



<b>Planning Committee Report LA01/2019/0079/O</b>	<b>23<sup>rd</sup> October 2019</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/a

<b><u>No:</u></b> LA01/2019/0079/O	<b><u>Ward:</u></b> Rasharkin
<b><u>App Type:</u></b> Outline Application	
<b><u>Address:</u></b> Between 31 and 33 Killymaddy Road Ballymoney	
<b><u>Proposal:</u></b> Proposed infill site for dwelling and garage	
<b><u>Con Area:</u></b> N/A	<b><u>Valid Date:</u></b> 31/01/2019
<b><u>Listed Building Grade:</u></b> N/A	
<b><u>Agent:</u></b> SW Atkinson Architectural Services, 51 Castle Street Ballymoney	
<b><u>Applicant:</u></b> Mr Alastair Henry, 73 Vow Road, Ballymoney	
<b><u>Objections:</u></b> 1	<b><u>Petitions of Objection:</u></b> 0
<b><u>Support:</u></b> 0	<b><u>Petitions of Support:</u></b> 0

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1 RECOMMENDATION**

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

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located adjacent to No 31 Killymaddy Road and to the south west of No 33. The site is accessed along a laneway which runs adjacent to a lane servicing another dwelling which has yet to be completed. The land is flat and although the site is set back from the public road is visible travelling west to east along the Killymaddy Road.
- 2.2 The laneway is defined with a native species hedge to the left hand side and a post and wire fence to the right hand side. The site itself is defined with ranch type fencing to the south and eastern boundaries with an open board fence to the boundary of No 31. The lane continues past the site to a further dwelling house which has mature trees and hedging around.
- 2.3 The site is located in the open countryside outside any settlement limits as defined in the Northern Area Plan 2016. There are no specific zonings or designations covering the site.

## **3 RELEVANT HISTORY**

D/2004/0216/F

2 Storey dwelling with detached garage (domestic use)

Land at Killymaddy Road (approx. 90m South of 53 Vow Road Ballymoney. Granted 01/03/2005

D/2005/0100/F

Private Dwelling with Detached Garage on infill site

Site at Killymaddy Road Ballymoney (approx. 110m S and 25m E of 53 Vow Road Ballymoney. Appeal Dismissed.

D/2004/0795/RM  
Private Dwelling with Detached Garage  
Site at Killymaddy Road Ballymoney (approx 30m South and  
70m East of 53 Vow Road). Granted. 26/01/2005

D/2003/0459/O  
Site for two storey dwelling and domestic garage  
Land at Killymaddy Road (approx. 40m S of 53 Vow Road  
Ballymoney). Granted. 20/11/2003

D/2002/0345/O  
Site for dwelling (renewal of D/99/0178)  
Diagonally to rear of 59 Vow Road Ballymoney. Granted  
21/08/2002

#### **4 THE APPLICATION**

4.1 The application is for an infill dwelling and garage.

#### **5 PUBLICITY & CONSULTATIONS**

##### **5.1 External**

Neighbours: One objection has been received.

##### **5.2 Internal**

Environmental Health: No objection

Rivers Agency: No objection

DFI Roads: No objection

DAERA, Water Management Unit: No objection

NI Water: No objection

#### **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:

- 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 both 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**

Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 21 Sustainable Development in the Countryside

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 15: Planning and Flood Risk

**Supplementary Planning Guidance**

Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

**Planning Policy**

- 8.1 The main considerations in the determination of this application relate to: principle of development; ribbon development; integration and rural character; and access.

### **Principle of Development**

- 8.2 Paragraph 6.73 of the Strategic Planning Policy Statement (SPPS) and 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.
- 8.3 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.
- 8.4 This site is located along a private laneway which serves two other dwellings, Nos 31 and 33 Killymaddy Road. The site is located immediately east of no. 31 and is separated from its curtilage by a close boarded timber fence. The laneway which serves the site and dwelling runs along the front of no. 31 and the site before turning in a northerly direction along the eastern boundary of the site and ending at the entrance to No. 33. When travelling along the laneway in a northerly direction from the Killymaddy Road the dwelling at no. 31 and the site are clearly visible due to the flat topography and lack of intervening vegetation. However, the dwelling at no. 33 is set further back in the landscape and is screened from view by mature vegetation along the eastern boundary of the laneway, providing no visual linkage or common frontage. Therefore, the proposed site is not considered to be part of a substantial and continuously built up frontage including a line

of 3 or more buildings and is contrary to Policy CTY 8 of PPS 21. The permission of a dwelling at this site would add to a ribbon of development and create a built-up appearance. The site provides relief and a visual break in the developed appearance of the locality.

### **Integration and Rural Character**

- 8.5 Views of the site are achieved from along the Killymaddy Road and from the laneway. The site becomes visible on approach to no. 28 Killymaddy Road when travelling in an eastwards direction for approximately 130m. There is a mature row of trees to the east of the site, and to a lesser extent to the north, providing a certain level of backdrop. As such a modest scale, single storey dwelling would integrate satisfactorily into the landscape. A dwelling on the proposed site would be visible from Killymaddy Road and the access lane over an expanse of open field and there would be intervisibility between the proposed site and existing and approved development resulting in a suburban style of build-up in the area. The proposal is contrary to Part (b) and (d) of Policy CTY 14.

### **Representations**

- 8.6 One letter of objection has been received from no. 31 Killymaddy Road citing ownership query. Certificate C of the P1 Form has been completed and notice served on No. 31 Killymaddy in relation to ownership of the laneway. The objector also highlighted the planning history of the site which is referred to in Part 3 of the Committee report.

### **Habitats Regulation Assessment**

- 8.7 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, and other material considerations, including the SPPS and PPS 21 Policies CTY 1, CTY 8, 13 and 14. The proposal fails to meet the tests of these policies as the site is not considered a gap within an otherwise continuously built up frontage, and it would lead to a ribbon of development and have a damaging impact on the rural character of the area. Refusal is recommended.

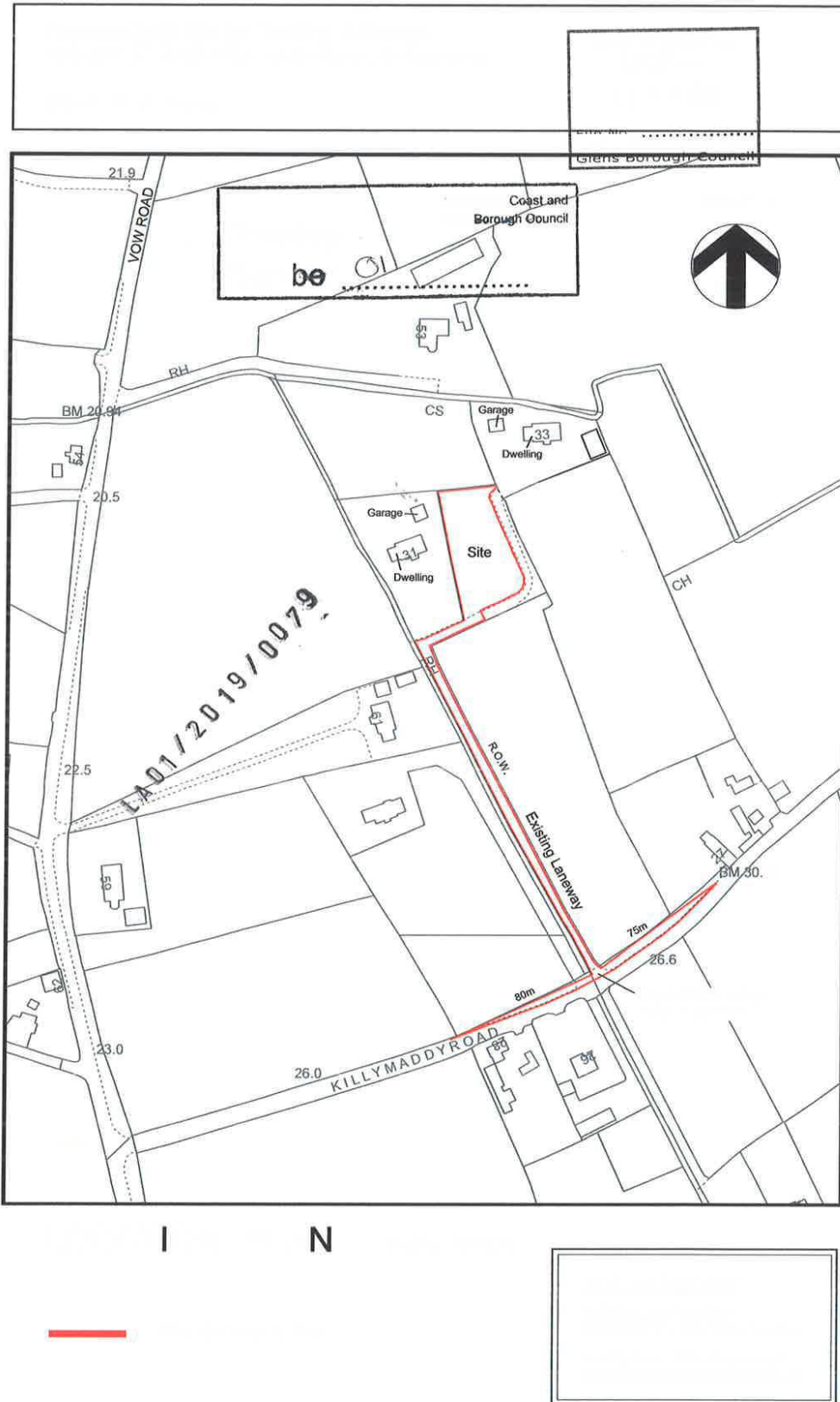
## **10 Reasons for Refusal:**

10.1 The proposal is contrary to SPPS Para 6.71 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.

10.2 The proposal is contrary to SPPS Para 6.73 and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not considered to be infill of a small gap within an otherwise substantial and continuously built-up frontage.

10.3 The proposal is contrary to SPPS Para 6.73 and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create or add to a ribbon of development; result in a suburban style build up of development and would therefore result in a detrimental change to the rural character of the countryside.

Site Location:





# **Addendum**

## **LA01/2019/0079/O**

### **1.0 Update**

1.1 An additional objection letter has been received from Jim Allister MLA on behalf of neighbouring property No. 31 Killymaddy Road, Ballymoney. This additional objection letter raised the following points:

- Hedge and trees have been cut-down recently at no. 33 to increase inter-visibility between the sites.
- No. 33 has no frontage to the road but rather has a backland setting and has no frontage to the access laneway. As a consequence it cannot meet the road frontage requirement of Policy CTY 8.

1.2 The Planning Appeals Commission (PAC) have previously determined on what is considered to be a road frontage building. PAC decision ref: 2016/A0005 considers that an outbuilding reads as being subordinate to the host dwelling by reason of its overall design and position relative to the host dwelling. It does not present as being a separate building along the road frontage.

### **2.0 Recommendation**

2.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse as set out in paragraph 9.1 of the Planning Committee Report.

# Addendum 2

## LA01/2019/0079/O

### 1.0 Update

- 1.1 The above application was deferred at the September Planning Committee meeting to allow for the submission and consideration of a Planning Appeals Commission (PAC) decision.
- 1.2 The submitted PAC decision related to application D/2011/0223/O, Appeal Ref 2012/A0260 (attached for information) which was for a two storey infill dwelling at lands between nos. 50 and 52 Ballybogey Road, Ballymoney. Planning permission was refused by the then prevailing planning authority under policies CTY 1, 8, 2a, 13 and 14. The appeal site fronts onto a road and is located between 2 dwellings, nos. 50 and 52 Ballybogey Road, which is evident from the site location plan, attached. The then planning authority did not dispute that the site lies within a road frontage rather than that it was not within a substantial and continuously built up frontage. The PAC took the view that the large detached garage at no. 52 would read as a separate building along the frontage and as such the appeal site would be within a substantial and continuously built up frontage of 3 buildings and would comply with Policy CTY 8 of PPS 21. The Planning Department do not consider that this appeal decision is comparable to this planning application. The appeal site is located within a continuous frontage with dwellings on either side of the site fronting the roadside. Unlike the appeal site the application site is not located along a continuous and built up frontage. The application site is located at the end of a laneway and does not have buildings located on either side of it fronting the laneway, therefore it cannot be considered to be within a continuous and built up frontage.

## **2.0 Recommendation**

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to **REFUSE** the planning application as set out in Section 9.0 and 10.0 of the Planning Committee Report.

# Appeal Decision

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<b>Appeal Reference:</b>	<b>2012/A0260</b>
<b>Appeal by:</b>	<b>Mr &amp; Mrs M Kennedy against the refusal of outline planning permission.</b>
<b>Development:</b>	<b>Two storey infill dwelling.</b>
<b>Location:</b>	<b>Between Nos. 50 and 52 Ballybogey Road, Ballymoney.</b>
<b>Application Reference:</b>	<b>D/2011/0223/O</b>
<b>Procedure:</b>	<b>Informal Hearing on 8 May 2013.</b>
<b>Decision by:</b>	<b>Commissioner Pauline Boomer, dated 6 June 2013.</b>

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## Decision

1. The appeal is allowed and outline planning permission is granted, subject to the conditions set out below.

## Reasons

2. The main issues in this appeal are:
  - Whether the development is acceptable in principle in the countryside,
  - Whether the proposed dwelling would be satisfactorily integrated into the landscape; and
  - The impact of the proposal on rural character.
3. The appeal site is within the rural area outside any settlement and Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) therefore applies. Policy CTY 1 of PPS 21 identifies a number of instances when a dwelling will be granted planning permission. Whilst the appellant relies on Policy CTY 8, the Department assessed the proposal against Policies CTY 8 and CTY 2a. Compliance with either of these policies would meet the requirements of Policy CTY 1.
4. Policy CTY 8 - Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. It goes on to state that 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. The headnote states that, "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”.

5. The appeal site lies to the south- eastern side of a dead end road known as Newbuildings Lane which runs westwards off the Ballybogey Road. It comprises a small flat roadside plot located between No 52 and No.50. No. 50 to the south-west is a one and a half storey dwelling set at an angle to the public road with a detached single garage behind the dwelling. No 52 to the north-east is a substantial 2 storey red brick dwelling occupying a large plot enclosed by mature vegetation and brick walling. The dwelling is positioned gable end to the public road as are the detached double garage and polytunnel sited alongside. The north-eastern boundary of the appeal site is defined by mature trees with a post and wire fence and a low hedge extending along the south western boundary. A post and wire fence abuts the site frontage behind a sheugh whilst the rear boundary to the south-east is undefined.
6. Whilst the Department acknowledge that the appeal site represents a small gap site, with its frontage of 40m, they do not consider that it lies within an otherwise substantial and continuously built-up frontage. There is no dispute that the two dwellings at Nos 50 and 52 present frontages onto Newbuildings Lane but the Department discounts the detached garages alongside them. The detached garage within the curtilage of No. 50 sits well behind the rear building line of the dwelling and although linked by a low wall, I agree with the Department that it appears as a subordinate adjunct to the main dwelling. As I conclude that it does not have an independent visual relationship with the road, it cannot therefore be considered as forming part of a continuously built up frontage. However the double detached garage at No 52 aligns with the gable wall of that dwelling, fronting onto Newbuilding Lane. Whilst I accept that the mature planting within and around that curtilage of No.52 would offer more filtered views of the garage during summer months from both static and transient views, gaps in that vegetation will ensure that the garage reads as a separate building which creates an impression of road frontage build-up. Travelling along Newbuildings Lane in either direction, the disposition of the existing development reads as a line of 3 buildings extending along that side of the road and I am satisfied that they constitute a substantial and continuously built up frontage as defined by policy.
7. Whilst the Department raised no issue with the size of plot relative to adjacent development, they stated that the site provides relief and an important visual break between development to the north-east and the south-west. Para 5.43 of the Justification and Amplification text states, 'Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality that help maintain rural character. The infilling of these gaps will therefore not be permitted *except where it comprises the development of a small gap within an otherwise substantial and built up frontage*'. As I have found that the proposal represents a suitable small gap site in accordance with CTY 8, the appeal site cannot be regarded as an important visual break.
8. I conclude that the appeal proposal complies with the exceptions set out in Policy CTY 8. As this is one of the range of types of development which is considered to be acceptable in principle in the countryside, I do not need to make an

assessment against Policy CTY2a. Accordingly, the 1<sup>s</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> reasons for refusal are not sustained.

9. The Department also stated that as the site is on the road edge and will be open to views whilst travelling along the road, it would not adequately integrate a new dwelling. The mature vegetation along the north-eastern boundary can be retained and given the enclosure that is provided by the buildings to the immediate north-east and south-west, and the backdrop to the south, I consider that a dwelling as proposed would be integrated as required by Policy CTY 13. As visibility of the proposed dwelling would be restricted to across the frontage of the appeal site and that of No. 50, I do not consider that the lack of a rear boundary is fatal to the proposal. Accordingly the Department's 4<sup>th</sup> reason for refusal has not been sustained.
10. I consider that the introduction of a two storey dwelling as proposed would respect the size, scale and siting of buildings within this substantial and continuously built up frontage and would not alter the character of this area in any way. As an infill proposal is acceptable under Policy CTY 8, it satisfies Policy CTY 14, in relation to rural character, and accordingly the 5<sup>th</sup> reason for refusal is not sustained.
11. Although this is an outline application, the appellant forwarded indicative drawings of a dwelling with a 7.8m ridge height above ground level and 90 m sq footprint. There are a variety of house sizes and styles along both sides of Newbuildings Lane, all of which are two storey with the exception of No. 50. Indicative plans submitted by the appellant show that No. 52 has a maximum ridge line of 8.6m above ground level whilst No. 50 extends to 6.6m above ground level which was not disputed by the Department. In this context, I consider a ridge height of 7.8m above ground level reflects the height of adjacent properties and ensures that the dwelling would not be unduly prominent in the landscape. Given the scale and massing of those adjoining dwellings, I do not consider it appropriate to restrict the footprint or front width of the proposed dwelling. However I do agree with the Department that the dwelling should be sited 26m back from the public road to respect the established building line of Nos 50 and 52.
12. The retention of the existing vegetation along the north-eastern boundary at a minimum of 5.0m in height, and the planting of new vegetation along all other boundaries to define the curtilage is required and can be controlled by condition. In the interests of road safety, the necessary visibility splays of 2.4m by 60m are required to be provided prior to commencement of development.

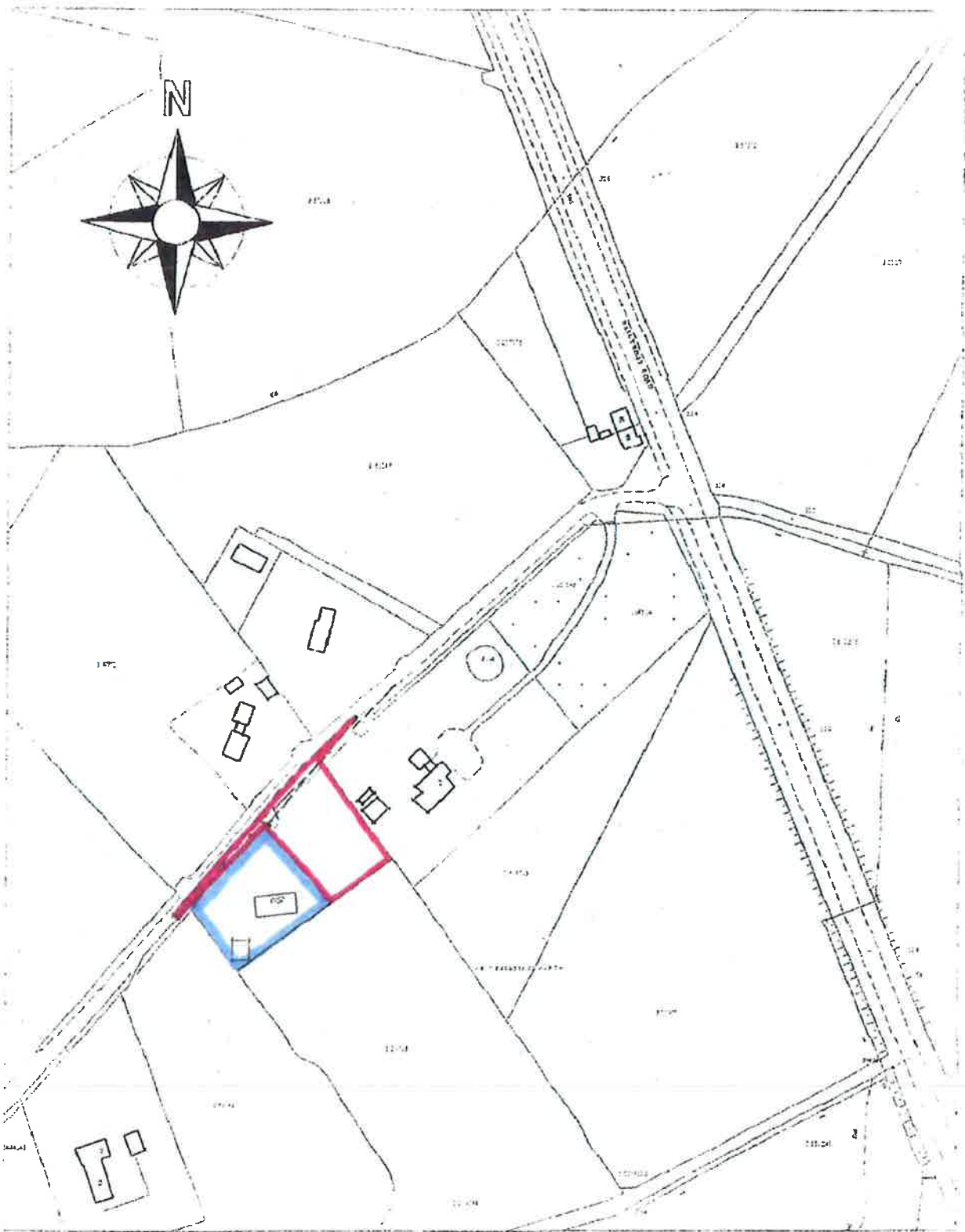
### **Conditions**

- (1) Except as expressly provided for by conditions 2 and 4, the following reserved matters shall be approved by the Department - the siting, design and external appearance of the dwelling and garage and means of access to the site.
- (2) The dwelling shall sited 26m back from the edge of the public road in line with Nos 50 and 52 and shall have a maximum ridge height of 7.8 metres above the existing ground level at the lowest point within the footprint of the dwelling.

- (3) No development shall take place until there has been submitted to and approved by the Department a landscaping scheme showing the retention of the vegetation along the north-eastern boundary at a minimum of 5.0m with all other boundaries defined by a timber post and wire fence and native species hedgerow, including behind the required sightlines. The planting scheme shall be carried out during the first planting season after the commencement of development. Trees or shrubs dying, removed or becoming seriously damaged within five 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.
- (4) Visibility splays of 2.4m x 60m shall be provided before any building operations commence and shall be permanently retained.
- (5) Application for approval of the reserved matters shall be made to the Department before the expiration of three years from the date of this decision.
- (6) The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision relates to the Site Location Plan, scale 1:2500, date stamped received by the Department 25.11.2011.

**COMMISSIONER PAULINE BOOMER**



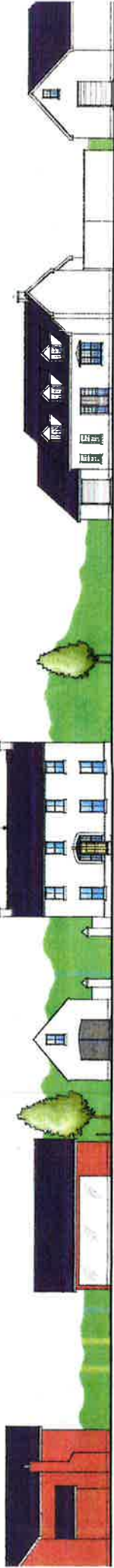
**Location Plan for Proposed Infill Dwelling between  
Nos. 50 & 52 Ballybogy Road, Ballymoney.**

Scale: 1-2500  
OS Ref: 02104NE  
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28-03-2011  
CIA







# Composite Elevation

PROPOSED TWO STOREY  
INFILL DWELLING

INDICATES EXTENT OF SITE FRONTAGE TO  
RESPECT PLOT SIZE WITHIN EXISTING CLUSTER.

*Ballybeggy Road*



# Concept Plan

ARCHITECTURAL  
REVISIONS  
2.5 - NOV 2011  
FILE NO. 001 - CAB

Job No. 23/11  
Drawing No.  
Scale 1:500/1200  
Sept. 11

Amended 23/11/11  
Amended 18/09/11

client: Mr. & Mrs. M. Kennedy  
project: Proposed Infill Dwelling  
between Nos. 50 & 52  
Ballybeggy Road, Ballymoney  
(Newbuildings Lane).



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