

ADDENDUM

LA01/2020/0631/O

1.0 Update

1.1 PAC Decisions quoted in Paragraphs 8.9 and 8.13 respectively of the report for consideration.



Appeal Decision

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Appeal Reference:	2014/A0147
Appeal by:	Mr Hugh Watterson
Subject of Appeal:	The refusal of full planning permission
Proposed Development:	Replacement of redundant non residential building with a single storey dwelling in adjacent field
Location:	Approximately 10m south east of No 30 Mulderg Road, Magherafelt
Planning Authority:	Department of the Environment
Application Reference:	H/2013/0434/F
Procedure:	Written representations and accompanied site visit on 20 May 2015
Decision by:	Commissioner Pamela O'Donnell, dated 2 June 2015

Decision

1. The appeal is dismissed and full planning permission is refused.

Reasoning

2. The main issue in this appeal is whether the proposal is acceptable in principle in the countryside.
3. The site is located in the countryside in the Magherafelt Area Plan 2015. Extant rural planning policy is set out in Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21). Policy CTY1 thereof sets out the types of development which are considered to be acceptable in principle in the countryside. It states that planning permission will be granted for an individual dwelling house in six specified instances. One is a replacement dwelling in accordance with Policy CTY3. Policy CTY1 goes on to say that other types of development will only be permitted where there are overriding reasons why the development is essential.
4. Policy CTY3 is entitled 'Replacement Dwellings'. However, it states at paragraph 3 that favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality.
5. In addition to the above requirements, the policy goes on to state that proposals for a replacement dwelling will only be permitted where specified criteria are met. The second criterion indicates that the overall size of the new dwelling should

allow it to integrate into the surrounding landscape and it should not have a visual impact significantly greater than the existing building.

6. The Planning Authority argued that the proposed building to be replaced was not redundant and that its replacement would not bring significant environmental benefits. In addition, they argued that the proposed dwelling would have a visual impact significantly greater than the existing building.
7. The building to be replaced is located gable onto the Mulderg Road. It is of linear form and measures some 12m x 3m. It is of single storey construction and has a low ridge height. It is mostly finished in roughcast render with a corrugated iron roof. The gable end nearest the road has been altered which means that it is set back off the road edge further than it was originally. No 30 Mulderg Road is a two storey detached dwelling situated some 10m north west of the appeal building. An access laneway that serves No 30 runs alongside the appeal building. Another building is situated to the south west of No 30.
8. The building is presently used for storage purposes. During my site visit, I noted that it contained two cement mixers, ladders, numerous planks of wood, old wooden doors, old furniture and a lawn mower. As the building is still in use and is being used to store the items listed, it cannot be described as a redundant building. It is unlikely that the other building nearby, referred to as a 'barn' would be suitable to store all of the materials currently within the appeal building given its limited size. While the subject building may have been a blacksmiths and its use as such may have become redundant, the building itself is not redundant insofar as it is being used for storage and it clearly can continue to be used. Even if I found the building was redundant, I also must consider the additional policy requirements which are addressed below.
9. The Appellant argued that the replacement of the building would bring significant environmental benefits, namely that it would remove an unattractive building from the landscape and improve road safety. While I accept that the appeal building is not attractive, I do not consider it to be an 'eyesore' as stated by some neighbouring residents. It would be typical of the kind of building evident within the rural area. As such, I do not consider that it unacceptably impacts on the rural character of the area even though it can be seen from distance.
10. In respect of the road safety arguments advanced, I found visibility to the north east of the access from No 30 to be good. The subject building did not encroach into my line of sight and I could clearly see an approaching car for at least some 50m. Given the position of the building on the western side of the road and the road alignment, I do not accept that it impedes visibility for those residents on the opposite side of the road when entering or exiting their properties. While it may be difficult to see a car exiting No 30 due to the presence of the subject building when travelling from the north east, I would expect drivers to be exercising due care on approach to the site in general from either direction given the narrowness of the road and the number of access points within the vicinity. In the light of this and with no evidence of recorded road accidents at this junction, I do not consider that the replacement of the building would bring significant road safety improvements. At the site visit, the Appellant stated that the damage to the gable of the building was the result of an agricultural vehicle crashing into it. This was not a recorded incident and it does not persuade me to depart from my finding on this matter. The

Appellant proposed a passing bay. The Planning Authority did not consider this to be necessary. As this is a minor country road where vehicle passing may be facilitated by pulling into a verge, I concur that a passing bay is not necessary for road safety. For the reasons outlined, the proposal would not result in significant environmental benefits and the planning gain argument is not sustained. However, if the building is an unpopular as suggested, the Appellant could opt to demolish it.

11. While I accept that the proposed new dwelling would be modest in scale and set back off the road below road level, it would break into an adjacent field and involve the provision of an access onto the road, an access driveway and a curtilage area around the dwelling. While there is some screening around the site, I consider that the manifestation of the development proposed would have a visual impact significantly greater than the existing building. Accordingly, and for the reasons outlined above, I find that the proposal fails to meet the requirements of Policy CTY3. There is no evidence to suggest that the appeal proposal falls into any of the other types of development that are listed as acceptable in principle in the countryside under Policy CTY1 or that there are overriding reasons why the proposed development is essential. The reason for refusal is therefore sustained.
12. From my review of the file, I note the Appellant refers to an approval for the replacement of a mushroom house with a dwelling in the Ballymena area. Little information has been provided in respect of the details of this case. In any event, each planning application and appeal must be determined on its own merits. The issues in this appeal are specific to the existing building and the proposed off site replacement. Direct comparables are rare. The evidence indicates that the appeal building has been in existence for a considerable period of time. Accordingly, local residents should have been aware of it and its impact on their views when purchasing their properties. In any event, this matter would not justify setting aside the policy objection to the proposal. Compliance with planning policy is in the public interest and the failure of this proposal to meet the requirements of policy outweighs the presumption in favour of development as stipulated in Planning Policy Statement 1 'General Principles'. As the proposal is not acceptable in principle, the appeal must fail.

This decision is based on the following drawings:

- 1:1250 location map (Drawing No PD-01)
- 1:500 site plan (Drawing No PD-02)
- 1:100 Elevations (Drawing No PD-03)
- 1:100 Floor Plan (Drawing No PD-04)

- stamped refused by the Department on 27 October 2014.

COMMISSIONER PAMELA O'DONNELL

Appeal Decision

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Appeal Reference:	2010/A0068
Appeal by:	Mr Robert Steele against the refusal of outline planning permission.
Development:	Replacement of "Oghill School" with dwelling and garage.
Location:	Oghill School, opposite 191 Tamnaherin Road, Tamnaherin, Londonderry.
Application Reference:	A/2009/0232/O
Procedure:	Written Representations with Accompanied Site Visit on 8 February 2011.
Decision by:	Commissioner Mark Watson, dated 25 March 2011.

Decision

1. The appeal is dismissed and outline planning permission is refused.

Reasons

2. The Department's fourth reason for refusal based on Policy BH15 of Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage was withdrawn at the site visit.
3. The main issues in this appeal are:
 - The acceptability in principle of the development; and
 - The development's visual impact.
4. The site lies in the countryside and Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) applies to the development. Policy CTY1 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 goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases, one of which is a replacement dwelling in accordance with Policy CTY3. It follows that if the development complies with CTY3 it will comply with CTY1 of PPS21.
5. The building on the appeal site is referred to as the Oghill School building. The stone walls are largely intact, but there is a large crack in the northern gable. A large amount of ivy has been removed from this gable subsequent to submission of the planning application. The roof structure has largely collapsed. Several of the window openings still possess metal window frames, whilst others have been

covered with sheeting. The chimney breast and remains of a stove are evident.

6. Policy CTY3 states that favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality.
7. The Department considered the existing building to be vernacular in nature and possessing local interest given its design and use of locally sourced materials. The Department and Appellant both provided information pertaining to the history of the building as a school house, but this only shows its historic use for that purpose. Notwithstanding the importance of the building to the Appellant and his family, I am not persuaded that the building makes an important contribution to the heritage of the locality. Whilst no structural report has been provided, the building is in a very dilapidated condition. When travelling along the road it appears simply as a ruined building situated at the roadside. Whilst the building may still be capable of conversion to a dwelling, this in itself is not a policy test within CTY3 in respect of replacing a redundant non-residential building. I am not persuaded that the fact the building possesses several vernacular design features and is built of local stone results in the building making an important contribution to the appearance or character of the locality. The building is not debarred on heritage grounds from being replaced.
8. No evidence was submitted as to how the redevelopment would bring about significant environmental benefits as required by Policy CTY3. The Appellant made the case that setting the new building back from the roadside would result in a safer situation for occupants of the dwelling and garage on the site. I do not consider this to constitute a significant environmental benefit.
9. Policy CTY3 goes on to state that proposals for a replacement dwelling will only be permitted where all of a series of additional criteria are met. The proposed replacement dwelling is to be sited partly on the footprint of the existing building but moved back approximately 5m. This would necessitate breaching the existing curtilage of the building, which runs tightly along the rear of the building and further along to the south-west. The development would meet the first criterion in that the curtilage of the existing building is so restricted that it could not reasonably accommodate a modest sized dwelling.
10. I consider that the development, through the use of conditions, would be capable of meeting the third, fourth and fifth of these additional criteria relating to design, services and access respectively. However, I am not persuaded that the second criterion, that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building, can be met. Whilst the Appellant seeks only a modest single storey dwelling and garage with a slightly lower ridge height than the school building, the proposed relocation, occupying only part of the existing footprint, with consequent breach of the existing curtilage and cutting into the sloping landform to the east, would result in the development having a significantly greater visual impact than the existing building, which nestles into the land at the roadside. The development therefore does not meet all of the additional criteria under Policy CTY3.

11. For reasons outlined above the development does not fully meet with Policy CTY3 of PPS21. Whilst the Appellant stated that setting back the replacement from the roadside by some 5m would make the dwelling safer, I note the existing building has not suffered from vehicle collisions to date. Whilst there is evidence of vehicle collisions with the hedgeline further south-west of the site, this is likely due to the change in horizontal alignment of the road when heading that direction beyond the site and does not demonstrate that the building itself would be at risk from vehicular collisions. I am not persuaded that this would justify the granting of planning permission. Whilst replacing the building may be a cheaper financial option than converting it, this would not justify approval of development contrary to policy. I find that the development does not comply with Policy CTY1 of PPS21. The Department's first reason for refusal is sustained insofar as specified above.
12. Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable where it fails against one of a number of criteria. The Department's objection related to criterion (b), that the site lacked long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. The Appellant suggested reducing the frontage length of the site to 34m, with the depth of the site 24m.
13. When travelling southwards along Tamnaherin Road towards the site the development would appear exposed and prominent. The removal of the existing eastern boundary vegetation to enlarge the site and allow for the partial re-siting would render the development more exposed and lacking the necessary enclosure to integrate a dwelling and garage, even with cutting into the slope to maintain the same ground level as the existing building. The backdrop afforded by the gentle rise in landform to the east would not mitigate against this impact. I am not persuaded that planting along the new boundaries would sufficiently mitigate against the visual impact of the development, even if some existing vegetation can be retained. The two other view points referred to by the Department are not critical in nature given the longer distances involved and intervening development and vegetation. 191 Tamnaherin Road would not screen the development from the critical view.
14. From my own assessment the roadspeed along this section of Tamnaherin Road is approximately 60 mph. I consider that an access with visibility splays of 2.4m x 120m in both directions would be necessary. Whilst there is a grassed verge along the site frontage there would still be a loss of a substantial portion of boundary vegetation along the frontage to provide the north-eastern splay. This would result in more open views into the site travelling along Tamnaherin Road. New planting to the rear of the splays would not sufficiently mitigate this visual impact. Notwithstanding the reduced site area, a low elevation dwelling and garage of traditional design and materials and sited as suggested by the Appellant would fail to integrate into the surrounding landscape given the site's lack of sufficient long established natural boundaries. The development would therefore be contrary to Policy CTY13 of PPS21. The second reason for refusal is sustained.

15. 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. The existing building nestles into the landform at the roadside. However, the appeal development, even at single storey height would, with its setback into the slope and the new, larger curtilage as proposed, appear unduly prominent in the landscape when travelling along Tamnaherin Road. The development would result in a detrimental change to the rural character of the area. I do not agree with the Appellant that the development would blend with the locality given the existing development or that it would enhance the appearance of the locality given the detrimental effect on rural character that would result. The development would be contrary to criterion (a) of Policy CTY14 and this deficiency would be critical. I therefore find that the development would be contrary to Policy CTY14 of PPS21. The Department's third reason for refusal is sustained.

This decision relates to the following plans:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Site Location Plan	1:2500	Mar. 09
02 (Rev2)	Existing and Proposed Block Plan	1:500	Mar. 09
04	Existing and Proposed Sections	1:100	Aug. 09

COMMISSIONER MARK WATSON

2.0 Recommendation

2.1 That the Committee note the contents of this Addendum and agree with the recommendation to REFUSE the application in accordance with Sections 1 and 9 of the Planning Committee report.