



Appeal Decision

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Appeal Reference:	2016/A0186
Appeal by:	Seamus McLoughlin
Appeal against:	The refusal of outline planning permission
Proposed Development:	Proposed Dwelling on a farm
Location:	70m north west of no. 10 Mayo Road, Mayobridge
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2015/1391/O
Procedure:	Written Representations with Accompanied Site Visit on 24 th May 2017.
Decision by:	Commissioner Mandy Jones, dated 15 th June 2017.

Decision

The appeal is dismissed.

Reasoning

1. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and whether it would have a detrimental impact on visual amenity and rural character of the area.
2. Section 6 (4) of the Planning Act 2011 states that determination under this Act must be made in accordance with the plan, unless material considerations dictate otherwise. The appeal site is located within the rural area as designated within the Banbridge, Newry and Mourne Area Plan 2015. There are no policies in the Plan of relevance to the appeal proposal.
3. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) which came into effect in September 2015, is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until a new Plan Strategy for the whole council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy or when the SPPS is silent or less prescriptive on certain policies. Other than an inconsequential update in the definition of what constitutes '*agricultural activity*' there is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) regarding dwellings on farms. Therefore, PPS 21 provides the policy context for this appeal.

4. Within PPS 21, policy CTY 1 sets out 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 these is a dwelling on a farm in accordance with Policy CTY 10. This policy states that planning permission will be granted for a dwelling house on a farm where all of a number of criteria are met. In this case, the Planning Authority argued that the appeal proposal fails to comply with criterion (a), (b) and (c) of policy CTY 10.
5. Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. Paragraph 5.38 of the Justification and Amplification to policy CTY 10 states that new houses on farms will not be acceptable unless the existing farm business is both established and active. It goes on to say that the applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.
6. In this case, the appellant applied for a house on a farm. The appeal site forms part of a roadside field which fronts onto the Mayo Road. It is one of 5 fields which forms an agricultural holding of 3.73 hectares. Within the background papers submitted, form P1C states that the appellant owns this 3.75 hectares of land which is let out in conacre and that he 'has maintained the boundaries and fencing on the farm.' A farm business ID number of 186132 was quoted. However, the Department of Agriculture and Rural Development (DARD) consultee response dated 22.3.2016 states that there is no farm business ID number and no single farm payments had been claimed in the last 6 years. Under the comments section it is noted that the number quoted on form P1C is only an Applicant Ref. The appellant does not have a DARD farm business ID number.
7. A DARD farm map dated 10.12.2012 for Mr James Morgan with a Farm Business ID number 633105 indicated that this 3.75 parcel of land is part of a larger holding. The Council stated that copies of the letting arrangement were provided - a number of bills for the letting of land dating from 2009 and the letting agent confirmed that the land has been let on a conacre basis for over 20 years. The 3.75 hectares owned by the appellant comprising the 5 fields are part of the farm business of Mr Morgan which is farmed under his farm business number.
8. Policy requires the farm's DARD farm business ID number along with other evidence (my emphasis) to prove active farming over the required period. Para 5.39 states that 'for the purposes of this policy *'agricultural activity' refers to the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition'*. This is in broad conformity with the definition as set out in paragraph 6.73 of the SPPS. In terms of ' other evidence ', whilst the appellant states that he maintains the land in a state which makes it suitable for grazing or cultivation as defined as an agricultural activity, no evidence was presented to substantiate this.
9. The appellant referred to a letter dated 12.12. 2014 from the Chief Planners Office which quoted, *'the Department may accept suitable alternative evidence of active farming. However, this will be the exception and as advised in the previous correspondence the general position will be that applicants will be required to provide the farms DARD business ID as evidence that the farm is both active and*

established'. The letter goes on to say, '*There is no prescriptive list of circumstances where it is not required to produce a farms DARD business number ID, rather the onus is on the applicant to submit suitable information to support their submission*'.

10. It was argued by the appellant that he should be recognised as an active farmer of his holding and it was contended that he meets the requirements of SPPS paragraph 6.73 which refers to 'agricultural activity' as defined by Article 4 of the European Council Regulations No. 1307/2013. However, the onus is on the appellant to demonstrate that his farm business is both active and established. **In the evidential context of the limited information provided by the appellant it has not been demonstrated that the appellant has a farm business that is currently active as well as established for the last 6 years. The 5 fields in themselves do not constitute an active and established farm for the purposes of Policy CTY 10.** This was also the conclusion of a previous appeal decision for the appellant (reference 2012/A0262) for a dwelling on a farm within the 3.75 hectare holding but within a different field.
11. The appellant submitted a photocopy of the final page of a previous case officer's report for application P/2011/1026/0 which stated 'farming need accepted'. This application was subsequently appealed and dismissed and is referred to above. **I would agree with the Council that it does not overcome the fact that the appellant presently does not have a farm business ID number or has not provided any other evidence to prove active farming over the required period. The appeal proposal does not comply with a fundamental requirement of Policy CTY 10 as criterion (a) has not been met. As was found in appeal decision 2012/A0262, as the appeal site is not within an established farm business, as defined in Policy CTY 10, it follows that criteria (b) and (c) would not be complied with either. The appeal proposal does not therefore represent a dwelling on a farm in accordance with Policy CTY 10 of PPS 21.**
12. It is not one of the types of development that is acceptable in principle in the countryside under Policy CTY 1 of PPS 21 and no overriding reasons have been put forward as to why the development is essential. Accordingly, the Council's first reason for refusal based on policies CTY 1 and CTY 10 of PPS 21 is sustained.
13. Policy CTY 13 – Integration and Design of Buildings in the countryside states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It goes on to state that a new building will be unacceptable in a number of circumstances and sets out seven criteria. The Council argue that the proposal is unacceptable because (a) it is a prominent feature in the landscape and (b) that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
14. The appeal site is located immediately adjacent to the roadside. It is part of a larger agricultural field. The roadside boundary is defined by a grass embankment approximately 1.5m high with a number of semi mature trees along the frontage. To the south is no. 10 Mayo Road and the boundary is defined by a post and wire fence and a row of trees. The rear boundary and the northern boundary of the appeal site are undefined. A dwelling with a ridge height of 7.0m is proposed. The appeal site has a frontage of approximately 60m onto the Mayo Road. The Council

identified critical views from the Mayo Road along the frontage of the host field. The submitted site plan indicates that to provide the required visibility splays of 2.4m x 60m the roadside vegetation and banking would be required to be removed across the entire frontage of the appeal site and the host field. This would allow clear and open views of a dwelling on the appeal site from the critical viewpoints. There is only one defined boundary to the south. I consider that this would be insufficient to provide a suitable degree of enclosure for a dwelling to integrate into the landscape.

15. Travelling the Mayo Road from the north along the frontage of the host field, the appeal site is at a higher level and notwithstanding the presence of the southern boundary which provides a backdrop, due to the removal of the entire frontage vegetation a dwelling would also appear open, exposed and prominent within a much larger host field. Proposed landscaping would take time to establish to provide enclosure and integration of the proposal. Given this lack of enclosure, a dwelling would appear as a prominent feature in the landscape and as such the Council's second reason for refusal based on policy CTY 13 has been sustained.
16. Policy CTY 8 – Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. Ribbon development has consistently been opposed and will continue to be unacceptable.
17. The Council argue that the proposal will extend a ribbon of development which comprises no 10 and its garage and the farm building at the roadside. Paragraph 5.33 states that a ribbon does not necessarily have to be served by individual accesses nor have 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. I note that policy refers to buildings (my emphasis) and not dwellings.
18. Travelling the Mayo Road, a dwelling on the appeal site would be read with no. 10 and its garage and then the farm building which is at the roadside. Policy does not specify a minimum number of buildings required to comprise a ribbon. I would agree with the Council that the proposal would extend the ribbon of buildings to the north. As such, the Council's third reason for refusal based on policy CTY 13 is sustained.
19. Policy CTY 14 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It states that a new building will be unacceptable in a number of circumstances and lists five criteria. The Council argue that (a) it is unduly prominent in the landscape and (d) it creates or adds to a ribbon of development.
20. As I have previously concluded that a dwelling on the appeal site would be unduly prominent in the landscape and would add to a ribbon of development, the appeal proposal is contrary to policy CTY 14. As such, the Council's fourth reason for refusal is sustained.

21. The appellant referred to 'numerous cases where permission has been granted for a dwelling on a farm under CTY 10 where there are no farm buildings and the farmer has no business number.' Reference was made to application P/2011/0668 where the appellant claims that permission was granted on a farm with no farm buildings to link with. Reference was also made to another approval – P/2009/1532/O where the appellant claims that permission was granted for a dwelling adjacent to the development limit and there was no farm buildings to link with. However, it was not made clear if either of these approvals had a farm business ID number. In any case, each appeal must be assessed on its own merits.

As all of the Council's reasons for refusal have been sustained and are determining the appeal must fail.

This decision relates to the following:

- PAC 1; Site Location Plan, scale 1:1250 date stamped refused 28.10. 2016.

COMMISSIONER MANDY JONES

2016/A0186

List of Documents

Planning Authority: 'A' Statement of Case with appendices

'B' Rebuttal

Appellant: 'C' Statement of Case with appendices

'D' Rebuttal

2016/A0186

Appearances at the Accompanied Site Visit

Newry, Mourne and Down District Council
Planning Authority: Gareth Kerr.

Appellant: Aiden Cole (agent)
Seamus McLoughlin (appellant)