
Appeal Reference:	2018/A0019
Appeal by:	Mr Daniel Brady
Appeal against:	The refusal of an application for outline planning permission
Proposed Development:	Replacement dwelling
Location:	Land adjacent to No 94 Macfin Road, Ballymoney
Planning Authority:	Causeway Coast & Glens Borough Council
Application Reference:	LA01/2017/0937/O
Procedure:	Written Representations with Accompanied Site Visit on 16 August 2018
Decision by:	Commissioner Pamela O'Donnell, dated 29 August 2018

Decision

1. The appeal is dismissed.

Reasoning

2. The main issue in the appeal is whether the proposal is acceptable in principle in the countryside.
3. The Planning Act (Northern Ireland) 2011 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 Northern Area Plan 2016 (NAP) operates as the local development plan for the area where the appeal site is located. The NAP places the appeal site outside any settlement limit and within the countryside. The NAP contains no material policies for the type of development proposed. There are, however, relevant regional policies applicable and these 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 their council area. It also retains certain existing planning policy statements. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is amongst the retained documents. Policy CTY1 thereof lists types of development which are acceptable in principle in the countryside. It states that other types of development will be permitted only where there are overriding reasons why that development is essential. Policy CTY1 goes on to say that planning permission will be granted for an individual dwelling house in six cases. One is a replacement dwelling in accordance with Policy CTY3.
5. Paragraph 6.73 of the SPPS is no more prescriptive than the text of PPS21 in relation to replacement dwellings. Thus the retained policies of PPS21 take

precedence in decision making in accordance with the transitional arrangements outlined in the SPPS. Policy CTY3 of PPS21 indicates that proposals for a replacement dwelling will only be permitted subject to certain criteria but the fundamental requirement is that the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. The policy goes on to state that for the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings.

6. The subject structure is linear in shape and of single storey. It has a corrugated iron pitched roof with gable projections and a lean-to at the rear. The northern elevation has two openings. One is a wide agricultural type opening with the remnants of a sheet metal barn door in place. While there are no window openings along this elevation, it would appear that there were two windows which have been blocked up as internal window splays are evident. On the western gable, there is a furnace opening on a raised plinth above ground level. There is also an internal chimney breast. There is no associated chimney but a small projecting flue pipe on the roof. The opposite gable wall is blank. The southern elevation has a wooden door in place and a window opening is evident. The structure is divided in two by an internal wall. There may have been a first floor loft, but there is no evidence of an internal staircase.
7. The Appellant argues that the structure was a dwelling and subsequently an agricultural vehicle maintenance workshop and store. He has provided evidence including census records, historical maps and testimony from a farm labourer. This, he argues, indicates that the subject structure was a dwelling prior to 1955 when it was subsequently used for housing hens before its conversion to a workshop for the repair and servicing of agricultural vehicles in 1963.
8. In stating that "*for the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings*" the policy seems to indicate that there can be intervening uses of the building to be replaced. The evidence submitted by the Appellant strongly suggests that the building which has been in agricultural type use more recently may indeed have been previously used as a dwelling. However, even if conclusively proven, the wording of Policy CTY3 also requires that the current building to be replaced exhibit the essential characteristics of a dwelling. Therefore, while the intervening use of a building may change, policy still requires that the subject building presently possess the essential characteristics of a dwelling. While these characteristics are not prescribed in the policy, the evidence indicates that since around 1955 the building had been used for non-residential purposes. The works involved in its renovation to an agricultural vehicle workshop and store means that as of today, the structure presents both internally and externally as an agricultural building. The Appellant's argument that "some" of the original characteristics of the dwelling remain is not the policy test as expressed in paragraph 5 above. As previously described, windows are blocked up and there is a lack of any original internal sub-division. There is also a wide agricultural door opening, a raised hearth furnace and no chimney. As such, and even though all external structural walls are substantially intact, the current structure does not exhibit the essential characteristics of a dwelling which is contrary to the policy requirement. It does not therefore represent a replacement opportunity in accordance with Policy CTY3 and there was no argument that the proposal would bring significant environmental benefits.

9. The proposal does not represent one of the specified types of development considered acceptable in principle in the countryside. As previously indicated, Policy CTY1 of PPS21 goes on to state that other types of development will only be permitted where there are overriding reasons as to why the development is essential and could not be located in a nearby settlement. While I acknowledge that the Appellant wishes to retire and live on his farm, there was no persuasive evidence to demonstrate how or why this particular proposal is essential. As such, it is also at odds with Policy CTY1 of PPS21.
10. As the reasons for refusal based on policies CTY1 and CTY3 are sustained, the appeal must fail.

This decision is based on Drawing No PP01 Location Map 1:2500 @ A3 and Drawing No PP02 Conceptual Site Plan 1:500 @ A3 stamped refused by the Council on 13 March 2018.

COMMISSIONER PAMELA O'DONNELL

List of Appearances

Planning Authority:- Ms J Lundy (Causeway Coast & Glens Council)

Appellant(s):- Mr J Wilson (Agent)
Mr D Brady (Appellant)
Mr A Wilson (Supporter)

Third Parties:- None

List of Documents

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

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

Third Parties:- None