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# **Building Site**

## **Between 51 And 53 Buckshead Road**

### **Annadorn**

### **Downpatrick *BT30 8JR***

An opportunity exists to acquire this freehold building site extending to 0.27 of an acre or thereabouts set on a slightly elevated position enjoying views over the surrounding countryside. Outline planning permission has been granted under appeal for a single storey dwelling with a ridge height no greater than 6 metres with a ridge height above ground level at the lowest point within their footprint. As contained in decision no 2011/AO292 dated 29th October 2012 for three years.

The sale of the site affords the opportunity to acquire a site at a realistic price for those wishing to build their own idea home

**VIEWING**

Anytime

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## Decision

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

## Preliminary Issue

2. The Department's decision notice dated 24 August 2011, repeated one reason for refusal three times, based on Policy CTY 14 of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). The Department's evidence stated that this was a computer error and that two other reasons for refusal should have been included based on Policies CTY1 and CTY8 of PPS 21. The Department advised that the three correct reasons for refusal formed the basis of its consultation with Down District Council on 22 August 2011. The appeal was submitted on 27 February 2012.
3. Article 25(1)(b) of the Planning (NI) Order 1991 requires the Department, in the determination of planning applications, to have regard to the development plan and to any other material considerations. There is no reference to whether or not additional reasons for refusal can be added. The replication of a single reason for refusal is poor practice and particularly so as the decision is signed by a senior Departmental officer. In circumstances where such an error occurs, the Department usually alerts the appellant or their agent to the error and identifies the correct reasons for refusal. As the appellant's agent pointed out, there was no such letter in the period prior to the submission of the appeal and the appellant's statement of case was prepared on the basis of the one reason for refusal on the decision notice. This situation has been handled by the Department in an unprofessional and

unhelpful way. The additional reasons for refusal were only formally addressed by the appellant's agent in the rebuttal submission, although Policy CTY 8 was quoted extensively and the linkage between the two policies was identified. All material considerations have to be taken into account and assessment of the proposal in the appropriate policy context is such a material consideration. Although very late in the day, the appellant's agent was able to address the correct reasons for refusal through the appeal process and as such no prejudice has occurred. This appeal decision is therefore based on the three reasons for refusal identified in the Department's Statement of Case.

## Reasons

4. The main issues in this appeal are whether the proposal involves the development of a small gap within an otherwise substantial and continuously built-up frontage, or whether it is within an existing cluster of buildings as well as the potential impact in terms of rural character.
5. The site is located in the rural area to the west of Downpatrick and Policy CTY1 of PPS21 sets out the types of development that are, in principle, acceptable in the countryside. Policy CTY1 states that planning permission will be granted for a dwelling involving the development of a small gap within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8 or within an existing cluster of buildings, in accordance with Policy CTY2a. The Department argued that the proposal does not represent an infill or rounding off opportunity
6. Policy CTY 8 is aimed at avoiding development which would create or add to a ribbon of development. Paragraph 5.33 sets out what amounts to ribbon development. The amplification of the policy states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. It goes on to state that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or are visually linked.
7. The appeal site is on the eastern side of Bucks Head Road, immediately to the south of No 53, which is a two storey roadside dwelling with a substantial roadside garage on its northern side. No 51 lies on the southern side of the appeal site and is a modern bungalow with a small garage immediately adjoining the appeal site boundary. Immediately opposite is a roadside dwelling (No 50) and further north on the western side of Bucks Head Road is a gable-ended roadside dwelling (No 52) with its associated sheds and outbuildings.
8. In views along Bucks Head Road, the existing properties of Nos 51 and 53 have a common frontage. While they are visually linked from a number of perspectives, the topography and the vegetation along the site boundaries means that the buildings on this side of the road do not read as a ribbon of development. The proposed infilling of this gap with the proposed dwelling and garage would however create a ribbon of development. However Policy CTY8 exceptionally allows the development of a small gap site sufficient only to accommodate up to a maximum of 2 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. This exception in CTY 8 applies to development along a frontage, road or lane. It



does not apply to frontages and although the appellant identified Nos 50 and 52, as well as its associated agricultural buildings on the opposite side of Bucks Head Road, they do not share a frontage with the appeal site and as such cannot be included in any assessment of this issue.

9. The policy defines a substantial and built up frontage as including a line of 3 or more buildings along a road frontage without accompanying development to the rear. Notwithstanding both the appellant's and the Department's many references to a variety of Commissioner's decisions, each appeal proposal has to be assessed on its own physical and visual context. The detached garage beside No 53 has a strong physical presence due to its size and open roadside location and this roadside element also applies to the host dwelling. Although the garage beside No 53 is set back from the road and recessed back beside the house, the policy makes no reference to the size of the buildings; it does not require the buildings to be prominent or that ancillary buildings which form part of a residential unit or curtilage should be discounted.
10. Policy CTY 8 does not preclude the creation of ribbon development to infill a gap where there is a line of three or more buildings along a road frontage. The existing development reads as a line of four buildings with frontage onto Bucks Head Road and consequently, they constitute a substantial and continuously built up frontage as defined in Policy CTY 8. Appeal decision 2011/A0232 found that the commercial buildings had no perceptible frontage to Ballynahinch Road and thus did not contribute to the perception of a roadside line of buildings. As such it is distinguishable from this proposal.
11. In terms of the relationship with the adjoining development, No 53 has a frontage width of 35m and a plot size of approximately 450m<sup>2</sup>, while No 51 has a narrower 23m frontage with a deeper site width and a plot size of approximately 1250m<sup>2</sup>. The depth of the appeal site mirrors that of No 51 and with a road frontage of 22m would represent a small gap within the context of its surroundings. The adjoining development in appeal 2011/A0195 was separated by a distance of over 85 m which was judged to be a significant gap. This is materially different to the situation along this section of Bucks Head Road. The 100m<sup>2</sup> footprint of the proposed single storey dwelling broadly reflects the existing development pattern, and mirrors the form of the bungalow and garage at No 51. The proposal represents an exception to Policy CTY8 and is acceptable in principle subject to conditions to reflect the scale and siting of the proposal on the submitted 1:500 scale plan. As it complies with policy, there is no need to assess the many appeal decisions quoted by both parties on this issue.
12. The appellant considered that the proposal also complied with Policy CTY 2a - New Dwellings in Existing Clusters. This policy states that planning permission will be granted to proposals which comply with six criteria. Although a cluster of development is not defined in the policy, the first three criteria provide clarification as to the intended meaning. While there are more than four buildings in the vicinity of the appeal site, there is no focal point such as a social building/facility and the development is not located at a crossroads. The appeal site is enclosed only to a limited extent and while the proposed dwelling is an infill opportunity in terms of Policy CTY8, it would not represent rounding off. Overall I do not consider that there is a cluster of development which appears as a visual entity in the landscape and that Policy CTY 2a does not support the proposed development.



13. Policy CTY 14 of PPS 21 is concerned with the impact of proposals on build-up and rural character. As the proposal does not involve outward extension or further ribbon development along the road, the infilling of this small gap in line with Policy CTY8 of PPS21 would not cause a detrimental change to, or further erode the rural character of this area. The use of this policy as the basis of the third reason for refusal has not been sustained. Failure to comply with Policy CTY2a is not determining and as the proposal complies with Policy CTY 8, it therefore also satisfies the requirements of Policy CTY1. As such the Department's three reasons for refusal have not been sustained.
14. In relation to conditions, the appellant indicated that levels across the site are to be reduced to match those of No 51 Bucks Head Road. Details of existing and proposed ground levels and the finished floor levels should form part of the reserved matters submission. The ridge height of the dwelling and garage should be related to the proposed site levels and should be no more than 6 metres above the proposed ground levels. Details of the roofing materials do not need to be specified by condition and can form part of the reserved matters submission.

### **Decision**

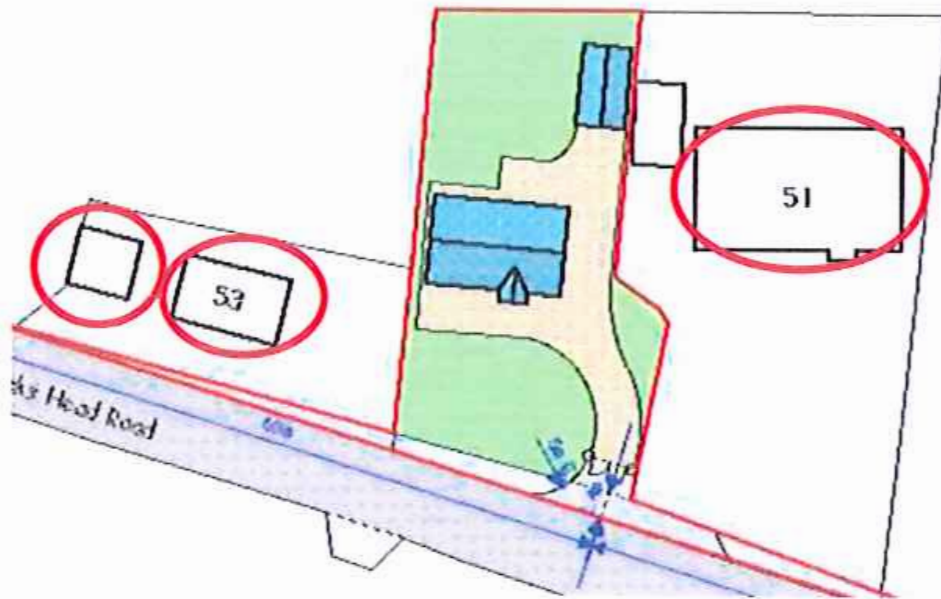
The appeal is allowed and outline planning permission is granted subject to the following conditions:-

1. Except as expressly provided for by Conditions 2, 3, and 4 the following reserved matters shall be approved by the Department - the siting, design and external appearance of the dwelling, garage and means of access thereto;
2. The dwelling and garage shall be sited as indicated on the 1:500 scale block plan stamped refused by the Department on 24 August 2011.
3. Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point. The ridge height of the dwelling and garage shall not exceed 6 metres above the ground level at the lowest point within their footprints.
4. Visibility splays of 2.4 x 60m in both directions shall be laid out at the access onto Bucks Head Road before any building operations commence on the site and shall thereafter be permanently retained.
5. No development shall take place until there has been submitted to and approved by the Department a landscaping scheme providing for the planting of a native species hedgerow along the south eastern boundary of the site and to the rear of the visibility splays. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the 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.
6. 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.

7. 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 approves the 1:2500 scale site location plan and the 1:500 scale site plan stamped refused by the Department on 24 August 2011.

**COMMISSIONER M McCABE**





Land & Property Services,  
THE LAND REGISTRY

Date: 08 Jun 2014  
County: Down  
Folio: 11228  
Scale: 1:2500  
Our Ref: 2014/339197  
Your Ref: Annadorn  
Map Ref(s): 22409NE  
Sheet 1 of 1

Key to folio labels:

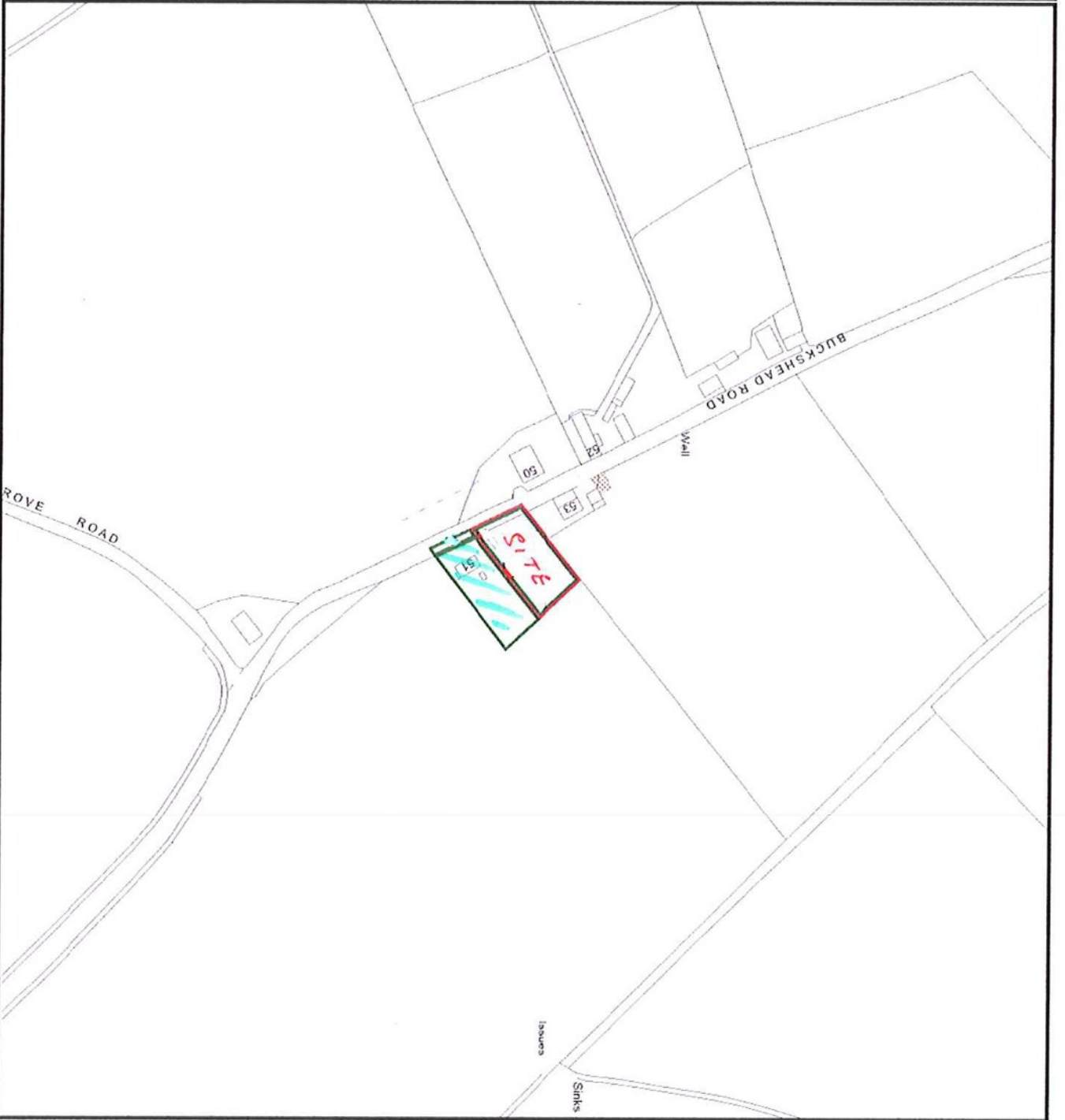
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