny Gate Road would be limited to those available from the proposed shared access point with No. 48 – a distance of about 10 metres. From here the dwelling would be seen with No. 48 to its south and in the context of a vegetated backdrop and with rising land and the developments along Mill Hill Lane to the north. From Damhead Road, when alongside the curtilage of the property under construction at No. 2, the boundary vegetation would allow a filtered awareness of the proposal. However, the dwelling would again be seen in the strong

context of vegetation and other developments in the vicinity within the settlement limit. The same is true for the restricted glimpses of the proposal that would be obtained from Mill Hill Lane. Given the limited views of the proposal and the strong extent of its relationship with other developments the proposal would not be perceived as extending into the countryside. Instead it was appear as a part of the existing settlement form. Therefore the proposal would not mar the distinction between the settlement and the surrounding countryside or result in urban sprawl. The Department's second reason for refusal is not sustained.

8. Notwithstanding that the proposal does not meet any of the exceptions in Policy CTY1, paragraph 5.0 of PPS21 advises that the provisions of the policies contained within it will prevail unless there are other overriding policy or material considerations that outweigh them and justify a contrary decision. In this particular case there are a number of points to be considered. The existing dwelling, No. 48, is within the settlement limit, and the element of its curtilage outwith that limit is enclosed on three sides by the settlement limit. The appeal site's western boundary at that point is a substantive tall hedgerow of some depth. This would provide a much stronger edge to the settlement limit than the existing boundary at this point which is formed by the weaker vegetation on the appeal site's eastern boundary. The proposal would appear as part of the existing settlement form which encloses it. Indeed, the proposal would consolidate the existing settlement form and provide a stronger, more compact and logical edge to the settlement at this location. The proposal is therefore not comparable to the two objection sites to the appeal site's south which sought the extension of the BMAP settlement limit. Given the proposal's positive impact on the settlement limit the Department's concerns about the precedent an approval would cause are unfounded. I consider that the improved settlement limit is a material consideration that outweighs the failure of the proposal to comply with Policy CTY1 and justifies allowing the appeal.
9. Given the above conclusions there is no need to address the planning approvals elsewhere that the appellant claimed set a precedent for this proposal. A wooden fence of 1.8 metres in height along the shared driveway is necessary to protect No 48's privacy. Given the importance of the existing vegetation to this decision this requires to be retained, especially along the western boundary. The landscaping plan submitted with the appellant's supplementary statement of case is acceptable and necessary to enhance the integration and privacy of the proposal. In the interests of road and traffic safety the appellant's proposed sightlines are required at the junction of the shared access with the public road. The existing ground levels mean the access driveway will not have undue gradients. The plans indicate sufficient space for the parking and turning of three vehicles which should be provided before the dwelling is occupied. Proposals to accommodate the surface and foul drainage from the proposal should be in place before the dwelling is occupied.

## **Conditions**

- (1) The landscaping scheme as shown in plan: Drawing No. gdds\_PLN1\_3/4, dated July 2014 shall be carried out during the first planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within 5 years of being planted shall be replaced in the next

planting season with others of a similar size and species unless the Department gives written consent to any variation.

- (2) All trees along the northern, eastern and western boundaries shall be permanently retained and those along the western boundary shall not be cut, topped or lopped to less than 5 metres in height without the written approval of the Department.
- (3) No building operations shall commence until the proposed vehicular access, visibility splays and forward sightlines have been provided in accordance with the access details shown on plan: Drawing No. gdds \_PLN2\_3/4 dated Feb 2012. They shall thereafter be permanently retained.
- (4) Prior to the occupation of the dwelling a 1.8 metre high timber fence shall be erected along the eastern boundary of the proposed access lane. The fence shall be permanently retained thereafter.
- (5) The dwelling hereby approved shall not be occupied until provision has been made for the parking and turning of three cars so that they may enter and leave the site in forward gear.
- (6) No development shall take place until detailed proposals for disposal of storm water and foul sewage have been submitted to, and approved in writing by, the appropriate authority. The dwelling shall not be occupied until the approved arrangements are in place.

The development shall be begun before the expiration of 5 years from the date of this permission.

This decision relates to the following plans stamped refused by the Department on 2 July 2013;

<u>Scale</u>	<u>Drawing No</u>	<u>Title</u>	<u>Date</u>
1:2500	gdds_PLN1_4/4	location map	Feb 2012
1:250	gdds_PLN2_3/4	block plan	Feb 2012

and the following drawings stamped received by the PAC on 10 July 2014;

<u>Scale</u>	<u>Drawing No</u>	<u>Title</u>	<u>Date</u>
1:500	gdds_PLN1_4/4	section thru existing site	-
1:500	gdds_PLN1_roads	block plan/road entrance details	July 2014
1:500	gdds_PLN1_1/4	block plan - proposed dwelling with finished floor levels	July 2014
1:500	gdds_PLN1_2/4	block plan - existing ground levels	July 2014
1:100	gdds_SkPL_1/4	floor layout and sections	July 2014
1:100	gdds_PLN1_2/4	elevations	July 2014
1:500	gdds_PLN1_3/4	block plan – landscaping	July 2014

**COMMISSIONER ALISTAIR BEGGS**

'Klargester' BioDisk Unit & soakaway:  
provide inspection chamber to inlet and  
sampling chamber to outlet of septic  
tank

Proposed dwelling

vehicular parking  
& turning area

all existing boundary hedging and planting to be  
retained where possible with the addition of  
sporadic planting of indigenous trees to aid as a  
greater visual buffer between the proposed  
dwelling and the surrounding environment

Existing building to be demolished

new planting of indigenous hedges and trees to  
each boundary to create a visual buffer between  
the proposed dwelling and the surrounding  
environment

Planting to be carried out during first available  
Planting season after work commences, the  
existing natural screening of this site shall be  
retained and no lopping, topping or felling shall  
take place without departments written consent

Gradient of access shall not exceed 1:12.5 (8%)  
over the first 5 metres outside the road boundary,  
ie, from the back of the verge/ back of footway/  
fence-line/ edge of carriageway.

existing materials that affect visibility  
splays to be removed and replanted  
3m back from sight splay

existing lamp post to be relocated 1m  
to rear of visibility splay

width of access to be maintained at minimum  
4.2m for the first 10m

existing lamp post to be relocated 1m  
to rear of visibility splay

existing gates to be rebuilt 1m to rear  
of visibility splay

Existing road edge and width of  
carriageway is to be maintained

any gates, where erected, should be sited at  
least 5m from the edge of the carriageway and be  
inward opening

the area within the visibility splays shall be  
cleared to provide a level surface no higher than  
250mm above the level of the adjoining  
carriageway and shall be retained and kept clear  
thereafter. Any pole or column materially  
affecting visibility must also be removed. No  
work shall commence on site until the visibility  
splays have been provided.

Area Planning Office  
RECEIVED  
20 AUG 2012  
File No... 02/A  
Downpatrick 3

Amended for Roads - A120212

<b>PATRICK JOHNSON</b> <b>DESIGN</b>	<small>PROJECT proposed new dwelling to be erected on lands to the rear of 48 Halfpenny Gate Road, Upper Downpatrick, Co. Down DRAWN BY JOHN TAYLOR CHECKED BY PATRICK JOHNSON DATE 12/08/2012</small>	<small>DATE 06/08/12 SCALE 1:200</small>
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