



## Delegated Application

Development Management Officer Report		
<b>Case Officer:</b> Malachy McCrystal		
<b>Application ID:</b> LA09/2020/1263/F		<b>Target Date:</b> 7 December 2020
<b>Proposal:</b> Demolition of existing buildings on site and redevelopment to include the construction of a GF retail unit with apartment above along the street frontage and 5 No 2 storey semi-detached residential units to the rear. An amended vehicular and pedestrian access is included and associated hard and soft landscaping proposed alongside parking provisions (incurtilage and communal)		<b>Location:</b> 27-33 Main Street Bellaghy
<b>Applicant Name and Address:</b> Mr H Griffin 69 Ballynease Road Portglenone		<b>Agent Name and Address:</b> Whittaker And Watt Architects Ltd 379 Antrim Road Newtownabbey BT36 5EB
<b>Date of last Neighbour Notification:</b>		13 January 2022
<b>Date of Press Advertisement:</b>		27 October 2020
<b>ES Requested:</b> <EVENTS SCREEN>		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NI Water - Strategic Applications	Substantive: TBCResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: TBCResponseType: PR

	Historic Environment Division (HED)	Substantive: TBCResponseType: PR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	Environmental Health Mid Ulster Council	Substantive: TBC
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-20-1263 F 27-33 Main Street Bellaghy.doc
Statutory Consultee	NIEA	PRT LA09-2020-1263-F ADV.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	1263 bellaghy Consultation 3.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	1263 bellaghy Consultation 4.docx
Statutory Consultee	NIEA	PRT LA09-2020-1263-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	1263 bellaghy Consultation 6 approved.docx
Statutory Consultee	DFI Roads - Enniskillen Office	1263 bellaghy Consultation 5.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-20-1263 F 27-33 Main Street Bellaghy August 2023.doc
Statutory Consultee	Environmental Health Mid Ulster Council	

**Representations:**

Letters of Support 0

Letters of Objection 2

Petitions and signatures

Number of Petitions of Objection and signatures

**Summary of Issues:**

Two identical letters of objection have been received from the occupants of a neighbouring property in relation to this planning application and raised the following issues:-

- o Congestion

Dfl Roads raised no issue in respect of congestion due to the proposed development.

o Car parking

DfI Roads considered the proposed development and advised that the proposal is acceptable with regards to parking.

o Density of the development

As discussed later in the case officers report, the density of the proposed development is acceptable for this site.

o Public safety

DfI Roads have not raised any issue regarding public.

o The location of the proposed access to the entrance of the objectors dwelling;

DfI Roads considered the proposed access and are content that it is to an acceptable standard.

o Condition of the party wall and future maintenance of that

The objectors property is attached to a two storey dwelling which is being retained. It is noted on the site plan that the existing dwelling is to be refurbished. Whilst the refurbishment of that dwelling will not have an impact on the objectors party wall, those works do not form part of this planning application.

o Noise nuisance

Environmental Health requested the submission of a noise impact assessment, following which it was considered that a noise barrier was necessary to ensure the proposed residential units did not experience noise disturbance. Following the submission of amendments showing the requested noise barrier, EHD advised that they are satisfied that the appropriate noise mitigation measures have now been provided and the proposal is acceptable subject to conditions.

o Impact on the nearby business (The Tap House) by way of car parking congestion, noise complaints.

These concerns have been addressed as detailed above.

## Site Visit Report

### Site Location Plan:



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**Date of Site Visit:** 7 December 2020

### Characteristics of the Site and Area

The site is located on a brownfield site on the main street with a site frontage of almost 33m. The character of the area is a mixture of residential and commercial with the Seamus Heaney Homeplace located around 40m to the south west. The site is located within an area of archaeological potential as defined in the Magherafelt Area Plan 2015.

### Description of Proposal

The proposal is for the demolition of the existing buildings on site and redevelopment to include the construction of a ground floor retail unit with an apartment above, along the Main Street frontage. Four number two storey semi-detached and a single two storey detached residential unit are proposed to the rear. An amended vehicular and pedestrian access is included and associated hard and soft landscaping proposed alongside parking provisions (in-curtilage and communal). A pair of automated vehicular access gates are proposed with a single pedestrian gate alongside. These gates are set back 9m to the rear of the existing building line and 11.5m from the road edge to accommodate traffic entering the site.

### Planning Assessment of Policy and Other Material Considerations

Assessment of planning policies and other considerations  
The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement  
Planning Policy Statement 3 - Access, Movement and Parking.  
Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage  
Planning Policy Statement 7 - Quality Residential Environments.  
Planning Policy Statement 12 - Housing in Settlements  
Planning Policy Statement 13 - Transportation and Land Use  
Creating Places

The lands in question are indicated as white land in the Magherafelt Area Plan 2015 and therefore there is a presumption in favour of development on this site.  
The proposed layout has a density 28.5 units per hectare.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

This is an full application and is therefore being assessed against these criteria as follows:-

- (a) The proposal meets the first of these criteria in that it respects the surrounding context in terms of layout and density. The density of the surrounding residential areas varies from between 22 to 30 dwellings per hectare.
- (b) There are no features of built heritage close to the site which would be impacted by the proposed development. Whilst the site is located within an area of archaeological potential, Historic Environment Division advise that they have no objections to the proposed development subject to the suggested conditions being included on any approval. The landscape features which extend to the existing boundary hedgerows are identified and can be protected to way of condition.
- (c) This amended layout shows a layout with 5 dwellings, therefore there is no requirement for the provision of public open space. This arrangement provides for all dwellings to have adequate private amenity space.
- (d) The site is located within the settlement of Bellaghy and within 30m of the centre of the village which has local shops, public houses, a restaurant and cafes. As the site is close to and within walking distance of the centre of the village, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has direct access onto Main Street and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;
- (f) Adequate provision can be made for the five dwellings to have in-curtilage parking. Communal parking has also been provided within the site and clear of the Main Street. These communal spaces will be available for not only visitors but also the occupants of the apartment above the retail unit.

(g) The design of the development in terms of form, materials and detailing have been considered in detail and are considered acceptable for this location.

(h) Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which includes mainly dwellings, a restaurant and retail businesses.

The landlord of the adjacent restaurant raised concerns that the proposed residential units may experience noise nuisance due to the proximity to the restaurant and bar which exist immediately adjacent to the south western side of the site. The objector is of the opinion that the external beer garden, extractor fans, customers leaving the premises late at night may cause noise issues giving rise to complaints. However, this has been considered by Environmental Health who requested the provision of a 1.8m high acoustic barrier to ensure the potential of noise disturbance was adequately addressed. The acoustic barrier is identified on the site plan and adequately addressed this issue..

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

#### Consultee responses

All consultees advised that they have no objections to the proposed development.

#### Recommendation

On consideration of the above, it is my opinion that planning permission should be approved subject to the conditions listed below:-

### **Summary of Recommendation**

Approve is recommended

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### Condition 1

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

##### Condition 2

All proposed planting as indicated on the stamped approved drawing no. 03/4 uploaded to the planning portal on 23rd October 2023 shall be undertaken during the first available planting season following occupation of the first dwelling hereby approved.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

##### Condition 3

If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that

tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of Mid Ulster District Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster District Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

#### Condition 4

No other development hereby permitted shall be commenced until the vehicular access has been constructed in accordance with stamped approved drawing No. 03/4 uploaded to the planning portal on 23rd October 2023.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

#### Condition 5

The development shall not be occupied until the mitigation measures specified and annotated on stamped approved drawing No. 03/4 uploaded to the planning portal on 23rd October 2023 have been installed. These shall be retained and maintained for the lifetime of this development.

Reason: To protect nearby residential amenity from noise.

#### Condition 6

The development shall not be occupied until remedial measures detailed within sections 6.1 & 6.2 of the RSK Updated Preliminary Risk Assessment and Generic Quantitative Risk Assessment (GQRA) uploaded to the planning portal on 19th December 2022 have been fully implemented and validated to the satisfaction of Mid Ulster District Council and the Northern Ireland Environment Agency.

Reason: To protect future occupants from land contamination.

#### Condition 7

Validation documentation shall be submitted in the form of a validation report and agreed with Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency. The report shall describe all the remediation and monitoring works undertaken and shall demonstrate the effectiveness of the works in managing and remediating all the risks posed by contamination.

Reason: To protect future occupants from land contamination.

#### Condition 8

There shall be no amendments or deviations from the remediation and verification recommendations contained within section 6.1 & 6.2 of the RSK Updated Preliminary Risk Assessment and Generic Quantitative Risk Assessment (GQRA) uploaded to the planning portal on 19th December 2022, without the prior written approval of Mid Ulster District Council in consultation with the Northern Ireland Environment Agency.

Reason: To protect future occupants from land contamination.

#### Condition 9

No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:  
The identification and evaluation of archaeological remains within the site;  
Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;  
Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and  
Preparation of the digital, documentary and material archive for deposition.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

#### Condition 10

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under Condition 10.

Reason: to ensure that archaeological remains within the application site are properly identified, and protected or appropriately recorded.

#### Condition 11

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 10. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure that the results of archaeological works are appropriately analysed and disseminated and the excavation archive is prepared to a suitable standard for deposition.

#### Condition 12

The development hereby permitted shall not commence until all fuel storage tanks and associated infra-structure encountered during site clearance are fully decommissioned and removed in line with current Pollution Prevention Guidance (PPG27). The quality of surrounding soils should be verified and, should any additional contamination be identified during this process, Conditions 2 and 3 will apply.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

#### Condition 13

If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and Mid

Ulster District Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with Mid Ulster District Council in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

**Condition14**

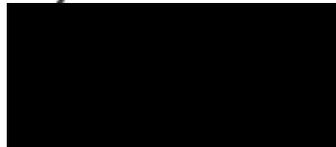
After completing all remediation works under Condition 13, and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Mid Ulster District Council in consultation with DAERA's Regulation Unit (RU) Land and Groundwater Team. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

*Malachy McCrystal*

**Case Officer Signature:**

**Date:** 15 November 2023



**Appointed Officer Signature:**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2021/1336/O	<b>Target Date:</b> 8 November 2021
<b>Proposal:</b> Proposed site for 4 Detached dwellings with detached domestic garage	<b>Location:</b> 70M North West Of 36 Moss Road Ballymaguigan Magherafelt
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Sean Cassidy 36 Moss Road Ballymaguigan Magherafelt	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b> <p>The proposal is an outline application for a site for four detached dwellings within an urban setting. One objection has been received and has been fully considered within the case officers report. The main issues for consideration in this application is the proximity of the site to an existing commercial business which may give rise to noise complaints. A noise impact assessment was submitted which satisfactorily addressed Councils concerns in this respect, subject to the design of the proposed dwellings incorporating the suggested measures to combat the potential for noise nuisance.</p> <p>As this is an outline application within an urban setting, the full details of the design can be considered at reserved matters stage. The proposed development meets all the policy tests and is therefore considered to be acceptable subject to the suggested conditions.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type		Consultee	Response
		DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
		Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
		NI Water - Multiple Units West	Substantive: TBCResponseType: FR
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09 2021 1336 O Moss Road, Ballymaguigan.doc
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	

### Representations:

Letters of Support	0
Letters Non Committal	0

Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<p><b>Summary of Issues</b></p> <p>One letter of objection have been received in relation to this planning application and has raised the following issues:-</p> <ul style="list-style-type: none"> <li>o Over development of the site which is unacceptable for this rural area.</li> </ul> <p>The site is not within the rural area. It is located within the settlement development limits of Ballymaguigan and the density of 20 dwellings per hectare is an acceptable density for such an urban setting.</p> <ul style="list-style-type: none"> <li>o Access</li> </ul> <p>DfI Roads considered the proposed access and advised that it is acceptable for the purposes of providing access to the proposed dwellings subject to the suggested condition.</p> <ul style="list-style-type: none"> <li>o Road safety</li> </ul> <p>DfI Roads did not raise any concerns regarding the proposed access in terms of road safety.</p> <ul style="list-style-type: none"> <li>o Adverse impact on residential amenity due to over development creating a sub-urban environment in the rural area.</li> </ul> <p>As detailed above, the site is located within an urban setting and the proposal does not constitute overdevelopment. The concept plan provides an acceptable indication of how the site can satisfactorily accommodate the proposed dwellings without having a detrimental impact on residential amenity. This can be considered further at reserved matters stage.</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is comprised of a small rectangular field on the Moss Road. The site is set to the rear of a line of three detached two storey dwellings which front directly onto the Moss Road. The dwelling nearest the entrance laneway was under construction at the time of site inspection. The site has direct frontage on a private gravel laneway which serves a single detached dwelling. The site also backs onto a second private laneway which connects Moss Road through to the Waterfoot Road.</p> <p>On the opposite side of the private laneway from which the access is taken, is a large commercial premises which is currently operating as a tile and bathroom showroom. Those commercial premises are owned and operated by the applicant. To the rear of the</p>	

site and on the opposite side of the second private laneway is a large agricultural field.

The site is bounded by the following:-

North west – post and wire fence;

North east – mature hedge

South east – 1.5m high hedge

South west – the rear of the dwellings fronting onto Moss Road.

### **Description of Proposal**

This is an outline application for four detached dwellings with detached garages. A concept plan has been provided which indicates that all dwellings will have separate accesses onto the private laneway, with adequate provision to accommodate private amenity space. The dwellings will be orientated so as to front onto the private laneway so should not overlook the rear of the existing dwellings fronting onto Moss Road.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

The relevant policies for consideration of this application are:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

The lands in question are indicated as white land in the Magherafelt Area Plan 2015 and therefore there is a presumption in favour of development on this site.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

This is an outline application and is therefore being assessed against these criteria as follows:-

(a) The proposal meets the first of these criteria in that it respects the surrounding context in terms of layout. The density of the proposed development is acceptable within this urban area and at 20 dwellings per hectare is similar the adjacent development of

three dwellings fronting onto Moss Road which has a density of 16 dwellings per hectare.

(b) There are no features of the archaeological and built heritage, and landscape features which extends to the existing boundary hedgerows are identified and can be protected to way of condition.

(c) This conceptual layout shows four dwelling and therefore there is no requirement for the provision of public open space. The local GAA club has football pitches located approximately 600m to the north of the site. The conceptual layout has the potential to provide for dwellings with a footprint of 80-100m<sup>2</sup> and still have rear garden depths of 8-10m whilst still providing in excess of 100m<sup>2</sup> of private amenity space.

(d) The site is located within the settlement of Ballymaguigan. However, due to the rural nature of this settlement, there are no convenience stroes within a close proximity to the site and therefore most trips will be made by car. There is a tile/bathroom showroom, furniture showroom close to the site with the local primary school some 800m away. However, given the nature of this settlement and the restricted size of the site the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has indirect access onto the Shore Road and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system; There are two bus stops within walking distance on the Shore Road.

(f) Adequate provision can been made for parking within the site.

(g) As this is an outline application, the design of the development in terms of form, materials and detailing has not been considered in detail. These details can be considered at reserved matters stage.

(h) Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which includes mainly dwellings and the tile/bathroom showroom, which will operate mainly during normal business hours.

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

#### Consultee responses

Dfl Roads and NI Water advised that they have no objections to the proposed development. However, Environmental Health requested the submission of a Noise Impact Assessment due to the proximity of the proposed dwellings to the tile/bathroom showroom, which may cause noise disturbance during times of deliveries. On receipt of the NIA, EHD advised that they have no further objections subject to conditions.

#### Recommendation

On consideration of the above, it is my opinion that planning permission should be approved subject to the conditions listed below:-

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to Mid Ulster District Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

Condition 2

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from Mid Ulster District Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of Mid Ulster District Council.

Condition 3

The layout shall be in general conformity with the stamped approved concept plan 02 uploaded to the planning portal on 22nd September 2021 and shall be designed in accordance with Policy QD1 of Planning Policy Statement 7 "Quality Residential Environments" and the associated supplementary guidance "Creating Places".

Reason: To ensure the provision of a quality residential development.

Condition 4

No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by Mid Ulster District Council and all tree and shrub planting shall be carried out in accordance with those details and at those times.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

Condition 5

If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of Mid Ulster District Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster District Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

#### Condition 6

No development shall take place until a plan indicating floor levels of the proposed dwellings in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure a satisfactory form of development.

#### Condition 7

The dwellings hereby approved shall have back gardens not less than 10 metres deep, as measured from the rear building line of the dwelling to the rear plot boundary unless otherwise approved, or required in writing by Mid Ulster District Council.

Reason: To ensure an adequate standard of amenity space.

#### Condition 8

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the RS1 form uploaded to the planning portal on 22nd October 2021.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

#### Condition 9

The glazing to all front and side facades of the dwellings hereby approved shall be capable of providing a sound reduction of at least 21 dB (RTra) or ( RW and Ctr ) or greater.

Reason: To ensure the protection of residential amenity.

#### Condition 10

Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction of at least 21 dB (RTra) when in the open position (with respect to noise transmission from the exterior to the interior of the building), shall be provided to all front and side rooms. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30 dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K - Ventilation 1998."

Reason: To ensure the protection of residential amenity

**Signature(s):** Malachy McCrystal

**Date:** 16 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	13 September 2021
<b>Date First Advertised</b>	28 September 2021
<b>Date Last Advertised</b>	28 September 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 30 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 32 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 16A , Moss Road, Magherafelt, Londonderry, BT45 6LJ	
<b>Date of Last Neighbour Notification</b>	7 October 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR NI Water - Multiple Units West-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-LA09 2021 1336 O Moss Road, Ballymaguigan.doc Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council-	

**Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01

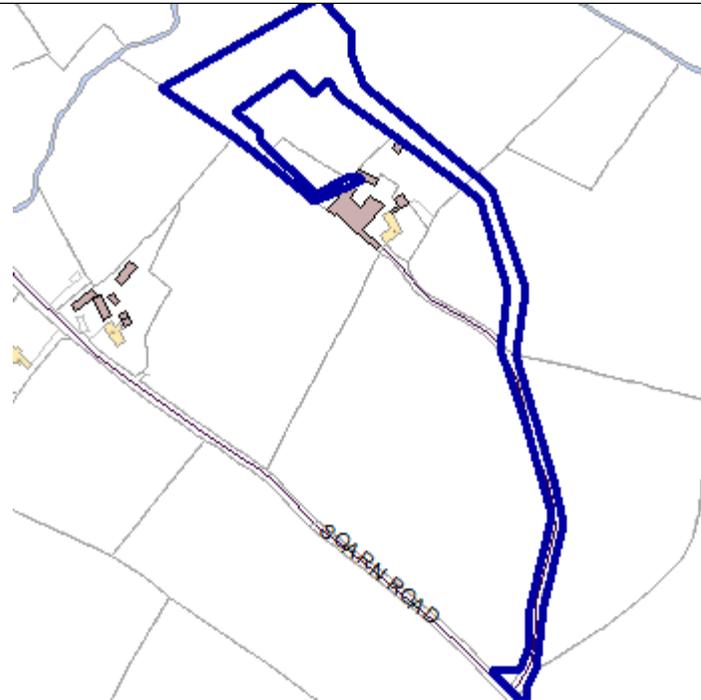
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2021/1475/F	<b>Target Date:</b> 2 December 2021
<b>Proposal:</b> Proposed free range poultry shed with 2no. feed bins, a storage shed and associated site works (Poultry shed to contain 8000 free range egg laying hens)	<b>Location:</b> Land Approx. 100M North West Of 9 Soarn Road Stewartstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Jeremy Baird 95 Coolreaghs Road Cookstown BT80 8ER	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  Members are requested to consider this proposed development as an exception to Policy CTY 10 as the applicant aims to establish a poultry farm in their venture into farming.	

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DETI - Geological Survey (NI)	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	DAERA - Omagh	Substantive: YResponseType: FR
	NI Water - Strategic Applications	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: TBCResponseType: PR
Statutory Consultee	NIEA	PRT LA09-2021-1475-F.PDF

Statutory Consultee	NIEA	
Statutory Consultee	NIEA	
Statutory Consultee	NIEA	PRT LA09-2021-1475-F.PDF
Non Statutory Consultee	Shared Environmental Services	LA09_2021_1475_F - AA complete 07-11-23.pdf
<b>Representations:</b>		
Letters of Support	0	
Letters of Objection	0	
Letters Non Committal	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>This application site occupies an irregular shaped plot of land approximately 100 metres North West of No 9 Soarn Road, Stewartstown. It is located in the rural countryside as defined in the Dungannon and South Tyrone Area Plan and is 3 kilometres to the north of Stewartstown. The surrounding area is predominantly flat agricultural land with some farm holdings and single dwellings scattered throughout the landscape. The application site is accessed off an existing concrete laneway for the first 150 metres off the Soarn Road. This is lined each side with hedgerow and continues on to No 9 which is a 2 storey farmhouse with associated outbuildings to the rear of the property.</p> <p>This application is located in a flat agricultural field and is to the rear and north west of the farm buildings mentioned above. Because of this most boundaries of the proposed site are undefined on the ground, with the exception of the south western boundary which is a low hedgerow interspersed with some trees. A new access which would solely serve this proposed development will also traverse the field for some 130 metres to where it then joins the existing laneway.</p> <p>Planning History</p> <p>LA09/2022/1304/F - Replacement dwelling including extension of existing curtilage to create functional use of existing farm courtyard and farm buildings - 9 Soarn Road, Stewartstown - Approve - 12.12.2022</p>		
<b>Description of Proposal</b>		
<p>Proposed free range poultry shed with 2no. feed bins, a storage shed and associated site works (Poultry shed to contain 8000 free range egg laying hens) on land approximately 100M North West of 9 Soarn Road, Stewartstown.</p>		

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

The proposal exceeds the 500 sq. metres floorspace threshold, whereby EIA screening is required under Schedule 2 (Column 1 (c) - Intensive Livestock Installations) of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012. The total floor area created will be 1440 metres squared. The Council determined on that the environmental effects of the proposal were not likely to be 'significant' and an environmental statement was not required. The environmental effects will be assessed under the policies below.

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, (SES) received on 7th November 2023. Having conducted an Appropriate Assessment they found that the project would not have an adverse effect on the integrity of any European site.

There were no neighbouring properties to notify of this proposal in line with the Council's statutory obligation. It was advertised in the local press and no objections were received.

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020 and the period for Counter Representations closed on 18th December 2020. On the 28th May 2021, the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The Strategic Planning Policy Statement (SPPS) published in September 2015 has retained a number of Policy Statements, of which PPS 21 Sustainable Development in the Countryside is one which provides the main policy considerations for this proposal.

### **PPS 21 Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 determines out the 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 policies is CTY 12 Agricultural and Forestry Development which sets out criteria that allows planning permission to be granted for agricultural development on active and established farm holdings subject to certain policy criteria being met. This policy gives favourable consideration to necessary agricultural development which is appropriate in scale and nature. There are important

issues to be considered regarding the siting, design and materials of modern agricultural buildings and their impact on amenity and on the rural landscape.

## CTY 12 Agricultural and Forestry Development

Where new buildings are proposed, CTY 12 requires them to be sited beside existing farm buildings. Cross-contamination is a huge concern with respect to poultry farming and it is established practice that due to the site-specific needs of this industry it would not be appropriate for the applicant to use any existing agricultural buildings or site the poultry shed directly beside existing farm buildings.

All proposals for agricultural buildings in the countryside are expected to conform to 5 criteria which are set out in CTY 12 unless it constitutes Permitted Development by virtue of the Schedule, Part 7, Class A of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

### a) Necessary for the efficient use of the holding

This proposal is for a poultry shed which will house up to 8,000 free range laying birds. The Ministerial Review into the Operation of Planning Policy Statement 21 recognised there would be a significant number of planning applications for poultry houses to supply the Agri-Food sector. The review does not provide any policy guidance but it does clearly recognise that this industry is a key economic driver for the rural economy. DAERA have stated the farm Business ID was only allocated to the applicant in May 2021. The applicant therefore was not able to claim payments through the Basic Payments or Agri Environment Scheme in each of the last 6 years, but are currently claiming on this land.

The applicant purchased the farm in April 2021. The original farm on which this site is located was divided up into 3 lots and sold following the owner's death. This parcel of land in the applicant's ownership is the only plot which includes farm buildings and a dwelling. As the original farm was not purchased in its entirety by the applicant, that farm as a business with its associated Farm Business ID No ceased to exist in 2014. Although there is not much demand for people entering the farming business without being reared on a farm, this applicant is such an example. They are not from a farming background but his wife is and they wish to establish and develop their own farm, eventually transitioning into agriculture on a full-term basis. They acknowledge that in order to have a financially viable farm that intensive farming is the best option but if they cannot enter the poultry farming community due to the current legislation, he would have to sell the farm. The applicant's interest in farming led to the completion of a Level 2 Agricultural Management Course and he was also accepted on in the Young Farmer's Scheme. A Loan has been obtained for this development proposed and Ballygarvey Eggs have agreed to take the resulting eggs. The applicant has both a herd and stock number from the purchasing and sale of a small herd of cattle and they are aiming to apply for a Capital Improvement Scheme which cannot be submitted until they have planning permission for the development.

### b) Character and Scale Appropriateness

The proposed poultry shed will be sited parallel to the north western boundary of the

site, measuring 77 metres in length and 12.5 metres wide, with a ridge height of 5 metres FGL. The rear western gable of the shed will have 2 double doors with a single pedestrian door on the front north eastern gable and 4 ventilation fans on proposed the ridge of the roof.

The litter storage store is sited along the south western boundary of the site. This measures 18.1 metres by 9.2 metres with a ridge height of 5.4 and a roller shutter door on the western gable facing the access.

Adjacent to the north eastern elevation of the poultry house is where 2 feed bins are located, close to the access laneway and turning area. Each measures 2.7 metres in diameter and are 8 metres FGL. These bins are on concrete base and are composed of galvanised steel outer sheeting.

I am content these proposed buildings and structures are typical of those found on poultry farms throughout Mid Ulster District and I have no concerns about this proposal in terms of character and scale and feel it is appropriate in this location.

#### c) Visual Integration

This proposal is a new addition to an agricultural field which is free from any built structures. The building is set back some 300 metres where its access joins the Soarn Road. The location of this site in a small hollow in an otherwise flat agricultural landscape combined with established roadside vegetation in the vicinity, views of this proposed development on this site will be long distance and limited. It will read with the existing farm buildings in this typical rural landscape and will not appear obtrusive in the landscape thus integrating successfully into the local landscape.

#### d) Natural and Built Heritage

Shared Environmental Services (SES) were consulted due to the possibility of an indirect hydrological link to Lough Neagh SPA and RAMSAR sites. They initially requested further information following on the comments submitted by NIEA regarding the litter agreement and some missing information belonging to the Air Quality Impact Assessment. Following the applicant's decision to change the method of disposing of the poultry waste, this information was then not required and SES were consulted regarding the amended method of litter disposal.

Following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation and have recommended conditions be attached to any permission granted concerning the maximum number of birds and the litter disposal.

Natural Environment Division (NED) of NIEA confirmed the site is within 7.5 km of Lough Neagh and Lough Beag SPA/RAMSAR, Upper Ballinderry River SAC, Ballysudden ASSI, Brookend ASSI, Lough Neagh ASSI and Upper Ballinderry River ASSI. All these designated sites are protected by The Environment (NI) Order 2002.

NED consider an additional loading capacity of 10% of the Critical Level for designated sites. This proposal has calculated the Process Contribution of Ammonia as being less

than 1% of the Critical Level as is stated in the Air Quality Impact Assessment (AQIA). NED are content the proposed development is unlikely to significantly impact badgers, otters, bats or smooth newts and would not be likely to have a significant effect on the features, conservation objectives or status of any European site. Therefore, I have no concerns regarding the heritage interests of this area, both from a natural and built assessment.

The Water Management Unit (WMU) of NIEA assessed this proposed development in association with the Nutrient Action Programme (NAP) Regulations 2019. The applicant initially stated the poultry litter would be transferred to Par Renewables who WMU confirmed do not have a Waste Management License and nor is there planning permission for an AD Plant at No 42 Gortnaskea Road, Stewartstown. Therefore an amended Litter Contract must be submitted in order for WMU to provide a final comment. The applicant changed their waste management plan for this proposal and have now stated that 120 tonnes of poultry litter will be transferred to Green Generation Ltd in Co Kildare for use in their AD facility. Based on this revised information submitted, WMU recommended Mid Ulster District Council consult with the relevant authorities in the Republic of Ireland.

It is important to note that following the recent widely reported issues and blue-green algae blooms around Lough Neagh, discussions were had with NIEA and SES regarding the methods of disposal of litter for planning applications for poultry units. Mid Ulster District Council have taken the stance that no planning conditions regarding Waste Management Plans or Poultry Litter Agreements will be inserted to any permission. Methods of litter disposal are monitored by NIEA through the waste licensing process and is not a planning issue, therefore it is not within the Council's remit to enforce.

#### e) Residential Amenity

The nearest occupied property to this proposal outside of the applicant's ownership is approximately 110 metres to the south of this proposal. The Environmental Health section of Mid Ulster Council looked at the Air Quality Impact Assessment and have no objections to this proposal subject to standard poultry conditions attached to any permission.

The Industrial Pollution and Radiochemical Inspectorate (IPRI) stated that as the number of poultry 8,000 falls below the threshold for licensing (40,000 bird places), they have no objection and state this application would not require an IPRI certificate.

I do not feel this proposal would result in a detrimental impact on the amenity of any residential dwellings attributable to problems regarding noise, smell and pollution.

#### CTY 13 - Integration and Design of Buildings in the Countryside

This policy allows for a building in the countryside where it can be visually integrated into the surrounding area and is of an appropriate design. This proposal is typical of the type of poultry houses which are located throughout the Mid Ulster area. As detailed in my assessment above, I am satisfied this building is suitable in this location and will integrate into the landscape.

#### CTY 14 - Rural Design

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 the area. The agricultural nature of this proposal results in it only being suitable development in the rural countryside. The location of this proposal although in relatively flat topography, existing intervening vegetation means I have no concerns about it being a prominent feature nor eroding the rural character of this area, thereby complying with the requirements of this policy.

#### PPS 2 - Natural Heritage

SES were consulted and assessed the potential impact of this proposal in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended).

As is discussed above, after conducting an Appropriate Assessment, SES have concluded this proposal would not have any conceivable effect on any European site. I am satisfied this proposal complies with the policy requirements of PPS 2, specifically NH1, NH 3 and NH 4 as is demonstrated by the consultation responses of NIEA and SES above.

#### PPS 3 - Access, Movement and Parking

DfI Roads have no objection to this proposal subject to the standard conditions regarding the provision of visibility splays and therefore I am satisfied this proposal complies with the policy requirements of PPS 3.

#### PPS 15 - Planning and Flood Risk

DfI Rivers have stated this site does not lie within the 1% AEP fluvial floodplain and is unaffected by any designated watercourse. They reviewed the Drainage Assessment undertaken by Flood Risk Consulting and noted the proposed SUDS system has no outlet and drainage is via percolation through the soil strata. DfI Rivers advise a Final Drainage Assessment is submitted to the Council and agreed in writing, prior to any development occurring on the site.

#### **Summary of Recommendation:**

Approve is recommended

Although there have been no objections to this proposal, it fails to meet the policy. I acknowledge the current demographic of the farming population is characteristically ageing and would ask the members to consider this proposal as an exception to policy in order to allow new entrants into the farming industry. As all other planning issues have been overcome through the assessing of this application, I would recommend this proposal is granted approval.

#### Approval Conditions

#### Condition 1

As required by Section 61 of the Planning Act (NI) 2011, the development hereby approved shall be begun within 5 years of the date of this decision.

Reason: Time Limit

#### Condition 2

The vehicular access, including visibility splays and any forward sight distance shall be provided in accordance with Drawing No 02 date stamped received on 7th October 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

#### Condition 3

Within 2 weeks of a written request by Mid Ulster District Council following a justified complaint from the occupant of a residential dwelling which lawfully exists, the operator of the approved shall, investigate and undertake remedial action immediately to adjust the process or activity to minimise those emissions.

Reason: To protect neighbouring property from excessive odour

#### Condition 4

Within 4 weeks of the written request outlined in Condition 3, Mid Ulster District Council shall be provided with a suitable report detailing actions taken/to be taken and any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring property from excessive odour

#### Condition 5

The maximum number of chickens within the proposed facility shall not exceed 8,000 free range egg laying hens as is stated in the Air Quality Impact Assessment received on 14th February 2022, unless otherwise agreed in writing by Council.

Reason: The Odour Impact Assessment was concerning only this specific type of poultry farming and to safeguard nearby residential amenity.

#### Condition 6

Prior to stocking the facility, the mitigation measures (mechanical ventilation and manure

belts) detailed within the Air Quality Impact Assessment received on 14th February 2022 must be installed. The mitigation measures must be fully operational whilst livestock are housed within the poultry shed.

Reason: To safeguard nearby residential amenity.

**Condition 7**

Prior to any development commencing on this site, the applicant must submit a Final Drainage Assessment to be agreed by Mid Ulster District Council, in consultation with DfI Rivers.

Reason: To safeguard against flood risk to the development and elsewhere.

**Case Officer:** Cathy Hughes

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	7 October 2021
<b>Date First Advertised</b>	19 October 2021
<b>Date Last Advertised</b>	19 October 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1304/F  Proposals: Replacement dwelling including extension of existing curtilage to create functional use of existing farm courtyard and farm buildings  Decision: PG  Decision Date: 21-DEC-22</p> <p>Ref: LA09/2021/1475/F  Proposals: Proposed free range poultry shed with 2no. feed bins, a storage shed and associated site works (Poultry shed to contain 8000 free range egg laying hens)  Decision:  Decision Date:</p> <p>Ref: I/1974/0099  Proposals: 11KV O/H LINE  Decision: PG  Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
DETI - Geological Survey (NI)-Substantive: TBCResponseType: FR Rivers Agency-Substantive: YResponseType: FR DAERA - Omagh-Substantive: YResponseType: FR NI Water - Strategic Applications-Substantive: YResponseType: FR Shared Environmental Services-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR	

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
NIEA-Substantive: YResponseType: FR  
NIEA-Substantive: TBCResponseType: PR  
NIEA-PRT LA09-2021-1475-F.PDF  
NIEA-  
NIEA-  
NIEA-PRT LA09-2021-1475-F.PDF  
Shared Environmental Services-LA09\_2021\_1475\_F - AA complete 07-11-23.pdf

**Drawing Numbers and Title**

Site Layout or Block Plan

Technical Specification Plan Ref: 04  
Proposed Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2022/0226/F	<b>Target Date:</b> 19 April 2022
<b>Proposal:</b> Proposed 19 dwellings (18 semi detached and 1 detached)	<b>Location:</b> Existing Housing Site At The Junction Of Ardboe Road / Kilmascally Road East Of 87B Kilmascally Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr E Mullan 10-12 Carhill Road Garvagh	<b>Agent Name and Address:</b> Ryan Brace 124 Agivey Road Aghadowey
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0226-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Applicant to submit coloured PSD  Gerry

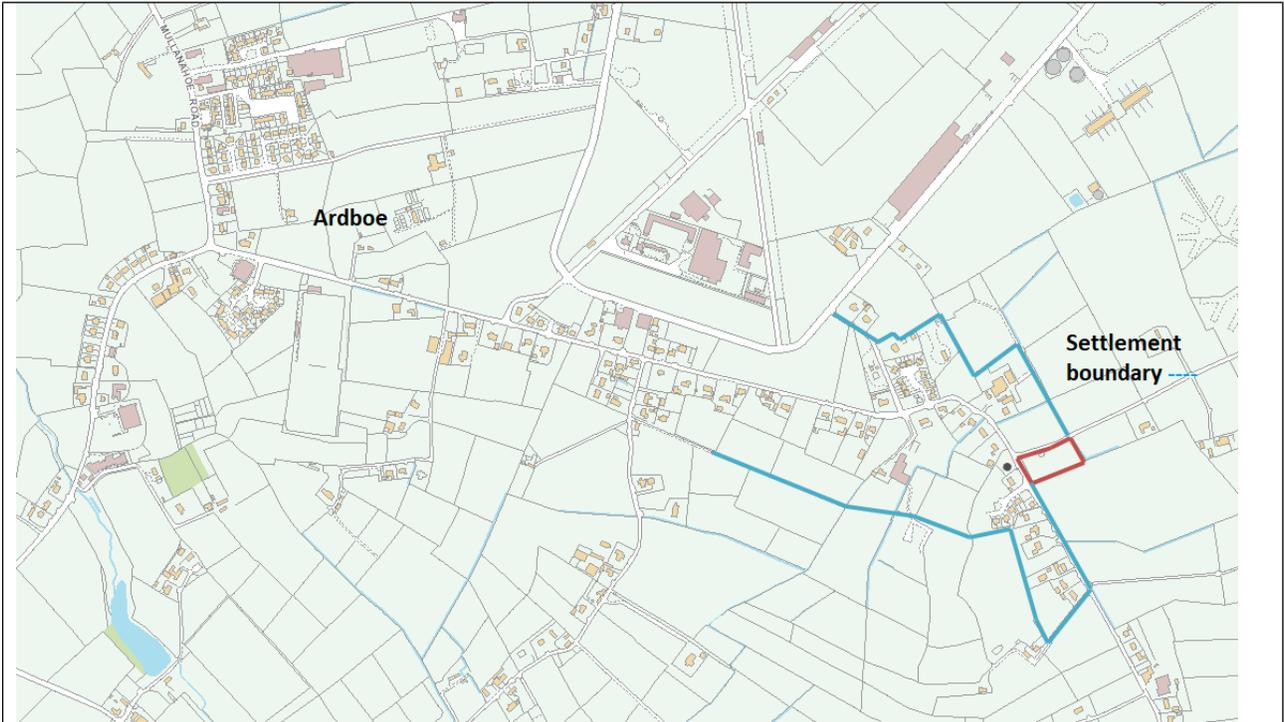
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies just inside the settlement limits of Ardboe at the most eastern point. It also falls outside any other area of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010.



The red line of the site is rectangular in nature and sits on the inside of the junction of the Ardboe and Kilmascally roads. The area has the appearance of a scattered development limit, there are a number of small developments located along the opposite side of the Ardboe road, there are also some small farm holdings scattered along the roadside. In addition with the site sitting on the edge of the settlement limits it is bounded to the east and south by agricultural fields.



The site is bounded along the South and eastern boundaries by thick mature hedgerows including several large trees and bushes. Along the western boundary with faces the Ardboe Road there is a native species hedgerow and the northern boundary along the Kilmasally Road is open on the ground with a footpath partially completed along its length. The site is relatively flat and at the time of site visit it was clear that a number of foundations from the previous approval I/2005/1551/F (housing development of 14 units) had been laid.



## Description of Proposal

The proposal seeks full planning permission for the erection of 19 dwellings (18 semi detached and 1 detached) as per below layout.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### **Planning Assessment of Policy and Other Material Considerations**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Area Plan**

Dungannon and South Tyrone Area Plan 2010- within development limits of Ardboe, no zoning. In the plan it states that housing development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement.

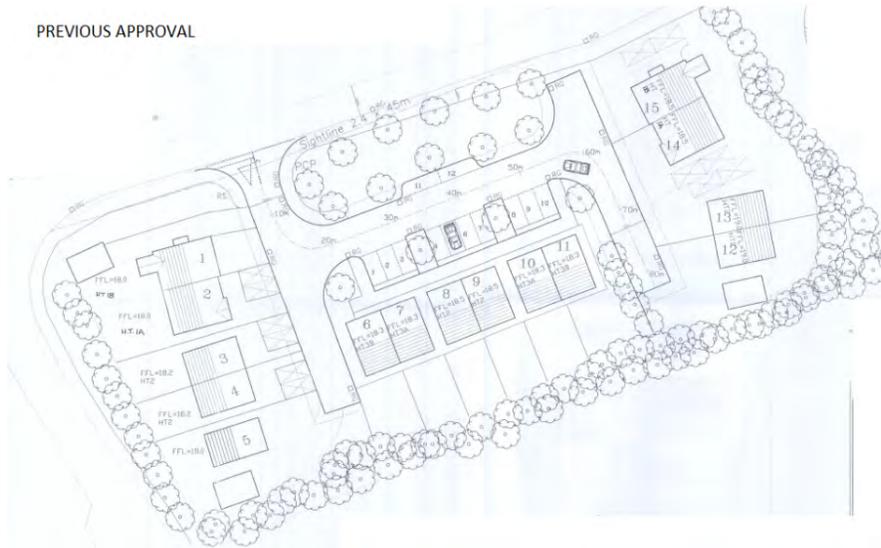
#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

#### **Planning History**

I/2005/1551/F – Housing development for 14 dwellings – Approved

PREVIOUS APPROVAL



#### **Mid Ulster Development Plan 2030 - Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the district. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council are now preparing to submit the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**SPPS - Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a

regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

This residential proposal lies within the settlement limit of Ardboe and therefore **PPS 7, Quality Residential Environments** is the relevant policy consideration.



PPS 7 states the development should respect the surrounding context and be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

It is my opinion that the proposal layout respects the surrounding context and is appropriate in terms of layout and appearance of buildings and landscaped areas.

(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;

No features of the archaeological /built heritage have been identified in the application site.

(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;

The edge of the settlement limit of Ardboe lies along the South and Eastern side of the application site. Attention has been given to supplementary planting over along this boundary to soften the impact between village and open countryside.

(d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;

The agent has submitted a proposal which includes a separate sewerage treatment plant.

(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

A footpath runs along site frontage towards. No rights of way are shown on site location plan.

(f) adequate and appropriate provision is made for parking;

Transport Ni have been consulted and have asked for a number of details to be shown on PSD drawings. These have been requested on a number of occasions and as yet have not been received. In regards to parking however, I am content that adequate in curtilage parking has also been provided.

(g) the design of the development draws upon the best local traditions of form, materials and detailing; The design of the dwellings is similar to the previously approved under planning reference I/2005/1551/F, which have been materially started and in principal could be built. In my view the design is of a high quality and respects local traditions. (see both house types below)



(h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;

The surrounding land uses are primarily residential with agricultural to the south and east. This residential development will not conflict with those land uses and it is my opinion that there will not be any loss of amenity/overlooking to surrounding neighbours given the levels and the boundaries.

(i) the development is designed to deter crime and promote personal safety.

The development would appear to be designed to deter crime and promote personal safety in that there are no alley ways or other areas for congregation and potential crime.

No third party representations have been received.

**Other considerations**

NIW have indicated that they will accept 14 units and that they require a waste water treatment plant for the remaining 5 dwellings. The agent has been asked for these details on numerous occasions and has failed to provide same.

Environmental Health have also provided comment on the absence of a package treatment plant and can not comment until submitted.

As the proposal has outstanding information in regards to DFI Roads, Environmental health and NI Water, requests dating back over 6 months Refusal is recommended on the grounds of lack of information.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

Having notified the applicant under Article 3 (6) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 that further details are required in order to determine the application, and having not received sufficient information, the Council refuses this application as this information is material to the determination of this application.

**Signature(s):** Peter Hughes

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 February 2022
<b>Date First Advertised</b>	8 March 2022
<b>Date Last Advertised</b>	8 March 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 87A Kilmascally Road Dungannon Tyrone BT71 5BJ The Owner / Occupier 87B Kilmascally Road Dungannon Tyrone BT71 5BJ The Owner / Occupier 218 Ardboe Road, Dungannon, Tyrone, BT71 5BW	
<b>Date of Last Neighbour Notification</b>	7 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR NI Water - Multiple Units West-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC NI Water - Multiple Units West-LA09-2022-0226-F.pdf DFI Roads - Enniskillen Office-Applicant to submit coloured PSD  Gerry	

**Drawing Numbers and Title**

Proposed Plans Plan Ref: 06  
Proposed Plans Plan Ref: 05  
Site Layout or Block Plan Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 03  
Site Location Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

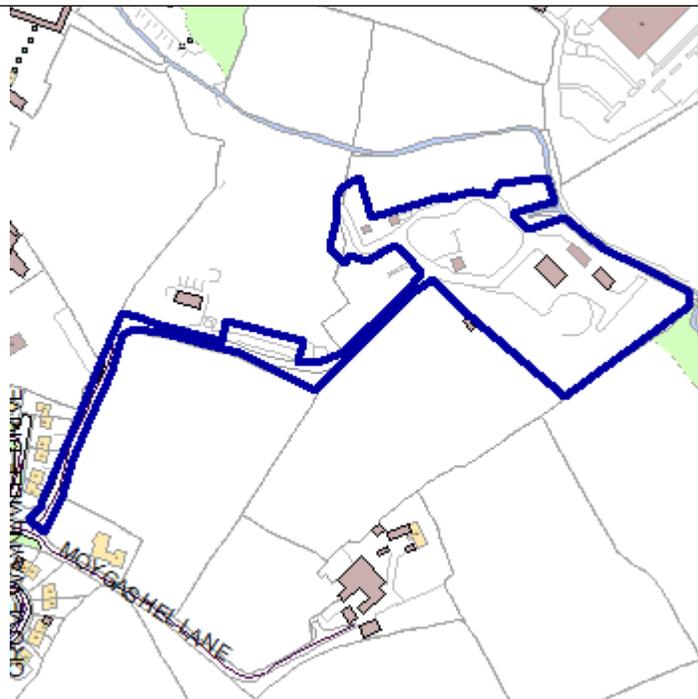


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2022/0558/F	<b>Target Date:</b> 23 June 2022
<b>Proposal:</b> Redevelopment to facilitate the upgrade of existing Dungannon WwTW	<b>Location:</b> Dungannon Waste Water Treatment Works (WWTW) 14 Moygashel Lane Dungannon BT71 7QY.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Northern Ireland Water Ltd Westland House 40 Old Westland Road Belfast BT14 6TE	<b>Agent Name and Address:</b> Resolve Planning & Development Innovation Factory Forthriver Business Park 385 Springfield Road Belfast BT12 7DG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	Rivers Agency	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	Shared Environmental Services	Substantive: TBC
	NIEA	Substantive: TBC
Statutory Consultee	NIEA	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LAo9 2022 0558 F WWTW 14 Moygashel Lane Dungannon.doc
Non Statutory Consultee	Shared Environmental Services	LA09-2022-0558-F_Re-consult_response2_29092022.pdf
Statutory Consultee	NIEA	PRT - LA09 2022 0558 F.pdf
Statutory Consultee	NIEA	PRT LA09-2022-0558-F.PDF
Non Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	PRT LA09-2022-0558-

		F.PDF
Statutory Consultee	Rivers Agency	394834 - Final Response.pdf
Statutory Consultee	NIEA	PRT - LA09-2022-0558-F.PDF
Non Statutory Consultee	Shared Environmental Services	LA09-2022-0558-F-HRA-Stage-2-AA-22-11-2023.pdf
Statutory Consultee	NIEA	PRT LA09-2022-0558-F.PDF

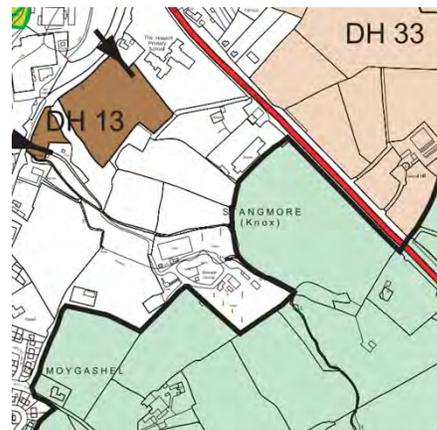
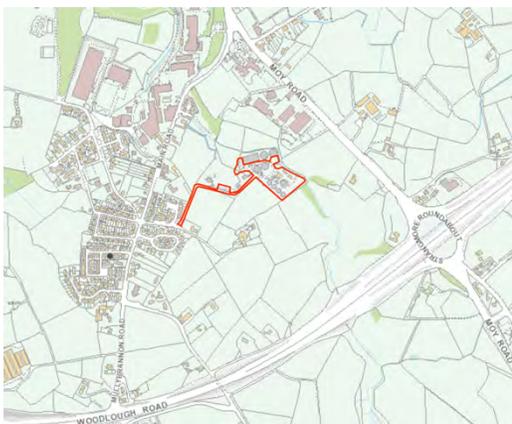
**Representations:**

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues**

**Characteristics of the Site and Area**

This application site occupies an irregular shaped site which includes the Dungannon Wastewater Treatment Works (WwTW). It lies within the settlement limits of Dungannon in the southern portion of the town at Moygashel. The site is whiteland in the Dungannon and South Tyrone Area Plan (DSTAP) and it sits approximately 380 metres to the North West of the Stangmore Roundabout which leads onto the M1 Motorway.



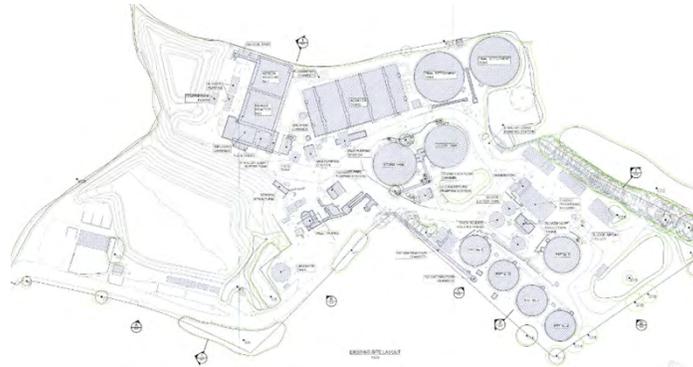
The site measures approximately 1.7 hectares and is accessed off the Main Road in Moygashel via a lane over 400 metres in length. Moygashel Lane allows access to the residential development of Neville Drive which is a residential area of mostly terraced two storey dwellings and also No 9 and No 20 Moygashel Lane which are detached dwellings, with the latter situated in a farmyard.

Kids and Bibs Daycare centre is located at No 12 Moygashel Lane before a security gate

which restricts entry onto this application site. Less than 50 metres to the north east of the site is the rear part of Donnelly's Motors Head Office which is located at 57-59 Moy Road, Dungannon and includes showrooms, motor spares shop, repairs garage and filling station with a convenience store.



The site applied for in this planning application does not include the entire WwTW site, with a section of the site sitting to the north and west of the red line. The bulk of the site is defined by the development limits along the south western, north eastern and northern boundaries. Two of these boundaries are defined by hedgerow with the northern boundary defined mostly by established trees which sit alongside a watercourse which continues along the northern boundary of the WwTW site. The northern boundary of this application site goes through the works resulting in it as well as the western site boundary being undefined on the ground.



### Planning History

LA09/2020/0914/PAD - Phase 2 Dungannon WWTW – PAD declined

LA09/2017/1445/PAD - Replacement WWTW – PAD Concluded.

M/2013/0224/PREAPP - Proposed upgrade to the existing Moygashel Waste Water Treatment Works

M/2008/1022/LDP - Improvements to Moygashel Waste Water Treatment Works – Approval - 24.03.2009

M/2005/2148/E - Improvements to Moygashel Waste Water Treatment Works.

M/2003/0577/CD - Upgrade of existing wastewater treatment works to improve the performance of the works - Approval - 22.07.2003

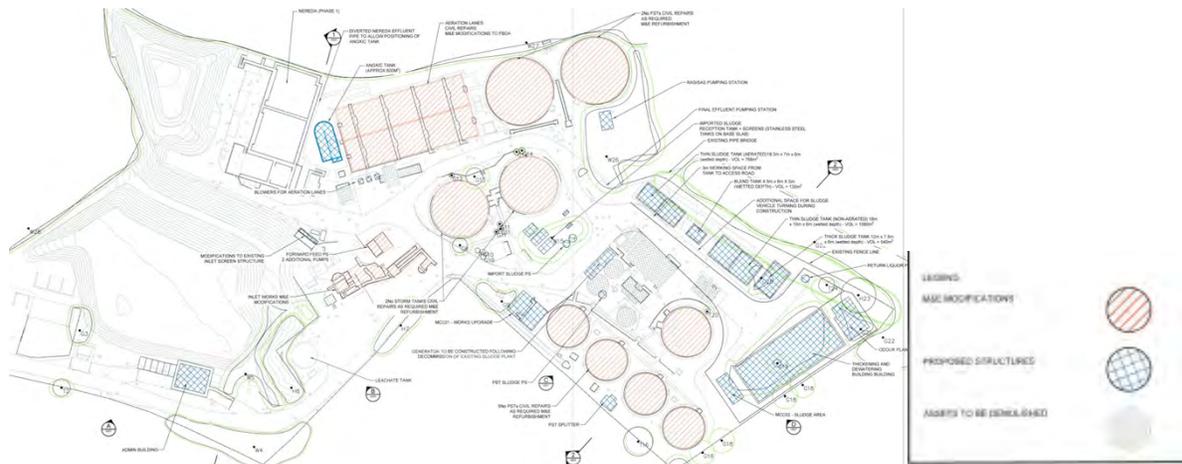
M/1992/0709B - Extension to Sewage Treatment Works - Approval - 30.11.1994

M/1992/0709 - Extension to sewage treatment works - Approval - 13.05.1993

M/1980/0410 – Underground Petrol Tank – Approval

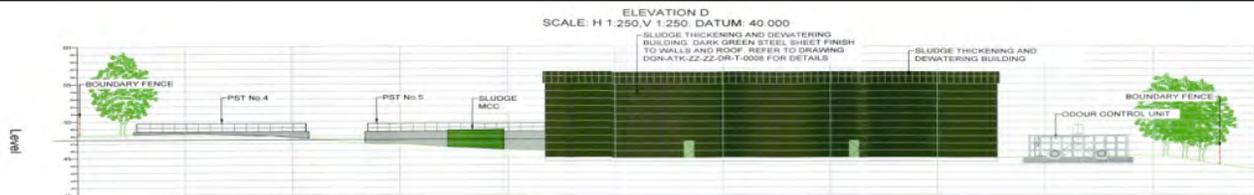
## Description of Proposal

This application seeks full planning permission for the redevelopment to facilitate the upgrade of existing Dungannon WwTW on land at 14 Moygashel Lane, Dungannon.



The current WwTW constructed in the early 1990's was designed to cater for a Population Equivalent of 60,000. This proposed development would increase that Population Equivalent to 80,000 and facilitate development growth in the catchment over the next 15 years by providing a 30% increase in design capacity. The provision of a new sludge treatment facility to satisfy compliance with current regulations which should future proof the facility for the next 25 years.

This proposal includes the demolition of a number of structures, mostly in the south eastern portion of the site. A number of existing structures including inlet works, 5 Primary Sediment Tanks (PST), 2 storm tanks and forward feed pumps all need upgrading. There are a number of new buildings and development to be constructed, some of which are underground and some are minimal in relation to the wider site. The largest new building proposed is the Sludge Thickening and Dewatering Building which is to be sited along the south eastern boundary of the site, occupying a footprint of over 760 sq. metres with a ridge height of 7.5 metres FGL. The drawing below shows the view into the site of this large building from the northeastern boundary.



The agent submitted a number of additional information undertaken by various bodies along with the application form, Supporting Statement and the necessary drawings;

- Assessment of Otter Activity and Otter Mitigation Plan - ATECNI Environmental Consultancy
- Assessment of Bat Roosting Potential - ATECNI Environmental Consultancy
- Tree Survey and Report Dr Phillip Blackstock
- Arboricultural Impact Statement - Dr Phillip Blackstock
- Archaeological Impact Assessment - Farrimond Mc Manus Ltd
- Ecological Impact Assessment – WM Associates
- Habitat Regulations Assessment – WM Associates
- Invasive Species Management Plan – WM Associates
- Landscape and Visual Impact Assessment – Mc Ilwaine Landscape Architects
- Noise Impact Assessment – MCL Consulting
- Odour Assessment Update – Wood Group UK Ltd
- Transport Assessment Form – MRA Partnership Ltd
- Outline Construction Environmental Management Plan - GEDA

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the 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. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

It states in Para 6.316 of the SPPS there is a presumption in favour of waste collection and treatment facilities and in the case of Waste Water Treatment Works need must be demonstrated to the satisfaction of the Department or relevant authority. Attention must be given to the potential impacts on neighbouring areas. Development in the vicinity of waste management facilities should only be permitted where it will not prejudice the operation of such facilities and will not give rise to an unacceptable impact on people, transport or the environment.

The Public Utilities section of DSTAP refers to the need to maintain river water quality and the limited capacity of local streams to receive treated effluent may constrain the development of proposals, particularly those which generate significant volumes of effluent.

PPS 11 – Planning and Waste Management is the relevant policy for this application and aims to promote the development of waste management facilities in appropriate locations.

Policy WM 1 – Environmental Impact of a Waste Management Facility states that proposals for the development of a waste management facility will be subject to a thorough examination of the environmental effects and will only be permitted where it can be demonstrated that a list of criteria is met;

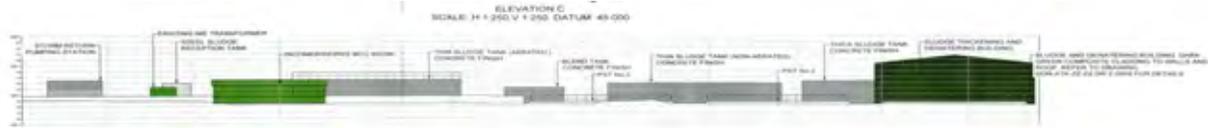
- There will be no demonstrable harm to human health or result in an unacceptable adverse impact on the environment.

The Regulation Unit and Groundwater Team (RU) of NIEA note that previous activities at the application site may have caused the land to be affected by contamination. A Contaminated Land Risk Assessment Report prepared by Mc Cloy Consulting provided information showing evidence of ground and shallow water groundwater contamination with a range of substances which are potentially contaminating of environmental receptors. Based on the limited environmental information provided, RU are unable to advise on whether this development would have significant adverse impacts on the water environment. A PRA is required as a minimum and a variation of the existing PPC permit (P0353/10A/V1) will be required. RU has advised that prior to any development on the site, further investigations should inform a more detailed conceptual understanding of the ground and groundwater situation beneath the site to produce a detailed Conceptual Site Model (CSM) to potentially inform a Detailed Quantitative Risk Assessment (DQRA), should this be necessary.

The applicant did submit an Outline Construction Environmental Management Plan on 20th November 2023. It was decided that due to the late submission of this information and timescales, no consultees were to be reconsulted on this document. It was agreed that a condition could be attached to any permission requiring the submission of a Final Construction Environmental Management Plan prior to the commencement of any development on the site. This is also to be agreed in writing by Mid Ulster District Council in consultation with NIEA.

- This development proposal is compatible with the character of the surrounding area where there is the established use of WwTW on this site, as is evident in the planning histories above.
- The visual impact of the waste management facility, including the final landform of landfilling or land raising operations is acceptable in the landscape and the development will not have an unacceptable visual impact on any area designated for its landscape quality.

The proposed development will see the upgrade of existing WWTW to include civil, mechanical and electrical upgrades to the existing inlet works (coarse screening) and the primary, stormwater and final settlement tanks. It also includes the upgrading of existing ducting and instrumentation cabling systems, construction of new anoxic tank, demolition of existing sludge import and treatment facility and construction of new sludge import facility, sludge thickening and dewatering building with associated sludge storage tanks, including odour abatement measures, replacement administration and welfare building for staff, MCC kiosks, landscaping and associated site works.



The above drawing illustrates the view of the proposed development from the south western boundary. Views of this proposal will be limited due to its location along with the presence of mature vegetation along the public road network. As there is already works on this site, this proposal will not involve the introduction of development onto whiteland and therefore I am content it will satisfactorily integrate.

- DfI Roads have no concerns regarding this application as the proposed development is for internal works and this proposal will utilise an existing access. There will be no increase in vehicular movements, no detrimental impact on the landscape, nor will it prejudice the safety and convenience of road users.
- The surrounding public road network will have no issues accommodating traffic to and from this site as it is not permanently manned. The only vehicles to and from the site will be during construction, upgrading and servicing the works.
- There is sufficient room within the site for parking and the circulation of vehicles.
- Consideration of alternative modes of transport are not applicable to this type of development.
- The development will not have an unacceptable adverse impact on nature conservation or archaeological/built heritage interests.

The Natural Environmental Division (NED) of NIEA initially had concerns with this proposal and required further information and/or amendments, to fully assess the potential impacts of the proposal on otters and bats protected by the HRA.

Additional information was submitted in the form of an Assessment of Otter Activity and Otter Mitigation Plan and an Assessment of Bat Roosting Potential, undertaken by ATECNI Environmental Consultancy. This showed that otters use the Moygashel River for foraging and commuting. Otters and their resting and breeding places are strictly protected under the Habitats Regulations. The otter survey conducted in August 2022 found no evidence of otter holts or couches within 100m of the site. However, it is clear that otters are present in the Moygashel River and various otter resting places have been established along the river in the recent past. There is potential for otter holts or couches to be established before, during or after construction works and it is important the applicant is made aware of the protection afforded to otters and their resting places. NED highlight that should any otters be encountered during works advice should be sought from the NIEA Wildlife Team.

Water Management Unit (WMU) of NIEA assess all areas where chemicals, wastes, fuels and oils are delivered to/stored/dispensed to ensure they have an impermeable surface. They also

must ensure the drainage of the area is engineered in such a way that all potentially contaminated site drainage is contained and prevented from entering the aquatic environment without treatment, and the discharge quality must be within the limits of the appropriate permits and consents.

WMU have considered the impacts of the proposal on the water environment and on the basis of the information provided are unable to determine if the development has the potential to adversely affect the surface water environment. While having no objection in principle to the development, a full site drainage plan is required before WMU is able to fully determine the potential impact of any proposal of this type.

Shared Environmental Services (SES) considered this proposal in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service (SES) on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. Their initial consultation response stated they would not provide a final comment until they had viewed NIEA's final conclusion.

Following the submission of NIEA's final comments, SES undertook an Appropriate Assessment in accordance with the Regulations. Having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation and conditions being attached to any permission.

The Council acknowledges the submission of an Outline Construction Environmental Management Plan on 20th November 2023, however no consultees were asked to comment on this. I am content the inclusion of a negative condition regarding a Final CEMP would not prejudice this development. However outside of the Development Management process it appears that the applicant themselves forwarded this document to SES, and therefore they refer to the outline CEMP.

SES stated that prior to any development on the site, the appointed contractor must submit a Final Construction Environmental Management Plan (CEMP) for approval by Mid Ulster Council Planning. The Final CEMP must be adhered to in full during construction phase unless agreed in written correspondence with the Council and contain the following;

- all the appropriate environmental mitigation as contained within the Outline CEMP dated 20th November 2023
- Appendix 4 of the WM Associates HRA dated 21/11/2021
- Recommendation from NIEA WMU and NED in their responses to the consultation dated 12/06/2023 and 18/01/2023 respectively.

There are no listed buildings on this site, the nearest is located just over 820 metres to the north west of this site is the Park Lake Dam which is recognised as a Grade B1 Listed Building HB13/16/019. It was not necessary to consult HED as I have no concerns this proposed development would have any impact on any archaeological or built heritage features.

- The type of waste to be treated and the proposed method of treatment will not pose a serious environmental risk to air, water or soil resources that cannot be prevented or appropriately controlled by mitigating measures. This was confirmed by no objection received from the relevant consultation process.

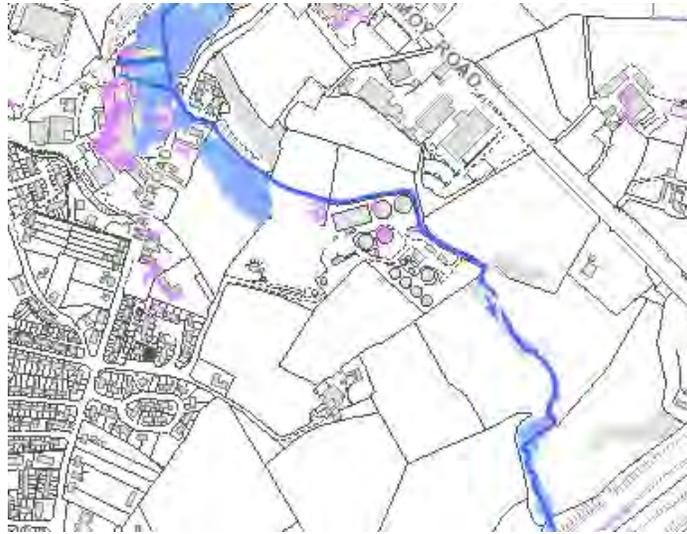
The Council's Environmental Health Department have no concerns regarding the Noise Impact Assessment undertaken by MCL Consulting, provided a condition to ensure the mitigation measures identified in the report are implemented during the construction phase. The detailed odour modelling in the Odour Assessment Update conducted by Wood Group UK Ltd predicting that 5 OU/m<sup>3</sup> at the nearest receptor on a 98th percentile, one hourly basis will not be exceeded.

It states the closest residential dwelling to the site would appear to be approximately 285m metres from the boundary of this development site. The report concludes that the future scenario with the upgrading works completed will be better than the current situation. Therefore, Environmental Health have no objections to this application, subject to conditions.

The Drinking Water Inspectorate (DWI) of NIEA have reviewed the application and are content with this application proposals, subject to the applicant adhering to the appropriate standing advice, and any relevant statutory permissions being obtained.

NIEA's Inland Fisheries Department are also content for this application to proceed.

- The proposed site is not at risk from flooding and the proposal will not cause or exacerbate flooding elsewhere.



DfI Rivers confirmed that part of the proposed development along the northern boundary of the site may lie within the 1 in 100-year strategic fluvial flood plain and the onus is on the applicant to demonstrate this proposal would be an exception to Policy FLD 1 – Development in Fluvial and Coastal Flood Plains in PPS 15.

NI Water as a statutory body do avail of generous Permitted Development rights which allows most upgrading works to be carried out. However, this proposed development requires planning permission due to the scale and height of the new buildings proposed. It has not been demonstrated this development would be deemed an exception to policy.

A designated watercourse flows along the northern boundary of the site as per requirements set out in policy FLD 2 – Protection of Flood Defence and Drainage Infrastructure, a 5 metre working strip must be provided. In order to meet the requirements of FLD 3 a Schedule 6 consent letter is required.



DfI Rivers note their Reservoir Inundation Maps as illustrated above indicate this site is in a potential area of inundation emanating from the Park Lake and therefore Policy FLD 5 – Development in Proximity to Reservoirs is applicable in this instance. The applicant has not demonstrated the condition, management and maintenance regime of the Park Lake in Dungannon is appropriate to provide sufficient assurance regarding reservoir safety. DfI Rivers have carried out an Assessment of flood risk to people at this application site for an uncontrolled release of water emanating from the Park Lake. This concluded there is a high overall hazard rating and an unacceptable combination of depth and velocity for this particular development proposal. FLD 5 states there is a presumption against any development located in areas where this potential exists.

The applicant submitted additional information and DfI Rivers were reconsulted. They reviewed the Flood Risk Assessment and having no reason to disagree with its conclusions and advise all finished floor levels are at a minimum of 600 mm above the 1 in 100 year fluvial flood level, in compliance with FLD 1. A condition to provide a maintenance strip clear permanently to allow maintenance access to the watercourse should be attached as a condition to any permission in compliance with FLD 2.

The Technical Services Department of Mid Ulster District Council are in charge of Park Lake in Dungannon and its associated reservoir. The Capital Development Manager of Technical Services Department of Mid Ulster Council has said that a Schedule 6 Consent was obtained from DfI Rivers. Schedule 6 Consent which was recently granted will allow for the water levels to be dropped so repairs and investigations can be carried out on the dam wall. This is all part of the process in obtaining Responsible Reservoir Manager Status (RRMS) of which Mid Ulster District Council are committed to delivering these works which are currently on the Technical Services Capital delivery list. McErlean Consulting have been engaged with as a specialist design team to design, manage and deliver the proposed maintenance and refurbishment works to Dungannon Park Dam. They have appointed a Reservoirs Panel Engineer to overseeing and monitoring the works, as is required by DfI Rivers.

The Capital Development Manager of Technical Services Department of Mid Ulster Council was able to provide the current position in the progress of obtaining the RRMS. Technical Services are currently at Stage 1 of the tender stage to appoint suitably qualified contractors to carry out the works. The first stage of the Pre-Qualification Questionnaire - PQQ is ready to be issued by Mid Ulster Procurement Department. The Design and Tender documents are at an advanced stage and will follow completion of the first stage of Procurement. It is anticipated that works will commence following the Procurement and award of the contract in Spring 2024. Although a

timeframe cannot be given as to when these works will be completed and if they are suffice to then allow RRMS to be awarded, it is clear the Council are proactive in progressing to obtain this accreditation.

- As this proposal is contained within the confines of the existing NI Water WwTW with the development limits of Dungannon, there will be no loss of agricultural land as a result of this proposed development.
- This WwTW proposal does not involve landfilling.

Policy WM 2 - Waste Collection and Treatment Facilities set out a list of criteria which proposals must meet;

- a) There is a need for the facility where the need must be demonstrated to the Department's satisfaction.

This development proposal by NI Water (NIW) £40 million investment for the Treatment Works and subsequently £20 million for network improvements with an estimated completion period of approximately 2 ½ years. It is suggested that over half the proportion of biological loading comes from industrial sources in the town. The exceedance of the capacity at Dungannon's WwTW has resulted in a restriction on economic growth and therefore hampering development in the town. This has also consequently resulted in an increased risk of poor quality effluent being discharged into the receiving watercourse. NIW have said the failure to obtain planning permission for these works could have huge implications for the likes of Moy Park and Glanbia who are huge food industry employers in the town.

This proposal aims to provide a strategic solution to the sustainable treatment of waste in the Dungannon catchment area. NI Water have informed Mid Ulster District Council there is currently an Enforcement Case from NIEA on this application site. A number of Improvement conditions relating to the odour emissions from the sludge facility are required to be implemented in order to comply with PPC Regulations and were issued by NIEA.

- b) It is the BPEO

The Waste Management Strategy (WMS) released in October 2013 considers the statutory Strategic Environmental Assessment (SEA) which is a requirement undertaken by the Waste Management Groups as part of their preparation of the Waste Management Plan duplicates the BPEO process. As a result, it is no longer necessary for the Council to treat the BPEO as an absolute requirement for the waste planning process and it is therefore no longer a material planning consideration.

- c) When located in the countryside it is on land within or adjacent to existing building groups. Alternatively, where it is demonstrated that new buildings/plant are needed these must have an acceptable visual and environmental impact

This proposal is within the development limits of Dungannon.

- d) The following criteria are also met;

- In the case of a regional scale waste treatment facility, its location relates closely to and benefits from easy access to key transport corridors.

This proposed development is not of a regional scale.

- The built development associated with the proposed methods of handling, storage, treatment and processing of waste is appropriate to the nature and hazards of the waste concerned.

The equipment proposed in this development is appropriate for the treatment and processing of waste water which is not a controlled waste.

- It will not result in an unacceptable adverse environmental impact that cannot be prevented or appropriately controlled by mitigating measures.

The environmental impacts of this proposed development is considered in the assessment of Policy WM 1 above.

Policy WM 5 – Development in the vicinity of Waste Management Facilities sets out a list of criteria whereby development will be permitted if they are met. I am not concerned this proposed development would prejudice or unduly restrict activities permitted to be carried out within this waste management facility. Nor will it give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 22/11/2023. This found that the project would not have an adverse effect on the integrity of any European site.

An Environmental Impact Screening Determination was carried out for this proposal as it fell within Category 11 – Other Projects part (c) – Waste Water Treatment Plants, of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017.

The proposed development in this application is a Waste water Treatment Plant and the area of the development exceeds 1,000 sq. metres.

Under Regulation 12 (1) of these regulations, the Council is obliged to make a determination as to whether this application is for EIA development.

Mid Ulster Council has determined that the environmental impacts of this application are thought not to be so significant as to warrant the submission of an Environmental Statement under current EIA legislation. The environmental effects of this proposal will be assessed via the Development Management process under the relevant policies, as discussed above.

This application has been advertised in Local Press and 9 neighbouring properties was notified in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. There were no objections received and therefore this application can be concluded via the Council's Scheme of Delegation.

### **Summary of Recommendation:**

Approve is recommended

This proposal aims to improve and increase the capacity and efficiency at Dungannon WwTW with a huge investment of £60 million, which will create future development in the town and aid further economic growth. There are some issues regarding this site which currently accommodates the WwTW, such as the contamination of land and flooding. Having taken into consideration NI Water's concerns about losing this allocated funding

in the absence of planning permission, the Members are asked to consider the approval of this scheme with a number of negative conditions which would need to be discharged prior to any development occurring on this site.

Further investigations will allow the implementation of adequate mitigation measures, thereby reducing any potential harm to the water system and/or environment.

## Approval Conditions

### Condition 1

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit

### Condition 2

Prior to the commencement of any approved development on this site, the applicant must submit a Final Construction Environmental Management Plan to Mid Ulster District Council for its consideration and approval in writing, in consultation with NIEA. The Final CEMP must be adhered to in full during the construction phase, unless agreed in written correspondence with the Council.

Reason: To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase that will negate effects on hydrologically connected European Site features.

### Condition 3

A maintenance strip a minimum of 5 metres in width must be provided and permanently kept clear from all impediments (including new tree planting, hedges, permanent fencing and sheds) land raising or future unapproved development

Reason: To allow any works to be carried out to the watercourse if required.

### Condition 4

A Final Drainage Assessment must be submitted to Mid Ulster District Council for its consideration and approval in writing, in consultation with DfI Rivers, prior to the commencement of any development on this application site.

Reason: In order to ensure all flooding issues have been mitigated against.

### Condition 5

All finished floor levels are to be at a minimum of 600 mm above the 1 in 100 year fluvial flood level.

Reason: To reduce risk of damage due to flooding.

#### Condition 6

The structural fabric of the sludge dewatering/thickening building shall be installed and maintained in such condition that ensures it achieves a weighted sound reduction index  $R_w$  of at least 27 dB

-Aerzen blowers 'with hood' (or any similar/equivalent plant installed) shall not exceed a SPL of 78dB(A) when measured at 1m.

-Sludge dewatering/thickening plant shall not exceed a SPL of 70dB(A) measured at 1m.

- Submersible pumps shall not exceed a SPL of 68dB(A) measured at 10 m.

Reason: To protect residential amenity from odour and noise.

#### Condition 7

Within 4 weeks of a written request by the Council following a reasonable noise and/or odour complaint from the occupant of a dwelling which lawfully exists, the operator shall, at their expense employ a suitably qualified and competent person, to assess the level of noise and/or odour from the development. Details of any monitoring survey shall be submitted to the Environmental Health Department for written approval prior to any monitoring commencing. The Environmental Health Department shall be notified not less than 2 weeks in advance of the date of commencement of the monitoring and then should be provided with a suitable report detailing any necessary remedial measures.

Reason: To protect residential amenity from odour and noise.

#### Condition 8

All HGV movements associated with the development should only occur within daytime hours. Construction work, which is audible at any noise sensitive property outside the site, shall only take place between the hours of

07.00 - 19.00 hours on Monday to Friday,

07.00 - 13.00 hours on Saturday with no such working on Sunday.

Reason: To protect residential amenity from odour and noise.

#### Condition 9

The mitigation measures contained in the Noise Impact Assessment prepared by MCL Consulting and submitted 4th May 2022 shall be implemented for the duration of the construction phase.

Reason: To protect residential amenity from noise nuisance

#### Condition 10

A Schedule 6 consent letter from DfI Rivers is required in order to discharge into the watercourse.

Reason: To ensure the quantity of water into the watercourse is controlled.

**Signature(s):** Cathy Hughes

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	28 April 2022
<b>Date First Advertised</b>	12 May 2022
<b>Date Last Advertised</b>	10 May 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  22 Neville Drive Moygashel Tyrone BT71 7NU  The Owner / Occupier  21 Neville Drive Moygashel Tyrone BT71 7NU  The Owner / Occupier  20 Neville Drive Moygashel Tyrone BT71 7NU  The Owner / Occupier  19 Neville Drive Moygashel Tyrone BT71 7NU  The Owner / Occupier  9 Moygashel Lane Moygashel Tyrone BT71 7QY  The Owner / Occupier  23 Neville Drive Moygashel Tyrone BT71 7NU  The Owner / Occupier  59 Moy Road Dungannon Tyrone BT71 7DT  The Owner / Occupier  12 Moygashel Lane Moygashel Tyrone BT71 7QY  The Owner / Occupier  18 Neville Drive Moygashel Tyrone BT71 7NU</p>	
<b>Date of Last Neighbour Notification</b>	12 May 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/0227/F  Proposals: Proposed replacement dwelling and garage  Decision: PG  Decision Date: 11-MAY-23</p> <p>Ref: M/2008/1022/LDP  Proposals: Improvements to Moygashel Waste Water Treatment Works  Decision: PG  Decision Date: 25-MAR-09</p>	

Ref: M/2005/2148/E

Proposals: Improvements to Moygashel Waste Water Treatment Works.

Decision: 211

Decision Date:

Ref: LA09/2017/1445/PAD

Proposals: Replacement WWTW

Decision: PAD

Decision Date: 01-JAN-18

Ref: M/2013/0224/PREAPP

Proposals: proposed upgrade to the existing Moygashel Waste Water Treatment Works

Decision: EOLI

Decision Date: 14-APR-14

Ref: M/1980/0250

Proposals: INSTALLATION OF 3000 GALLON UNDERGROUND PETROL STORAGE TANK AND PUMP

Decision: CROWN

Decision Date:

Ref: M/1991/6061

Proposals: Alterations to sewage works Moygashel

Decision: QL

Decision Date:

Ref: M/1980/0410

Proposals: UNDERGROUND PETROL TANK

Decision: CROWN

Decision Date:

Ref: M/1991/0035

Proposals: 11 KV Rural Spur

Decision: PG

Decision Date:

Ref: M/1992/0690

Proposals: 11 KV Rural Spur, 11 KV Cable

Decision: PG

Decision Date:

Ref: M/1992/0709

Proposals: Extension to sewage treatment works

Decision: PG

Decision Date: 13-MAY-93

Ref: M/1992/0709B  
Proposals: Extension to Sewage Treatment Works  
Decision: PG  
Decision Date: 30-NOV-94

Ref: M/1999/1141/O  
Proposals: Site for DOE Roads Service offices and maintenance depot.  
Decision: PG  
Decision Date: 23-JAN-01

Ref: M/2003/0577/CD  
Proposals: Upgrade of existing wastewater treatment works to improve the performance of the works  
Decision: PG  
Decision Date: 22-JUL-03

Ref: LA09/2022/0558/F  
Proposals: Redevelopment to facilitate the upgrade of existing Dungannon WwTW  
Decision:  
Decision Date:

Ref: LA09/2020/0244/O  
Proposals: Proposed replacement dwelling and garage.  
Decision: PG  
Decision Date: 20-MAY-20

Ref: M/1992/0184  
Proposals: Extension to Dwelling  
Decision: PG  
Decision Date:

Ref: M/1976/0595  
Proposals: ERECTION OF DWELLING  
Decision: PG  
Decision Date:

Ref: LA09/2020/0914/PAD  
Proposals: Phase 2 Dungannon WWTW  
Decision: DECPAD  
Decision Date: 01-JAN-21

Ref: M/2003/1160/Q  
Proposals: Re-development  
Decision: 360  
Decision Date: 07-OCT-03

Ref: M/1992/6021  
Proposals: Housing Development Moygashel Dungannon  
Decision: PRER  
Decision Date: 25-JUN-92

Ref: M/1992/6010  
Proposals: Housing Development Moygashel Dungannon  
Decision: PRER  
Decision Date: 10-MAR-92

Ref: M/1981/0413  
Proposals: FACTORY WASTE DEPOSITING AREA  
Decision: PG  
Decision Date:

Ref: LA09/2018/0014/LDP  
Proposals: Extension of the existing WWTW to provide 2 no. Nerada Reactors on a plot of land immediately adjacent to the existing WWTW Aeration Tanks. Other ancillary structures such as pumping stations splitter chambers, sludge tanks and 3 kiosks (MCC , blower and compressor) are also proposed, as well as new and diverted pipes and an extended access lane  
Decision: PG  
Decision Date: 04-APR-18

Ref: M/1975/036601  
Proposals: SITE FOR 30 PUBLIC AUTHORITY HOUSES  
Decision: PG  
Decision Date:

Ref: M/1975/0366  
Proposals: PUBLIC AUTHORITY HOUSING  
Decision: PG  
Decision Date:

Ref: M/1987/0609  
Proposals: OFFICE/DEPOT ACCOMMODATION  
Decision: WITHDR  
Decision Date:

Ref: M/1999/0943/CD  
Proposals: Erection of a 33.0 metre high radio telecommunications tower with a shrouded yagi type antenna at 32.5 metre and an omni-directional di-pole antenna at 32.0 metres (Amended Scheme)  
Decision: PG

Decision Date: 07-SEP-00

Ref: M/2010/0774/O

Proposals: Proposed Residential Development

Decision: PG

Decision Date: 18-FEB-11

Ref: M/1988/0435

Proposals: RESERVED MATTERS FOR OFFICE/DEPOT ACCOMMODATION

Decision: CROWN

Decision Date:

Ref: M/1988/0115

Proposals: PLANNING APPLICATION FOR OFFICE/DEPOT ACCOMMODATION

Decision: CROWN

Decision Date: 25-DEC-88

Ref: M/2006/1395/F

Proposals: Housing development of domestic dwellings 31 no. houses and 9 no. apartments and infrastructure.

Decision: PG

Decision Date: 24-NOV-08

Ref: M/2004/0767/Q

Proposals: Amendment to Cordon Sanitaire

Decision: 300

Decision Date: 04-OCT-04

Ref: M/2004/1551/Q

Proposals: Housing development

Decision: 360

Decision Date: 03-NOV-04

Ref: M/1988/0428

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: M/1994/0596

Proposals: Public Authority Housing Development

Decision: PG

Decision Date:

Ref: M/1994/0596B

Proposals: Public Authority Housing

Decision: PG

Decision Date:

Ref: M/2014/0460/PREAPP

Proposals: Extension of the existing car franchise village

Decision: EOLI

Decision Date: 21-JAN-15

Ref: LA09/2016/1319/PAN

Proposals: Car Showroom

Decision: PANACC

Decision Date: 30-SEP-16

Ref: M/2009/0090/O

Proposals: Proposed residential development.

Decision: PR

Decision Date: 12-FEB-10

Ref: M/2012/0380/F

Proposals: Change of use from Water Service Depot/Offices to Creche including new first floor fire escape

Decision: PG

Decision Date: 17-DEC-12

Ref: M/2005/0821/O

Proposals: Development of land for residential accommodation including detached, semi-detached & townhouse dwellings.

Decision: PG

Decision Date: 06-SEP-06

Ref: M/2011/0154/F

Proposals: Two storey extension to rear of dwelling

Decision: PG

Decision Date: 09-MAY-11

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBC

Rivers Agency-Substantive: TBC

Environmental Health Mid Ulster Council-Substantive: TBC

Shared Environmental Services-Substantive: TBC

NIEA-Substantive: TBC

NIEA-

Environmental Health Mid Ulster Council-LAo9 2022 0558 F WWTW 14 Moygashel Lane  
Dungannon.doc

Shared

Environmental

Services-LA09-2022-0558-F\_Re-

consult\_response2\_29092022.pdf

NIEA-PRT - LA09 2022 0558 F.pdf  
NIEA-PRT LA09-2022-0558-F.PDF  
Shared Environmental Services-  
NIEA-PRT LA09-2022-0558-F.PDF  
Rivers Agency-394834 - Final Response.pdf  
NIEA-PRT - LA09-2022-0558-F.PDF  
Shared Environmental Services-LA09-2022-0558-F-HRA-Stage-2-AA-22-11-2023.pdf  
NIEA-PRT LA09-2022-0558-F.PDF

**Drawing Numbers and Title**

Existing Plans	Plan Ref: 10
Existing Plans	Plan Ref: 09
Existing Plans	Plan Ref: 08
Proposed Plans	Plan Ref: 07
Proposed Plans	Plan Ref: 06
Cross Sections	Plan Ref: 05
Proposed Elevations	Plan Ref: 04
Site Layout or Block Plan	Plan Ref: 03
Site Location Plan	Plan Ref: 02
Site Location Plan	Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2022/0566/F	<b>Target Date:</b> 27 June 2022
<b>Proposal:</b> Proposed 4 townhouses and in curtilage parking	<b>Location:</b> Site To Rear Of 41 Oldtown Street Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Ronnie Nicholl 3A Glenarny Road Cookstown	<b>Agent Name and Address:</b> Premier Building Design Ltd 24 Lower Ballinderry Road Lisburn BT28 2JH
<b>Executive Summary:</b> <p>This proposal is for a terrace of four dwellings on a small restricted site. The proposed development has been assessed against the relevant policies and in particular Policy QD1 of PPS 7. The site measures approximately 320m<sup>2</sup>, while the four dwellings have a footprint of 130m<sup>2</sup>. Within the remaining 190m<sup>2</sup> only four parking spaces are proposed while DfI Roads have advised that 7 spaces are required. The result of providing the four dwellings, four parking spaces and the pedestrian footpath leaves only 63m<sup>2</sup> for private amenity space for the four dwellings, when Creating places stipulates that for any individual house an area less than 40m<sup>2</sup> will be generally unacceptable. This proposal only provides between 35-50% of the required private amenity space. The proposed development is therefore considered to be substandard and is therefore being recommended for refusal for the reasons as stated below.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0566-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DFi Respons feb 2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DFi Respons feb 2023.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

No letters of objection have been received in relation to this planning application nor have any other issues been raised.

## **Characteristics of the Site and Area**

The site is a small backland site which is located within a mainly residential area, set back 40m off Oldtown Street, which is one of the principal access roads into the town centre. The lands are indicated as white land in the Cookstown Area Plan. Around 60% of the site is located within an Area of Townscape Character with the remainder being outside. The site is located immediately adjacent to, but outside the town centre as designated in the Cookstown Area Plan 2010. The site is located to the rear of no's 37, 39 and 41 Oldtown Street, with No.41 being a dental surgery and No's 39 & 37 being private dwellings, all of which are two storey buildings with attic accommodation. Oldtown Street contains a mixture of uses comprising of ground floor retail / office accommodation / hot food premises and residential dwellings, but is predominantly commercial in character.

The site also encompasses part of the rear yards of No's 37, 39 and 41. To the rear of No.41 is a modest two storey outbuilding with a small single storey annex, having a total footprint of 70m<sup>2</sup>. Another small outbuilding exists within the site and to the rear of No's 39-37 with a footprint of around 35m<sup>2</sup>. In total, the site has an area of around 300m<sup>2</sup>.

## **Description of Proposal**

The proposal is for the erection of 4 townhouses with in-curtilage parking. The town houses are two storey, 3 bedroom, 5 person units with attic accommodation, each having a useable floorspace of around 70m<sup>2</sup>. Each unit has a small restricted rear private amenity space providing between 13.6m<sup>2</sup> and 21m<sup>2</sup> with an average of 15.7m<sup>2</sup>. The development includes 4 no. car parking spaces, one of which is for disabled parking, located at the front of the dwellings.

The four dwellings follow the rising ground level from Oldtown Street up towards Ferguy Heights, with finished floor levels of units 1 & 2 stepping up 0.65m above units 3 & 4.

The external finishes are as follows:-

Roof - black concrete roof tiles

Walls - smooth white render

Windows - grey uPVC

Black rainwater goods

Precast concrete cills

Black uPVC fascias and barges.

The dwellings each have a single dormer window placed mid-way up the roof.

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

The relevant policies for consideration of this application are:

Cookstown Area Plan 2010

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking

Addendum to Planning Policy Statement 6 - Areas of Townscape Character

Planning Policy Statement 7 - Quality Residential Environments

Addendum to Planning Policy Statement 7 - Safeguarding the Character of Established Residential Areas

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

A block plan has been provided for the proposed development showing the four dwellings set within small individual plots.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

As this is a full application the proposed layout is therefore being assessed against these criteria as follows:-

(a) Whilst the proposed development respects the surrounding context and is appropriate to the character and topography of the site in terms of scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas, it fails to respect the surrounding context in terms of layout. The density of the surrounding area in Ferguy Heights is 55 dwellings per hectare, whereas the proposed development has a density of 133 dwellings per hectare. The proposal to provide four dwellings within this small restricted site is considered to be gross over-development in that the built form limits the potential to provide an acceptable degree of private amenity space.

(b) Although the site is located within an area of townscape character, there are no features of archaeological or built heritage, nor are there any landscape features which require protection.

(c) This proposed layout is for 4 dwellings, therefore there is no requirement for the provision of public open space. The proposed layout provides for all dwellings to have between 14m<sup>2</sup> and 21m<sup>2</sup> of private amenity space, with an overall average of 16m<sup>2</sup>. Creating Places sets the standards which are considered acceptable for private open space as follows, 'To promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater. Garden sizes larger than the average will generally suit dwellings designed for use by families, while smaller areas will be more appropriate for houses with 1 or 2 bedrooms or houses located opposite or adjacent to public or communal open space. For any individual house however an area less than around 40 sq m will generally be unacceptable'.

This gives rise to a number of concerns. Firstly, the average size of the back gardens is 16m<sup>2</sup> which is well below the acceptable average of 40m<sup>2</sup>. Secondly, the proposed

dwellings are three bedroomed and would therefore be expected to provide rear gardens larger than the average of 40m<sup>2</sup>. As the site is not opposite or adjacent to public or communal open space, the required standards cannot be allowed to fall to such an inadequate level. Furthermore the size of the proposed rear gardens do not allow adequate space for everyday activities including the siting of clothes lines, refuse bins and oil tanks.

As the proposed site includes a portion of the rear yards of No's 41, 39 and 37, it also has a knock-on effect on the private amenity spaces to the rear of those properties. The private amenity spaces of No's 41, 39 & 37 are being reduced from 87m<sup>2</sup>, 48m<sup>2</sup> & 50m<sup>2</sup> to 37m<sup>2</sup>, 20m<sup>2</sup> & 18m<sup>2</sup> respectively. Therefore the proposed development falls well short of the minimum standards required by the guidance in Creating Places and is therefore contrary to this policy test.

(d) As the site is close to the centre of Cookstown and within walking distance of all local facilities, the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has direct access onto Oldtown Street and surrounding areas and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;

(f) The proposed scheme makes provision for four communal parking spaces at the front of the site, one of the spaces is for disabled parking. However, Creating Places sets the standards for parking requirements for such developments and states that for 3 bed terraced houses the total number of unassigned parking spaces required per dwelling is 1.75. Therefore the proposed development requires a total of 7 parking spaces which results in a shortfall of 3 spaces. Consequently the parking provisions for this site are inadequate.

(g) The design and finishes of the proposed dwellings are considered acceptable for this urban location.

(h) Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which is predominantly residential;

(i) The proposal includes a pedestrian walkway along the side of unit 4 leading to the rear of all units. This walkway could be fitted with a lockable security gate to provide access to residents only, thereby preventing the walkway being used for anti-social behaviour.

Addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas Policy LC1 Protecting Local Character, Environmental Quality and Residential Amenity states that:- In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

(a) the proposed density is not significantly higher than that found in the established residential area;

As discussed in the consideration of Policy QD1 above, the density of the surrounding area in Ferguy Heights is 55 dwellings per hectare, whereas the proposed development has a density of 133 dwellings per hectare. The density of the proposed development is considerable higher than the existing surrounding area and therefore the proposal is contrary to this policy test.

(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;

The pattern of the propose development is in keeping with the overall character insofar as it is for a terrace of dwellings with car parking to the front with rear amenity spaces to the rear.

(c) all dwelling units and apartments are built to a size not less than those set out in Annex A.

The proposed units provide a floor area of 70m<sup>2</sup> each, whereas Annex A states that for a 5 person / 3 bedroom dwelling, the space standards should be a minimum of 95/100m<sup>2</sup>. In reality, the floor areas of the proposed dwellings fall well below the standards required for a 5 person / 3 bedroom flat or single storey dwelling. Therefore the proposed development is contrary to this policy test.

#### Consultee responses

Roads advised that having reviewed the parking provision as per Drawing 01Rev A date stamped 22/12/2023, the minimum requirements for a 4 dwelling development at this location is 7 spaces.

NI Water initially advised that the proposed development should be refused as a high level assessment has indicated potential network capacity issues. This issue can be dealt with by means of a negative condition requiring the applicant to satisfactorily resolve this with NI Water prior to commencement of any works on site.

#### Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the following reasons:-

#### **Summary of Recommendation:**

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposed development is contrary to Planning Policy Statement 7 Policy QD1 in that it would not, if permitted, respect the surrounding context and would be inappropriate to the character in terms of layout, density and would result in over development of the site, which is too small to permit the erection of four dwellings of the design and dimensions proposed and with adequate amenity space.

##### Reason 2

The proposed development is contrary to Planning Policy Statement 7 Policy QD1 in that it would, if permitted, fail to provide acceptable levels of private amenity space for the proposed dwellings and would also result in an unacceptable reduction in the level of private amenity space for existing properties.

**Reason 3**

The proposed development is contrary to Planning Policy Statement 7 Policy QD1 in that it would, if permitted, fail to provide adequate and appropriate levels of car parking for the proposed dwellings.

**Signature(s):** Malachy McCrystal

**Date:** 21 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	2 May 2022
<b>Date First Advertised</b>	17 May 2022
<b>Date Last Advertised</b>	17 May 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  5 Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  2 Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  4 Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  3 Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  6 Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  8 Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  6A Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  6B Ferguy Heights Cookstown Tyrone BT80 8HU  The Owner / Occupier  33 Oldtown Street Cookstown Tyrone BT80 8EE  The Owner / Occupier  37 Oldtown Street Cookstown Tyrone BT80 8EE  The Owner / Occupier  39 Oldtown Street Cookstown Tyrone BT80 8EE  The Owner / Occupier  41 Oldtown Street Cookstown Tyrone BT80 8EE  The Owner / Occupier  35 Oldtown Street Cookstown Tyrone BT80 8EE</p>	
<b>Date of Last Neighbour Notification</b>	28 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## Planning History

Ref: I/1993/0033

Proposals: 3 No Dwellings

Decision: PR

Decision Date:

Ref: I/2001/0666/F

Proposals: 2 No Semi-Detached Dwellings

Decision: PG

Decision Date: 12-JUN-02

Ref: LA09/2019/0232/F

Proposals: Proposed 8 No. semi detached dwellings (additional info received)

Decision: PG

Decision Date: 01-DEC-20

Ref: I/2001/0637/F

Proposals: 65 No Dwellings and Estate Layout

Decision: PG

Decision Date: 06-APR-07

Ref: I/2007/0287/A

Proposals: Brushed aluminium letters fixed to wall

Decision: CG

Decision Date: 21-JUN-07

Ref: LA09/2020/1437/F

Proposals: Change of use from existing dental surgery to domestic living accommodation and provision of carparking spaces

Decision: PG

Decision Date: 11-MAY-21

Ref: I/2007/0742/F

Proposals: Change of use from storage/vacant premises on first floor to hairdressing salon with store, wc, kitchen & teared access

Decision: PG

Decision Date: 11-JAN-08

Ref: I/1999/0658/F

Proposals: 4 No Semi - Detached Dwellings and Estate Road

Decision:

Decision Date:

Ref: I/1998/0554

Proposals: CONSTRUCTION OF 2 DWELLINGS AND ESTATE ROAD

Decision: 112  
Decision Date: 22-OCT-99

Ref: I/1998/0073  
Proposals: Two Number Dwellings and Estate Road  
Decision: WITHDR  
Decision Date:

Ref: OLD\_I/1998/0554  
Proposals: CONSTRUCTION OF 2 DWELLINGS AND ESTATE ROAD  
Decision: HISAPP  
Decision Date: 04-JAN-99

Ref: I/1995/0229  
Proposals: 1 Pair Semi-Detached Houses  
Decision: PG  
Decision Date:

Ref: I/1981/0194  
Proposals: PRIVATE HOUSING DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: I/1994/0187  
Proposals: 1 pair of Semi-Detached Houses  
Decision: WITHDR  
Decision Date:

Ref: I/1988/0095  
Proposals: ALTERATIONS TO APPROVED HOUSING ESTATE AND SERVICE ROAD  
Decision: PG  
Decision Date:

Ref: I/1995/6021  
Proposals: Proposed Dwellings Ferguy Heights, Cookstown  
Decision: QL  
Decision Date:

Ref: I/1995/0386  
Proposals: 1 pair of semi-detached dwellings  
Decision: PG  
Decision Date:

Ref: I/1996/0241  
Proposals: 4 No Dwellings and garages  
Decision: PG

Decision Date:

Ref: I/1990/0510

Proposals: Change of use from Dwelling to Dental Surgery

Decision: PG

Decision Date:

Ref: I/1987/0433

Proposals: GARAGE

Decision: PG

Decision Date:

Ref: I/2005/1390/F

Proposals: Proposed in curtilage carparking and turning area and construction of ramp access with walls to railings to facilitate disabled access to existing dental surgery

Decision: PG

Decision Date: 08-MAR-06

Ref: I/1990/6083

Proposals: Dental Surgery 41 Oldtown Street Cookstown

Decision: QL

Decision Date:

Ref: I/2001/0142/F

Proposals: Proposed Extension & Alterations to Premises with the Provision of 3 No Flats & New Shop Front

Decision: PG

Decision Date: 22-JUN-01

Ref: I/1990/0263

Proposals: Change of use from retail unit to Bookmakers Office

Decision: PG

Decision Date:

Ref: LA09/2022/0566/F

Proposals: Proposed 4 townhouses and in curtilage parking

Decision:

Decision Date:

Ref: I/2003/0235/O

Proposals: Dwelling and garage

Decision:

Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-  
NI Water - Multiple Units West-LA09-2022-0566-F.pdf  
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
DFI Roads - Enniskillen Office-DFi Respons feb 2023.docx  
DFI Roads - Enniskillen Office-DFi Respons feb 2023.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2022/1350/F	<b>Target Date:</b> 20 December 2022
<b>Proposal:</b> Retention of utility storage yard, portacabins, security fencing and all associated site works (temporary use)	<b>Location:</b> 191 Glen Road Maghera BT46 5JN
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Geraldine O'Kane 20 Falgortrevy Road Maghera BT46 5JW	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b> <p>Site is presently in use as a storage yard with access onto Glen Road.</p> <p>Enforcement case on the site - LA09/2021/0206/CA - unauthorised use of the site for storage and access to public road.</p> <p>Permission on the site for a hotel under H/2003/0812/F - permission has been implemented lawfully.</p> <p>Use of the site is contrary to policy PED 2 and PED 9 of PPS 4. The use of the site for storage is not one of the acceptable criteria for economic development which has been set out in PED 2.</p> <p>DFI Roads and Env. health have been consulted and have not raised objections.</p> <p>2 objections have been received and contents of these objections are considered in the planning report.</p> <p>Recommendation is to refuse as the proposal is contrary to PED 2 and PED 9 of PPS4.</p>	

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## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NIE	No Response letter LA09_2022_1350_F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09_2022_1350_F Retention of utility storage Glen Road, Maghera.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 4.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

## Summary of Issues

### Characteristics of the Site and Area

The site is located in the countryside (not within any settlement limit) approx. 400m west of the settlement of Glen. The site is accessed from the Glen Road, a minor rural road - with the junction of the Glen Road and the main Glenshane A6 road located 20m immediately to the south. There is an existing right of way adjacent to the site access which serves agricultural fields and a dwelling to the north.

The site is in use as a storage yard and also contains what appear to be site offices. I have visited the site on two occasions and on both occasions there was no activity on the site and the site was closed. It would appear therefore on the basis of this information that the primary use of the site is for storage of equipment and materials.

There is a nursery building located immediately adjacent to the right of way which bounds the site as well as a busy filling station and restaurant complex immediately opposite the site on the other side of the A6.

There is an enforcement case on this site – LA09/2021/0206CA which relates to unauthorised storage and unauthorised access to public road.

There is a considerable planning history on the site;

There is a historic approval for a hotel granted under H/2003/0812/F and preceding approvals for a hotel under H/1996/0170/O and H/1997/0397/F.

There are also three PADs which have been concluded in relation to the site and they are as listed below;

- LA09/2018/0859/PAD – Filling Station
- LA09/2018/1309/PAD – 10 Light Industrial Units
- LA09/2018/1319/PAD – Change of Use from hotel to storage

### Description of Proposal

Retention of utility storage yard, portacabins, security fencing and all associated site works (temporary use).

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

The following policies are relevant;

- Magherafelt Area Plan
- SPPS
- PPS 21 – Sustainable Development in the Countryside
- PPS 4 – Economic Development
- PPS 3 – Access, Movement and Parking

#### Magherafelt Area Plan

The site is located in the open countryside and therefore should be assessed under prevailing policy for the rural area.

#### SPPS

The SPPS sets out the policy considerations which should be considered by the planning authority when assessing non-residential development in the countryside. It sets out policy for farm diversification, re use of established enterprises or agricultural / forestry development, none of which apply to this development.

Para. 6.87 states that “Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside.”

The SPPS therefore does not support the general principle of storage and distribution uses in the countryside.

#### PPS 21 – Sustainable Development in the Countryside.

Policy CTY 1 states that one of the categories of acceptable development in the countryside is the development of economic uses in accordance with PPS 4.

#### PPS 4 – Planning and Economic Development

Policy PPS 4 therefore becomes the default policy for this development to be assessed against. PPS 4 defines “economic development use” as a use belonging to class B1, B2, B3 or B4 of the Planning (Use Classes) Order (Northern Ireland) 2015. This proposal belongs to class B4 and is therefore classed as an economic development use.

Policy PED 2 of PPS 4 sets out the range of economic development that is deemed acceptable in the countryside. These are;

- The Expansion of an Established Economic Development Use in accordance with PED 3
- The Redevelopment of an Established Economic Development Use in accordance with PED 4
- Major Industrial Development in accordance with PED 5

- Small Rural Projects in accordance with PED 6.

All other proposals for economic development in the countryside will only be permitted in exceptional circumstances.

The site is not linked to any established economic development use and therefore cannot be classed as an expansion or redevelopment of such. Neither is the proposal capable of being classed as major industrial development because it is a storage use and does not involve “industrial development” as defined by part 2 of the Planning (Use Classes) Order (Northern Ireland) 2015.

The applicant has argued in their planning statement that the development consists of a small rural project and therefore is in accordance with PED 6 of PPS 4. However I do not agree with this assessment because PED 6 applies to small “industrial enterprises” or a “community enterprise park.” A storage yard is not capable of being classed as either of these. In addition, the first premise of PED 6 is that it relates to a “firm proposal” whereas this proposal is for a temporary time period, even though the applicant has failed to specify what this temporary time period might be.

It is my view that a temporary use for a storage yard does not represent a firm proposal for a small rural industry or enterprise park and therefore I do not accept that the proposal falls within the remit of PED 6. In addition, if I were to accept the assertion that the proposal falls within PED 6, the applicant has failed to demonstrate how they have went through a site selection process to rule out sites in the sequential process as outlined at steps 1, 2 and 3 contained within PED 6. They have simply asserted that the site was “ready made” because it had an existing access and was low lying, but this is not in keeping with the sequential test set out in policy.

I am also aware that the J&A for policy PED 6 explicitly states that “*storage or distribution uses will only be permitted where these are clearly ancillary to a proposal for a community enterprise park/centre or an industrial use*” and in this instance the use of the site for storage and distribution is not ancillary to any other development, rather it is a use in its own right.

It is therefore my assessment that the proposed use does not meet any of the acceptable criteria for economic development in the countryside and therefore is contrary to PPS 4 because it does not meet any of the criteria listed in PED 2 and no reason has been given as to why it should be treated as an exception.

Policy PED 9 of PPS 4 is relevant to all proposals for economic development and consists of general planning principles which must be satisfied in order for economic development proposals to be considered acceptable.

I have assessed this proposal against all the criteria in PED 9 and find it to be at odds with the following criteria, for the reasons stated;

**(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and**

## **biodiversity**

The buildings on site consist of modular structures which are not of an appropriate design for the rural area. Similarly, the metal fencing and floodlighting which have been erected, all contribute to give the site an urban appearance and are not suitable for the rural area.

**(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;**

**(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.**

In relation to criteria (k) and (m), there has been no boundary treatment proposed to soften the impact of this development in a part of the countryside with a high level of visibility and where the public perspective of the site is widespread. Views of the site taken from the A6 on approach from the SE and the NW and also on approach from Glen along the smaller Glen Road. Direct views are also evident from the very busy filling station and restaurant complex immediately adjacent to the site.

The erection of floodlights, industrial style fencing, modular buildings and the presence of machinery and industrial equipment / supplies all give the site an urban appearance and this is incongruous with its rural setting. No attempts have been made to assist the development to integrate into the landscape.

I understand the argument put forward by the applicant that there already exists a range of economic uses in the immediate vicinity, but this does not negate the need for the applicant to provide appropriate boundary treatment or to make other attempts to help the site to integrate into its surroundings.

In regards to the sites compatibility with surrounding land uses, I am of the view that the area already experiences a diverse range of uses and that this proposal is not fundamentally incompatible with any of them. An objection has raised the issue of noise and pollution from the site. Accordingly, the Councils Environmental Health Dept. have been consulted but have stated that whilst there may be some noise and light pollution generated by the proposed use of the site, the existence of the A6 adjacent to the site means that there is already an elevated level of background noise in the area. They have also stated that previous complaints failed to substantiate a case for noise pollution.

Environmental Health therefore have not advised that the development is incompatible with existing development but have advised that if approval were granted, a noise condition limiting opening hours is imposed.

### PPS 3 – Access, Movement and Parking

Whilst the A6 which runs past the site is a protected route, access to the site will not be taken onto the A6, rather onto the Glen Road.

DFI Roads have been consulted and have commented that the planned access and egress to the site is acceptable with appropriate visibility splays insitu.

### **OTHER MATERIAL CONSIDERATIONS**

#### Planning History

As outlined above, there is a planning history on the site for a hotel. This was approved under H/2003/0812/F. Permission was granted on 6<sup>th</sup> January 2004 which meant that development needed to be commenced before the 7<sup>th</sup> January 2009 in order for the permission not to have expired. The applicant has stated that development has commenced and that this is evidenced through the location of foundations on the site which represent part of the approved development. Whilst I acknowledge that the foundations on site would be sufficient to represent commencement of development, the applicant has not submitted any documentary evidence to show that they were implemented within the appropriate 5 year period and therefore sufficient to constitute a lawful commencement of development.

Orthophotography of the site shows that as off 13<sup>th</sup> May 2008 (less than 8 months before the permission expired), the foundations on the site were NOT in place. The applicant has provided a building control reference which they claim proves the foundations were commenced within the time for lawful implementation. I have checked this reference (MA/2089/0234) with Councils building control department who have confirmed that works were started on 9/12/2008.

Given this building control record, I am therefore happy that the development was lawfully commenced in line with the relevant permission. However, it seems to me that the issue of the commencement of the permission or not is irrelevant as the use of the site for the proposed use as a storage yard would still require planning permission even if the hotel use was lawfully commenced. Accordingly, the subsequent assessment of the application would still be subject to the same planning policy assessment as laid out above, regardless of whether the hotel use has or has not been lawfully implemented.

#### Third Party Representations

There have been 2 objections lodged in relation to this application. One was lodged on 22/11/22 on behalf of Mr and Mrs John O’Kane. The second objection was lodged on 26/10/23 on behalf of the Bradley Family.

The objection on behalf of Mr and Mrs O’Kane raised the following issues;

- a) **Land Ownership** – The objector states that the applicant does not own all of the land relating to this application because a portion of the site is owned by the

Bradley Family and the land relating to visibility splays is owned by DFI Roads. The applicant has submitted land registry maps to support this and it appears that a portion of the northern part of the site is owned by the Bradley Family – 13 people have a share in the land.

I have contacted the applicant in relation to this matter on 3<sup>rd</sup> October 2023 and asked them to serve appropriate notice on the land owners. The applicant has responded on 31<sup>st</sup> October 2023 to say that they have served relevant notice on the Bradley Family and have completed the relevant certificate C to state that notice was served on the Bradley family on 26/10/23. The objector confirmed to me on a phone call on 16/11/23 that this correspondence has been received by the Bradley Family.

I am therefore content that the appropriate processes have been implemented in relation to the requirement to notification of landowners who have an interest in land to which the application relates. It is of course the case that planning permission does not confer title and were permission to be granted in relation to this application, the land ownership issue is still something to be resolved between land owners and the applicant.

DFI Roads have been consulted as part of the application process.

**b) The use of the site does not comply with PPS 4 and is not capable of being assessed as development in accordance with PED 6 -**

This is an issue which I have addressed in my report and find my assessment to be in agreement with the objector.

**c) Supporting Planning Statement** – The objector states that there has been no documentary proof submitted to prove that the approved hotel development was implemented within the 5 year period as stipulated by the original approval and that regardless of this, a change of use has still occurred.

I have outlined in my report, how the commencement of development is deemed to be lawful but I am also of the view that the use of the site for a storage yard would require the same policy assessment as outlined above in the main report, regardless of the commencement of approved development or not.

**d) Road Safety concerns** – The objector has stated that the glare from the floodlights as well as the nature of the access, means that the development represents a road safety concern. They also state that no details of vehicle numbers have been provided.

Throughout the course of the application, the applicant has submitted a TAF and this has been viewed by DFI Roads. DFI Roads are also aware of the floodlighting issue but have not raised any concerns. DFI Roads have agreed that the access

arrangements are suitable and stated that adequate visibility splays are in situ for this proposal.

- e) **Development appears out of character with the rural area** – I have addressed this in my report and stated that views of the site are considerable and that the design and appearance of the site is not compatible with the rural area. In my opinion, adequate screening proposals have not been provided to ensure the development integrates appropriately into the countryside.
- f) **Noise nuisance from the development in a rural area which has a low level of background noise at present** – This is something which I am not in a position to comment upon as it is a technical issue for Environmental Health to comment upon. They have stated that background noise levels will be elevated in this area due to the presence of the Glenshane Road and have not offered any objection.

The objection on behalf of the Bradley Family raised the following issues;

- a) **Land Ownership** – This has been addressed in relation to the previous objection. Notice has now been served on the Bradley Family.
- b) **Proposal is not compatible with existing land uses** – I have stated that I do not think the use is incompatible with nearby land uses. There is a wide range of land uses nearby in the immediate vicinity and Env health have not upheld the concerns raised about noise. The site will not produce any smell or odours and the access has been agreed in consultation with DFI Roads.
- c) **The site is an “eyesore”** – I have outlined my concerns, in the main body of this report, about the visual appearance of this site.
- d) **Road safety concerns arising from glare from floodlights and ability of the Glen Road to accommodate additional traffic** – DFI Roads have been consulted and have not sustained any objections to the proposal on grounds of road safety.

#### **Summary of Recommendation:**

Refuse is recommended

Given all the above policy considerations and other material considerations, I am of the view that this proposal should be refused because it is not in accordance with PED 2 or PED 9 of PPS 4. The following refusal reasons are recommended.

Refusal Reasons

Reason 1

The proposal is contrary to Policy PED 2 of PPS 4 -Planning and Economic Development in that it does not constitute development deemed to be acceptable in the countryside and no reason has been made as to why it should be treated as an exception to policy.

Reason 2

The proposal is contrary to PED 9 of PPS 4 - Planning and Economic Development, in that the development would if permitted, fail to integrate into the landscape, the site layout and building design are not of a high quality and areas of storage are not adequately screened from public view.

**Signature(s):** Colin McKeown

**Date:** 17 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 September 2022
<b>Date First Advertised</b>	20 September 2022
<b>Date Last Advertised</b>	20 September 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 199 Glen Road Maghera Londonderry BT46 5JN</p> <p>The Owner / Occupier 189A Glen Road, Maghera, BT46 5JN</p> <p>The Owner / Occupier 31B Glenshane Road, Maghera, BT46 5JZ</p> <p>The Owner / Occupier 31Glenshane Road, Maghera, BT46 5JZ</p> <p>The Owner / Occupier 10 Fallaghloon Road, Maghera, BT46 5JS</p>	
<b>Date of Last Neighbour Notification</b>	19 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2016/1159/O Proposals: Proposed replacement dwelling and garage Decision: PG Decision Date: 17-OCT-16</p> <p>Ref: H/2015/0028/F Proposals: Replacement of timber framed portable building with portable prefabricated cabin to retain existing playgroup/creche .(retrospective application) Decision: PG Decision Date: 10-JUN-15</p> <p>Ref: H/2002/0800/F Proposals: Temporary Accommodation for Playgroup. Decision: PG Decision Date: 16-OCT-02</p>	

Ref: H/2008/0584/F

Proposals: Replacement of existing timber framed portable building with new timber framed portable building.

Decision: 217

Decision Date: 21-JAN-09

Ref: H/2003/0762/F

Proposals: After School Club.

Decision: PG

Decision Date: 12-JAN-04

Ref: LA09/2021/0320/PAD

Proposals: Proposed extension and alterations to existing supermarket and petrol station

Decision: PAD

Decision Date: 25-MAY-21

Ref: H/1987/0280

Proposals: COMMUNITY HALL

Decision: PG

Decision Date:

Ref: LA09/2022/1350/F

Proposals: Retention of utility storage yard, portacabins, security fencing and all associated site works (temporary use)

Decision:

Decision Date:

Ref: LA09/2022/1352/O

Proposals: Renewal of Outline Planning application LA09/2016/1295/O

Decision:

Decision Date:

Ref: LA09/2018/1319/PAD

Proposals: Change of use from a hotel to a storage and distribution facility.

Decision: PAD

Decision Date: 24-SEP-19

Ref: LA09/2018/1309/PAD

Proposals: Change of use from hotel to 10 commercial units (light industrial use).

Decision: PAD

Decision Date: 24-SEP-19

Ref: LA09/2018/0859/PAD

Proposals: The proposal is for a filling station with a forecourt , under ground fuel storage tanks, an amenity building comprising a convenience shop and ancillary offices/rooms,

café/restaurant, public toilets, seating circulation area, internal and external play area, HGV ,coach and car parking and power wash. All ancillary site development , landscaping and boundary works. Approximate size of shop 185m2.

Decision: PAD

Decision Date: 24-SEP-19

Ref: H/2003/0812/F

Proposals: Proposed new hotel/motel.

Decision: PG

Decision Date: 07-JAN-04

Ref: LA09/2019/1295/O

Proposals: Renewal of Outline Planning application LA09/2016/1159/O

Decision: PG

Decision Date: 26-NOV-19

Ref: LA09/2021/0047/F

Proposals: Proposed Detached Double Garage

Decision: PG

Decision Date: 18-MAR-21

Ref: H/1985/0511

Proposals: ALTERATIONS AND ADDITIONS TO HOT FOOD TAKE-OUT BAR AND DWELLING

Decision: PG

Decision Date:

Ref: H/2012/0147/RM

Proposals: New chalet style dwelling

Decision: PG

Decision Date: 03-JUL-12

Ref: H/2011/0454/O

Proposals: 1½ storey chalet style dwelling for farmer (under CTY 10 of PPS 21)

Decision: PG

Decision Date: 04-FEB-12

Ref: H/2000/0734

Proposals: Hotel

Decision: 461

Decision Date:

Ref: H/1997/0397

Proposals: HOTEL/MOTEL

Decision: PG

Decision Date:

Ref: H/1996/0170  
Proposals: SITE OF MOTEL  
Decision: PG  
Decision Date:

Ref: H/1981/0116  
Proposals: SITE OF DWELLING  
Decision: PR  
Decision Date:

Ref: H/1974/0473  
Proposals: FILLING STATION.  
Decision: PR  
Decision Date:

Ref: H/1994/6102  
Proposals: SITE OF PETROL FILLING STATION GLENSHANE ROAD MAGHERA  
Decision: PRER  
Decision Date: 07-DEC-94

Ref: H/1980/0136  
Proposals: SITE OF PETROL FILLING STATION AND DWELLING  
Decision: PR  
Decision Date:

Ref: H/1989/0207  
Proposals: WORKSHOP  
Decision: PR  
Decision Date:

### **Summary of Consultee Responses**

NIE-No Response letter LA09\_2022\_1350\_F.pdf  
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
Historic Environment Division (HED)-  
Environmental Health Mid Ulster Council-LA09 2022 1350 F Retention of utility storage  
Glen Road, Maghera.doc  
DFI Roads - Enniskillen Office-Roads Consultation 2.docx  
DFI Roads - Enniskillen Office-Roads Consultation 4.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2022/1366/F	<b>Target Date:</b> 23 December 2022
<b>Proposal:</b> Retention of Farm Building	<b>Location:</b> 200M South Of 70 Cadian Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Martin Daly 112 Eglisk Rd Dungannon BT70 1LB	<b>Agent Name and Address:</b> Mr John Aidan KELLY 50 Tullycullion Road DUNGANNON BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2022-1366-F.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation RECON RESPONSE - Full approval.docx No objection, subject to conditions.

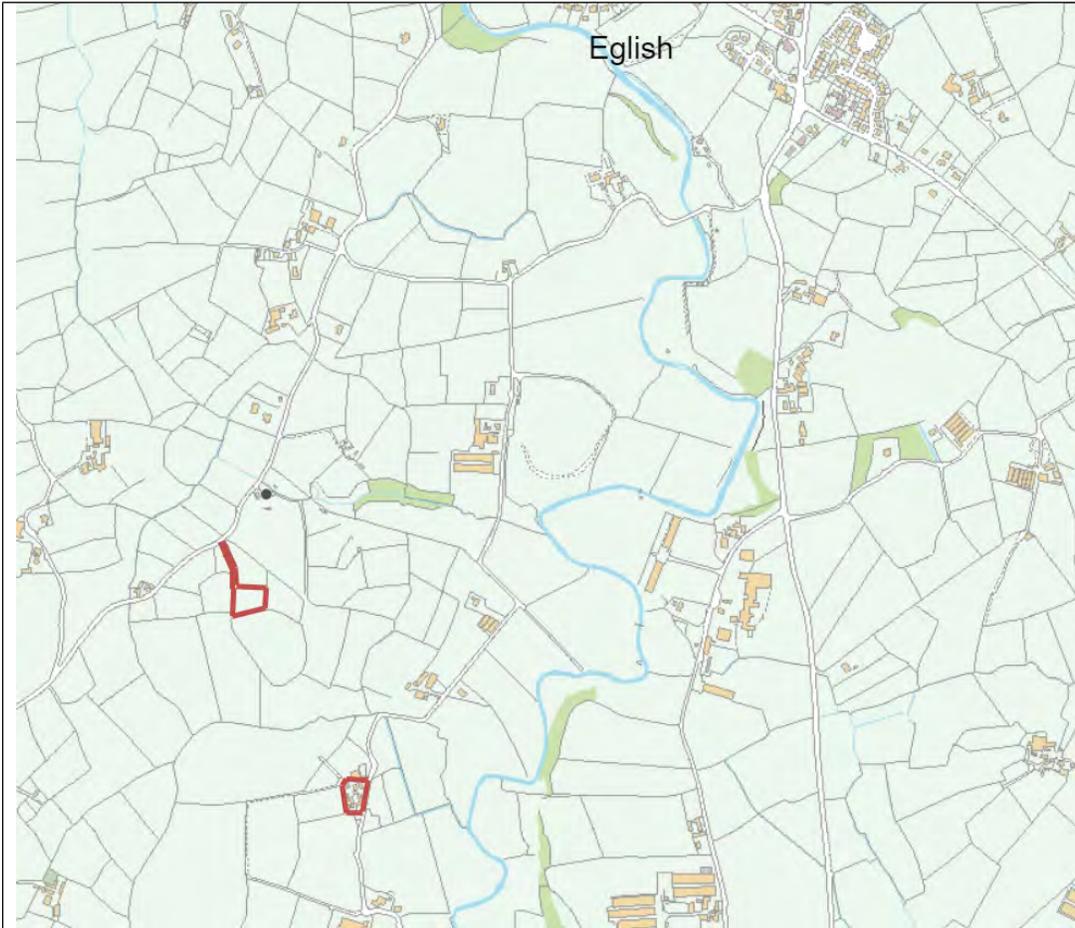
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies within the open countryside just a short distance to the South West of the settlement limits of Eglis and outside all other areas of constraint as depicted by the DSTAP 2010.



The site is located at approx. 200M South Of 70 Cadian Road, Dungannon. The red line is broken into two areas, the location of the new shed which consists of a rear most southern portion of an agricultural field and a rectangular shaped plot consisting of the existing farm holding. See map below.



The site for the shed is accessed by a gravel laneway which dissects the existing field and is closed from the road by an agricultural gate. The land rises from the roadside to the position of the shed at the rear. There is a wooden post fence along the roadside and a mature boundary along the remaining three field boundaries. The shed sits at the rear on the highest point of the site and is constructed of concrete walls on lower level, with a corrugated aluminium upper wall and roof. There is also a large roller shutter door.

Existing farm holding



The existing farm holding consists of a small uninhabited bungalow and a number of old delapidated sheds, the whole site is overgrown and run down in appearance.

### **Description of Proposal**

The proposal seeks full planning permission for the retention of a farm building.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### Area Plan

Dungannon and South Tyrone Area Plan 2010- un-zoned land in the countryside. Policy provisions Strategic Planning Policy Statement (SPPS) and PPS21 Sustainable Development in the Countryside (PPS21) apply.

#### Other Policy Considerations

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside;

- Policy CTY 1 Development in the Countryside
- Policy CTY 12 Agricultural and Forestry Development.
- Policy CTY 13 Integration and Design of Buildings in the Countryside
- Policy CTY 14 Rural Character

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

#### 3rd Party Objections

At the time of writing there have been no objections.

## Key Policy Consideration

**The Strategic Planning Policy Statement for Northern Ireland (SPPS)** is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered.

The SPPS gives provision for Agriculture and Forestry Development subject to a number policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 12 of PPS 21.

### **PPS 21 – Sustainable Development in the Countryside**

Policy CTY 1 of PPS 21 sets out the 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 types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

a) It is necessary for the efficient use of the agricultural holding.

The applicant (Daly) is not the landowner, however, has served notice on the owner (Barrett). Barrett has an existing farm holding which includes the proposed site, an existing farmyard to the Southeast and a number of adjoining lands in between. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for more than 6 years and that the farm business claims subsidies. There is sufficient information to show that the farm is both established and currently active.

This proposal for the retention of 1 no. agricultural building, it is presumed this shed is for the housing of cattle as there is a tanked area and a cattle crush shown on the drawings however, the exact agricultural use has not been confirmed by the applicant. The landowner currently has a principal farm holding on a separate part of the farm and they have provided some justification for this siting.

The farm holding includes a dwelling and a number of agricultural shed which are all located on the South west of the proposed site. The majority of the owners fields are located between the site and the farm holding.

The agent has stated a number of reasons for this application including;

The existing buildings are in a dilapidated state of repair and due major renovations / replacement.

The existing buildings are located adjacent to a new house to the north and the landowner wanted to relocate and avoid any amenity issues.

The existing farm buildings are located at the base of a hill and access to the farmlands is difficult without going onto the public road. The new location is located centrally in the farm away from all houses and

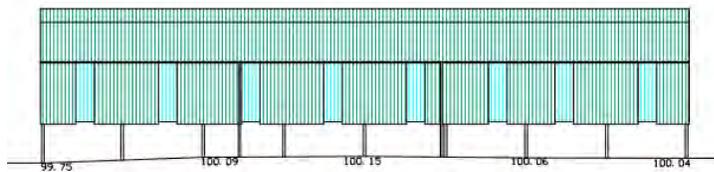
has full access to the farm lands without going onto the public road.

As the applicant intends to be the main farmer going forward the new location is closer to his dwelling at, also on Cadian road.

It is my opinion that none of the 5 reasons stated above prove that a new shed is necessary for the efficient use of the agricultural holding. It is therefore contrary to policy.

b) It is appropriate to the location in terms of character and scale.

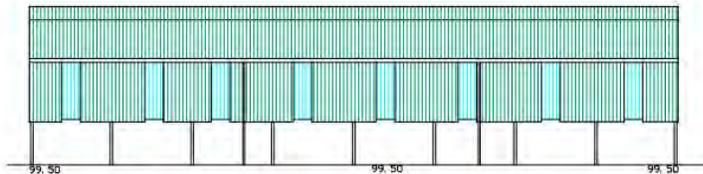
The surrounding area is rural in character. This shed is typical of agricultural buildings which are found in this rural area. The materials and finishes are typical of this type of building and are acceptable in the rural area. However, the size of this farm shed and the fact that it sits in isolation would not be appropriate to the rural location and should be housed beside existing farm holding.



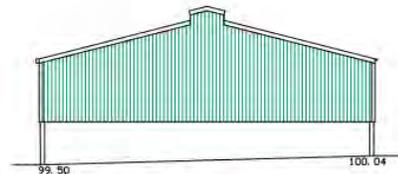
**Side Elevation A**



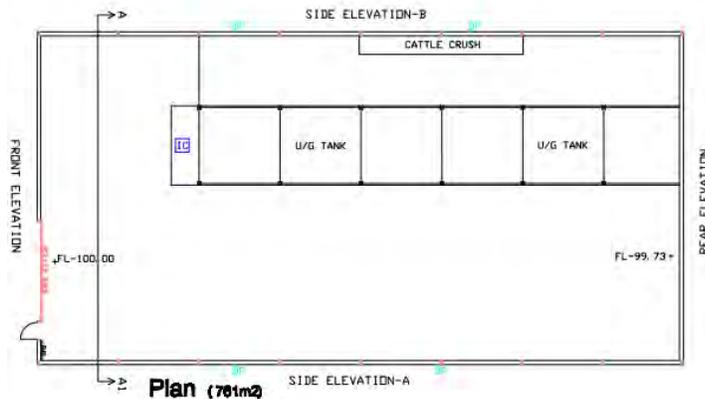
**Front Elevation**



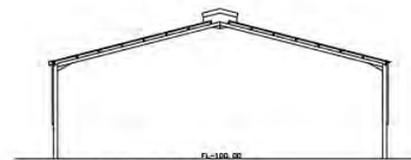
**Side Elevation B**



**Rear Elevation**



**Plan (701m²)**



**Section A-A1**

c) It visually integrates into the local landscape and additional landscaping is provided as necessary. The shed is set back approx. 80m from the public road, accessed via a new laneway which dissects the field. It would need significant landscaping in order for the site and the new access to integrate into the local landscape.

d) It will not have an adverse impact on the natural or built heritage.

The site is not located near an area of built or natural heritage, it is therefore my opinion that under the current proposal there will be no significant detrimental impact to the natural environment or habitats.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

There have been no objections received from neighbouring residents.

It is my opinion that with the closest dwelling not associated with the farm is approx. 150m away, there is a very small potential for loss of amenity to this dwelling from the proposed. However, due to the separation distance and considering the occasional use of the building, I am satisfied that the building is not overly detrimental on the amenity of the residential dwelling.

In the case where a new building is proposed the following points should be met:

-There are no suitable existing buildings;

As previously discussed, the farm holding includes a number of farm sheds, at the time of site visit they did not appear to be in use. The agent has stated that they are in a poor state of repair and some in need of replacement. It is agreed that replacement if necessary would have been a solution to the need for the new building and would not have required building off the farm holding.

-The design and materials are sympathetic to the locality;

The shed is of a simple design and buildings of this style are characteristic of the rural area, however, this is a rather large agricultural shed and sitting in isolation could easily be used for other purposes other than farming.

-It is sited beside existing farm buildings.

The need for siting away from the existing farm holding has been discussed above and is not felt an adequate justification.

Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As detailed in my assessment above, these points have been covered.

Policy CTY 14 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 shed is on the large side for an agricultural building however, it is not dissimilar to other agricultural sheds within mid ulster. This shed does however, benefit from screening and is set back off the public road.

#### **Other Considerations**

This site is not subject to flooding and there are no land contamination issues with the site.

DfI Roads recommend that the sight splays of 2.4m by 45m in both directions are adequate.

Having weighted up the above policy and material considerations I am of the opinion that this application should be recommended for refusal.

#### **Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that the proposal is necessary for the efficient use of the active and established agricultural holding.

### Reason 2

The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.

### Reason 3

The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that any health and safety reasons exist to justify an alternative site away from the existing farm buildings.

**Signature(s):** Peter Hughes

**Date:** 20 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	9 September 2022
<b>Date First Advertised</b>	22 September 2022
<b>Date Last Advertised</b>	22 September 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Roads Consultation full approval.docx DAERA - Omagh-LA09-2022-1366-F.docx DFI Roads - Enniskillen Office-Roads Consultation RECON RESPONSE - Full approval.docx No objection, subject to conditions.	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 3803-01A Site Location Plan Plan Ref: 3803-01 Proposed Elevations Plan Ref: 3803-02	
<b>Notification to Department (if relevant)</b>  Not Applicable	



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2022/1608/F	<b>Target Date:</b> 28 February 2023
<b>Proposal:</b> Retrospective car sales unit	<b>Location:</b> 50M NE Of 50 Ballyronan Road Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Igen Autos Ltd 40 Ballyronan Road Magherafelt BT45 6EN	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<p><b>Executive Summary:</b></p> <p>The proposed development is for a retrospective car sales use on an area which has been zoned for residential use within the Magherafelt Area Plan 2015. The proposal has been assessed against the relevant policies within both the Magherafelt Area Plan 2015 and PPS 4 - Planning and Economic Development. As car sales is considered a Sui-Generis use as defined in The Planning (Use Classes) Order (Northern Ireland) 2015, there are no specific policies for such employment uses proposed within urban areas. However, the preamble to PPS 4 advises that although this PPS does not provide policy for such a use, the policy approach and associated guidance contained within this document may be useful in assessing proposals for other 'sui generis' employment uses. Therefore, the guidance contained within PPS 4 has been used in the consideration of this proposed development.</p> <p>Although the proposed development may appear to comply with the policies contained within PPS 4, it fails to comply with the requirements of the Magherafelt Area Plan 2015 in that it would result in the loss of land zoned for residential use. As no argument has been forwarded, despite several requests, for the justification for the loss of the zoned land, the proposed development is contrary to the Magherafelt Area Plan 2015 and should therefore be refused for the reasons given in the case officers report.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docxDC Checklist.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2022 1608 F Retrospective car sales Ballyronan Road, Magherafelt.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

No representations have been received in respect of the proposed development.

## **Characteristics of the Site and Area**

The site is located within the settlement limit of Magherafelt and within an area of existing business uses which include a filling station, a car wash and a building housing multiple businesses such as an alloy wheel repair shop, an orthodontic practice and an engineering consultancy. There is therefore a range of uses surrounding the site ranging from sui generis uses to A1, A2 and B1.

The site is located within an area of ground zoned within the Magherafelt Area Plan 2015 for Housing MT 05. The site is accessed through the forecourt of a petrol filling station and associated car wash facility. Other retail and service sector businesses are located within a two storey building immediately to the north east of the shop associated with the PFS.

As this is a retrospective application, the proposed building has already been erected on site, however, it is not in the position identified on the site plan. It is located parallel to the north western boundary approximately halfway along that boundary. The proposed site is located immediately adjacent to the car wash and extends the built development by a further 50m to the north west into the MT05 zoning. An additional servicing building has been erected at the north eastern end of the site, however, that building is not included in this application. The additional building appears to be used for valeting and possibly servicing vehicles being sold on site. It should also be noted that the site as exists on the ground has been extended beyond the red line boundary, as defined on the site location map, by around 50m further to the north east.

## **Description of Proposal**

The proposal is for a retrospective car sales unit which includes a mobile office unit located at the north eastern end of the existing commercial site. The majority of the proposed site is an open stoned yard which is marked out as a display area for car sales. The car sales unit is positioned to the extreme north eastern end of the site and consists of a prefabricated unit measuring 10m x 3m.

As noted above, the proposed car sales building has been positioned in an alternative location from that shown on the site plan. Additionally, the boundary of the site has been extended by approximately 50 to the north east. These changes are not reflected in the proposed plans.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

The main policy considerations in the assessment of this application are:-

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing

planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS. The SPPS gives provision for Economic Development, Industry and Commerce subject to a number policy provisions. It does not present any change in policy direction with regards to industrial development in settlements. As such, existing policy will be applied (ie) Policies PED 1 and PED 9 of PPS 4.

Magherafelt Area Plan 2015

PPS 3 - Access, Movement and Parking

PPS 4 - Planning and Economic Development

Magherafelt Area Plan 2015

Policy SETT 2 states that ‘planning permission will only be granted on zoned sites for development proposals that comply with the specified use’.

Favourable consideration will only be given to alternative development proposals within settlement development limits, including zoned sites within towns provided that the proposal is, subordinate to the preferred use, exists in close proximity to the preferred use without adverse environmental consequences, does not prejudice accessibility to the remainder of the zoned land and does not prejudice the potential to meet the overall development needs, sensitive to the size and character of the settlement in terms of scale, form, design and use of materials and is in keeping with the key site requirements. The Plan does not set out specific policies for employment uses proposed to be located outside of town centres.

The site is within the urban area and is located within the settlement development limits of Magherafelt. The site is part of a larger designated housing zoning MT 05 known as Lands south-east of Ballyronan Road, which extends further north-east than the site boundary and covers 6.0ha. The Area Plan stipulates the key site requirements for this site as follows:-

- No development shall commence until a Concept Master Plan to facilitate the comprehensive development of the site has been submitted and agreed;
- Housing development to be a minimum gross density of 22 dwellings per hectare;
- The site can be accessed from Killowen Drive and Aughrim Road. Access to Aughrim Road via Laurel Brook is also permissible for either an additional 57 dwellings or 75 dwellings in total served by this access;
- The developer is required to submit a Transport Assessment with any subsequent planning application to evaluate the proposals’ transport implications.
- An 8-10m planted landscaped buffer of indigenous trees and hedgerows to be provided along the south-eastern boundary;
- A 2m minimum planted buffer to be planted along the south western boundary adjoining the petrol filling station;
- A 2m minimum planted buffer to be planted along the north western boundary adjoining the industrial estate; and
- Existing trees and vegetation to be retained along the north-western boundary.

The applicant was requested on three separate occasions to provide justification for the

loss of the zoned housing lands for an alternative use, however, no justification has been provided to these requests. Given the above policy tests, the proposal is considered to be contrary to policy.

#### **PPS 4 – Planning and Economic Development.**

This policy states that ‘With the exception of a limited number of specific policy references, mainly relating to acceptable alternative uses, this PPS does not provide policy for retail uses, financial, professional and other services, leisure or tourism, agriculture, waste disposal or waste management facilities, or minerals extraction, which are dealt with in other PPSs or in ‘A Planning Strategy for Rural Northern Ireland’. However, the policy approach and associated guidance contained within this document may be useful in assessing proposals for other sui generis employment uses.

By definition, car sales is a Sui Generis use and therefore whilst not considered to be retail in that sense it is an employment use. Therefore, I will use the guidance in this policy in relation to Class B1 Business Uses to assess this proposal. The proposal is for a retrospective car sales business and although it would be preferable to have such a use located within the town centre in the first instance, this type of use is not easily located within such an area. This is due to the difficulties in finding a suitable site within town centres as this use requires a large forecourt/yard for the display of vehicles in addition to facilities for servicing vehicles. This is an out-of-town centre site with existing approved commercial uses on site.

Policy PED 1 deals with Economic Development in Settlements. This is a relevant policy as the site is located within the settlement of Magherafelt. PED 1 states that; A development proposal for a Class B1 business use will be permitted in a city or town centre (having regard to any specified provisions of a development plan) and in other locations that may be specified for such use in a development plan, such as a district or local centre.

The policy goes on to state that Class B1(a) office use will only be permitted in an industrial/ employment area when specified in a development plan. Elsewhere in cities and towns a development proposal for a Class B1 business use will only be permitted where all the following criteria are met:

- (a) there is no suitable site within the city or town centre or other location specified for such use in the development plan;  
No review has been undertaken of available sites/buildings within Magherafelt, as required by planning policy. However, given the proposed use is for a car sales business, it would be difficult to acquire a suitable site within the town centre.
- (b) it is a firm rather than a speculative development proposal for business use;  
Given the proposal is for a retrospective car sales business, which is already operating, this is not a speculative proposal.
- (c) the proposal would make a substantial contribution to the economy of the urban area.  
The proposal will make a contribution to the economy of the urban area due to the number of employees, although this may be a small number.

PPS 4 – Policy PED 9 sets out General Criteria for Economic Development and states that a proposal, in addition to other policy provisions of this PPS, will be required to meet a range of criteria which are addressed below.

(a) This proposal is compatible with surrounding land uses in so far as the site is located within an area of existing business uses which include a filling station, a car wash and a building housing multiple businesses such as an alloy wheel repair shop, an orthodontic practice and an engineering consultancy. The site also abuts an area of public open space at the entrance to Killowen Drive.

(b) The proposed building will be around 20m from the existing dwellings in Killowen Drive. It is my view that the separation distance is adequate to ensure that the proposal does not impact on neighbouring amenity by reason of loss of privacy, overshadowing or light intrusion. Environmental Health did not raise any issues of concern with regards to impact on residential amenity.

(c) There are no features of either natural or built heritage on site to be adversely affected.

(d) The proposal is not located in an area at flood risk nor will it cause or exacerbate flooding elsewhere.

(e) Environmental Health did not raise any issues of concern relating to noise nuisance. The proposal includes the provision of a 1.8m high close boarded fence along the north western boundary, which will effectively screen the development from the dwellings in Killowen Drive. Therefore noise emanating from the proposed development, which would be mainly car engines running is not deemed to be an issue.

(f) The proposal is for a car sales business which will not produce emissions or effluent. No concerns regarding emissions or effluent have been raised by Environmental Health. Therefore the proposed development is acceptable in this regard.

(g) DfI Roads advised that they have no objection to the proposal in respect of the capacity of the road network being capable of accommodating any additional traffic.

(h) DfI Roads advised that they have no objection to the proposal in respect of access arrangements, parking and manoeuvring areas within the site.

(i) As the site is located within the existing settlement, provisions are already in place to enable walking and cycling to the site along the public road/footpath.

(j) Notwithstanding the fact the site is zoned for residential use, the site layout and building design are appropriate for the proposed use and are considered acceptable as they are located adjacent to existing commercial uses. No landscaping is proposed.

(k) The site already benefits from an existing hedgerow along the north-western boundary. Although the remaining site boundaries are defined by a paladin fence which will not screen the area for car display, this is to be expected as it would defeat the purpose of having a display area if all cars were to be screen from public view.

(l) It is in the applicant's interest to guard against crime and with the provision of the proposed paladin security fence in addition to the proposed close boarded fence alongside the existing hedgerow, the site should be secure.

(m) The site is located within an urban area and therefore the issue of integration is not a consideration.

#### PPS 3 - Access, Movement and Parking

DFI Roads were consulted and advised that they do not have any concerns regarding the proposed development.

#### Consultees

DFI Roads – advised that they have no issues of concern.

Environmental Health – advised that they have no issues of concern.

Recommendation – Refuse for the reasons listed below:

#### **Summary of Recommendation:**

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposed development is contrary to the Magherafelt Area Plan 2015 Policy SETT 2 and Zoning MT 05 in that it proposes a commercial use within an area zoned for residential use.

##### Reason 2

The proposed development is contrary to the Magherafelt Area Plan 2015 Policy SETT 2 and Zoning MT 05 in that no justification has been provided as to why an alternative use should be accepted on land zoned for residential use.

**Signature(s):** Malachy McCrystal

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	15 November 2022
<b>Date First Advertised</b>	29 November 2022
<b>Date Last Advertised</b>	29 November 2022
<b>Details of Neighbour Notification</b> (all addresses)	
<p>The Owner / Occupier  2 Meadowbank Drive Magherafelt Londonderry BT45 6EQ  The Owner / Occupier  Petrol Filling Station Unit 1 40 Ballyronan Road Magherafelt Londonderry BT45 6EN  The Owner / Occupier  Auto Alloys Unit 2 40 Ballyronan Road Magherafelt Londonderry BT45 6EN  The Owner / Occupier  Unit 3 40 Ballyronan Road Magherafelt Londonderry BT45 6EN  The Owner / Occupier  Calwell Unit 4 40 Ballyronan Road Magherafelt Londonderry BT45 6EN  The Owner / Occupier  Kennedy Orthodontics 1st Floor Unit 5 40 Ballyronan Road Magherafelt Londonderry BT45 6EN</p>	
<b>Date of Last Neighbour Notification</b>	2 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2018/0002/F  Proposals: Proposed single storey extension to rear of existing shop and replacement/ relocation of existing forecourt with the provision of new canopy. fuel pumps and tanks ,additional car parking and other minor groundworks  Decision: PG  Decision Date: 19-SEP-18</p> <p>Ref: H/1983/0069  Proposals: RENEWAL OF TIME LIMITED PERMISSION IN RESPECT OF SITE OF DWELLING  Decision: PG  Decision Date:</p>	

Ref: LA09/2022/1608/F  
Proposals: Retrospective car sales unit  
Decision:  
Decision Date:

Ref: H/2015/0062/PREAPP  
Proposals: Entrance Road Layout.  
Decision:  
Decision Date:

Ref: H/2004/0280/O  
Proposals: Site of retail and business park.  
Decision: PR  
Decision Date: 22-NOV-06

Ref: LA09/2019/1536/O  
Proposals: Proposed Outline application for 3NR retail units and car parking - Class A1/A2.  
Decision: PG  
Decision Date: 30-SEP-20

Ref: LA09/2022/0094/F  
Proposals: Retention of 3No. retail units with associated car parking and ground works (Amended Description)  
Decision: PG  
Decision Date: 07-SEP-22

Ref: H/2009/0247/F  
Proposals: Change of use from first floor offices to orthodontic surgery  
Decision: PG  
Decision Date: 24-SEP-09

Ref: H/2002/1084/F  
Proposals: Canopy to existing carwash.  
Decision: PG  
Decision Date: 20-JAN-03

Ref: LA09/2018/0246/O  
Proposals: Outline Planning Permission for residential development, with open space, access, landscaping, new roundabout and associated site works.  
Decision: PG  
Decision Date: 05-DEC-18

Ref: LA09/2015/0982/PAD  
Proposals: Access at Ballyronan Road  
Decision: PAD

Decision Date: 11-JUN-18

Ref: H/1994/0464

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1991/0413

Proposals: SITE OF HOUSE

Decision: PG

Decision Date:

Ref: H/2003/1368/Q

Proposals: Proposed development.

Decision:

Decision Date:

Ref: H/1995/0110

Proposals: PETROL STATION,SHOP AND CARWASH

Decision: PG

Decision Date:

Ref: H/1993/0080

Proposals: SITE OF PETROL FILLING STATION,SHOP & CARWASH

Decision: PG

Decision Date:

Ref: LA09/2021/0376/F

Proposals: Proposed 6 retail units with associated car parking and ground works

Decision: PR

Decision Date: 17-DEC-21

Ref: H/1992/0563

Proposals: PETROL STATION,SHOP AND CAR WASH

Decision: WITHDR

Decision Date:

Ref: H/2009/0552/A

Proposals: 1no signage totem to front of site, with 1no shop front sign

Decision: CG

Decision Date: 22-OCT-09

Ref: H/2007/0300/A

Proposals: Free Standing sign.

Decision: CG

Decision Date: 23-AUG-07

Ref: H/2006/1044/F

Proposals: 2 No. retail units,1 Hot Food Bar and office/storage area.

Decision: PG

Decision Date: 09-AUG-07

Ref: H/2009/0393/F

Proposals: Retrospective application to amend previously approved scheme (ref: H/2006/1044/F) to alter siting of building, increase floorspace and amend design.

Decision: PG

Decision Date: 24-SEP-09

Ref: H/2005/0212/A

Proposals: Free Standing Sign

Decision: CR

Decision Date: 10-APR-06

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation.docxDC Checklist.doc

Environmental Health Mid Ulster Council-LA09 2022 1608 F Retrospective car sales

Ballyronan Road, Magherafelt.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2023/0251/F	<b>Target Date:</b> 20 June 2023
<b>Proposal:</b> Proposed 2 storey dwelling with 1 1/2 storey garage attached via carport	<b>Location:</b> 50M East of No.55 Killycanavan Road Dungannon, Ardboe
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Eugene Devlin 55 Killycanavan Road Ardboe BT71 5BP	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full response.docxDC Checklist 1.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approximately 2.2km southeast of Ardboe and 0.8km west of Lough Neagh.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a square shaped plot comprising a flat agricultural field set back from, and accessed off, the Killycanavan Road via a short length of lane. The site, which fronts north onto the lane serving it, sits within a line of existing development accessed off and running along the south side of the lane (see Fig 2, above) including no. 55 Killycanavan Road (a two storey dwelling with ancillary farm buildings running to its rear / south and west) located immediately to the west of the site; and no. 55a Killycanavan Road (a single storey dwelling with a large shed to its rear / south and a couple of smaller sheds to its west side) located immediately east of the site. The site is bound to its north, west and south by post and wire fencing and low hedging. The remaining east boundary is defined in part by the sheds ancillary to 55a Killycanavan Road and in part by close boarded fencing enclosing the curtilage of another single storey dwelling bounding the site, no. 55b Killycanavan Road located just south of no. 55a.

Views of the site will be open from the Killycanavan Road on the northwest approach to its access off the Killycanavan Road due the flat topography of the area and the vegetation within the vicinity of the site and bounding it being relatively low (see Fig 3, below). Views of the site are screened on the northeast approach from the Killycanavan Road due to existing development adjoining and in the wider vicinity screening it screening it.



Fig 3: Google Street View of site on northwest approach to its access off the Killycanavan Road.

The area surrounding the site is rural in character comprising relatively flat agricultural landscape typical of the Lough shores interspersed with single dwellings, ancillary buildings, and farm groups.

### **Description of Proposal**

This is a full planning application for a 2-storey dwelling with a 1 ½ storey garage attached via carport to be located on lands 50m east of no.55 Killycanavan Road Dungannon Ardboe.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **The following documents provide the primary policy context for the determination of this application:**

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Development Control Advice Note 15: Vehicular Standards
- Planning Policy Statement 21: Sustainable Development in the Countryside
- Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable

Design Guide for the Northern Ireland Countryside.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

### **Relevant Planning History**

N/A

### **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.

### **Consideration**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland advises that the retained policies relevant to this proposal including Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 and include the development of a small gap site in accordance with Policy CTY8 Ribbon Development.

Policy CTY8 states that an exception will be permitted for 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 criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I consider this application in principle acceptable under Policy CTY8 in that the site does constitute a small gap site sufficient only to accommodate a dwelling within an otherwise substantial and continuously built-up frontage including a line of more than 3 buildings as

detailed further above in ‘Characteristics of the Site and Area’ running along the south side of the lane serving the site including a dwelling to the east side and another dwellings to the west side with ancillary farm building extending on.

The above said whilst I believe a dwelling including garage of an appropriate siting, size, scale and design could integrate into this gap site to respect the existing development pattern along the frontage with minimal disruption to the rural character of the area I do not consider the proposal as submitted respects the existing development pattern due to its substantial size, scale and hipped roof design.

Whilst the dwelling to the west of the site is 2 storey of similar height to the dwelling proposed its main body has a modest footprint and a pitched roof design; and the dwellings to the east of the site are modest and single storey with pitched roofs, furthermore due to the flat topography of the area and the vegetation within the vicinity of the site and bounding it being relatively low I consider the dwelling including garage proposed would be a prominent feature in the landscape when viewed from the surrounding vantage points (see ‘Characteristics of the Site and Area’ and Fig 3 further above) leading to a detrimental change to the rural character of the area. I would note that hipped roofs are not typical of the area.

Accordingly, I contacted the applicant / agent on the 30<sup>th</sup> June 2023 and offered him the opportunity to submit an amended scheme to reflect the scale of the development to either side or information (this could be a streetscape) to show how the proposal meets the design guide principles for infill. Subsequently, the applicant / agent submitted a streetscape on the 23<sup>rd</sup> October 2023 to show how the proposal meets the design guide principles for infill (see Fig 4, below).

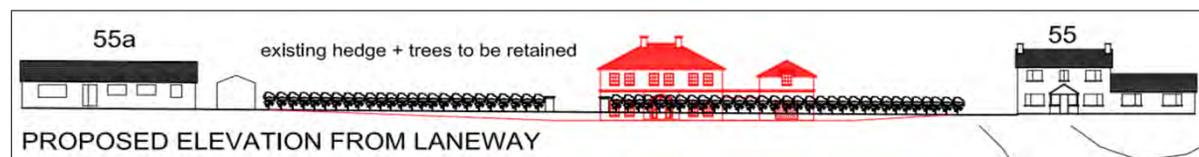


Fig 4: Streetscape of proposal within existing development

Whilst the streetscape submitted has been considered, my opinion remains as before that the proposal as it stands does not respect the existing development pattern along the frontage due to its substantial size, scale and design. I consider the streetscape reinforces this opinion. Accordingly, I consider the proposal should be refused as contrary to:

1. Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling and garage would not respect the existing development pattern along the substantial and continuously built up frontage within which it sits by reason of its size, scale and design.
2. Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the size, scale and design of the proposed dwelling and garage is inappropriate for the site and its locality.
3. Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling and garage by reason of its size, scale and design would if permitted, be unduly prominent in the landscape resulting in a

detrimental change to the rural character of the countryside.

**Additional considerations**

I consider a suitably designed scheme, to respect the existing development pattern along the frontage within which it would sit, could integrate on this site without having any unreasonable impact on the neighbouring properties amenities in terms of overlooking or overshadowing given in particular the separations distances that could be retained but also the existing vegetation, fencing and building bounding the site.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked. No built heritage assets of interest were identified on or near the site; and whilst NED map viewer identified the site to be within an area known to breeding waders, the works are to be located on improved grassland within a line of development therefore are unlikely to harm the population of breeding waders.

NI Flood Maps indicate no flooding on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling and garage would not respect the existing development pattern along the substantial and continuously built up frontage within which it sits by reason of its size, scale and design.

**Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the size, scale and design of the proposed dwelling and garage is inappropriate for the site and its locality.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling and garage by reason of its size, scale and design would if permitted, be unduly prominent in the landscape resulting in a detrimental change to the rural character of the countryside.

**Signature(s):** Emma Richardson

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	7 March 2023
<b>Date First Advertised</b>	21 March 2023
<b>Date Last Advertised</b>	21 March 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 57 Killycanavan Road Dungannon Tyrone BT71 5BP The Owner / Occupier 55B Killycanavan Road Dungannon Tyrone BT71 5BP The Owner / Occupier 55A Killycanavan Road Dungannon Tyrone BT71 5BP The Owner / Occupier 55 Killycanavan Road Dungannon Tyrone BT71 5BP	
<b>Date of Last Neighbour Notification</b>	8 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: I/2010/0208/Q Proposals: Proposed Dwelling on a Farm Decision: 211 Decision Date: 30-JUN-10  Ref: I/1974/0197 Proposals: MV O/H LINE Decision: PG Decision Date:  Ref: LA09/2023/0251/F Proposals: Proposed 2 storey dwelling with 1 ½ storey garage attached via carport Decision: Decision Date:  Ref: I/1995/0381 Proposals: Extension to processing plant Decision: PG	

Decision Date:

Ref: I/1978/0151

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2022/0255/LDP

Proposals: The construction of a new agricultural shed to be used for milking cows and ancillary farm office on first floor

Decision: WDN

Decision Date: 19-JUL-22

Ref: I/2010/0494/F

Proposals: Proposed dwelling max ridge height 6.30 metres with front gable and rear returns with detached domestic garage (amended site plan).

Decision: PG

Decision Date: 27-JUN-11

Ref: I/1974/0118

Proposals: IMPROVEMENTS TO DWELLING HOUSE

Decision: PG

Decision Date:

Ref: I/1996/0131

Proposals: Proposed extension to dwelling.

Decision: PG

Decision Date:

Ref: I/1975/038201

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: I/1975/0382

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist 1.doc

**Drawing Numbers and Title**

Proposed Plans      Plan Ref: 01  
Cross Sections      Plan Ref: 02

**Notification to Department (if relevant)**

Not ApplicableNot Applicable

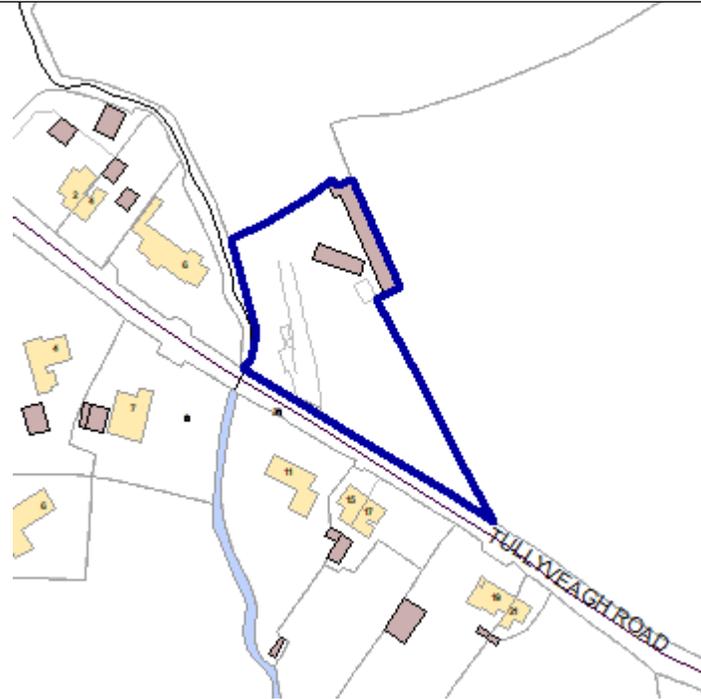


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/0368/RM	<b>Target Date:</b> 14 July 2023
<b>Proposal:</b> Proposed Dwelling and Garage adjacent to 6 Tullyveagh Road	<b>Location:</b> Lands Adj to 6 Tullyveagh Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Trevor Brown 6 Tullyveagh Road Cookstown BT80 8RY	<b>Agent Name and Address:</b> Mr Adrian Brown 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b> <p>This application is brought to the planning committee with a recommendation for approval. An objection letter and follow up objection from the same objector have raised various concerns pertaining to the design and siting of the proposed dwelling as well as a concern relating to the creation of a future gap site development opportunity.</p> <p>Requested amendments to the design and siting of the dwelling have since been submitted and it is considered that these, along with a curtilage condition, address all material concerns raised. I am content that the proposed meets all policy pertaining to PPS 21.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

2x formal objection letters have been received during the course of this application from Les Ross Planning. The extracts below make up the main points of the objection letters:1 "...The RM submission states a different description of development, which neglects to reference the replacement dwelling... and it is somewhat misleading everyone." - letter dated 30/05/20232 "It is fair to assume that the case officer's consideration [in the outline approval] was heavily influenced by the indicative proposal and the fact the dwelling would be close to the site of the original." letter dated

30/05/20233 "Proposal unacceptable in terms of CTY3 - because the new house would have a significantly greater visual impact than the existing building." letter dated 30/05/20234 "Proposal unacceptable in terms of CTY8 - because siting the house as shown would add to a ribbon of development." letter dated 30/05/20235 "Proposal unacceptable in terms of CTY13 - because the proposed house would appear unduly prominent." letter dated 30/05/20236 "Proposal unacceptable in terms of CTY14 - because the proposed house would appear unduly prominent, it would not respect the traditional pattern of development, and it would add to a ribbon of development." letter dated 30/05/20237 "The clear intention of the applicant is to create a gap site between the new house and no.6 Tullyveagh Road, that gap would be sufficient to allow two additional dwellings under the CTY8 exception." letter dated 30/05/20238 "It appears the alterations made by the applicant are very minor and they are certainly not sufficient to make the proposal acceptable in planning policy terms." letter dated 23/10/2023 9 "I note the applicant has not corrected the description. The description of development is misleading, it should be changed to make it clear this is a replacement proposal." letter dated 23/10/202310 "We respectfully ask that you urge the applicant to move the dwelling to a position close to the existing building as envisaged by the planning officer at the outline stage." letter dated 23/10/202311 "...the alterations do not resolve the issues raised in my earlier objection and the proposal continues to be unacceptable in terms of CTY3...CTY8...CTY13...CTY14..." letter dated 23/10/2023 (see points 3-6 raised in first objection letter. These points are addressed in the main body of the report.

### **Characteristics of the Site and Area**

The site is located in the rural countryside approximately 1 mile outside of the Cookstown settlement limit as defined in the Cookstown area plan 2010. The site is an undulating agricultural field with all four boundaries intact, which include a thick screening of mature trees along the western edge and hedging elsewhere, including the roadside boundary, with scatterings of trees throughout. The site is complete with the two-storey dwelling to be replaced (approved at outline) which is clustered with agricultural buildings to the rear of the field. There is an existing field-gate access lane to the site from the Tullyveagh Rd. The site is located within an area of built up development consisting of approximately 10 dwellings which congregate along the western end of the Tullyveagh Road.

### **Description of Proposal**

This is a reserved matters application for a dwelling and garage adjacent to 6 Tullyveagh Road.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material

considerations indicate otherwise.

### Cookstown Area Area Plan 2010

The site is located in the rural countryside approximately 1 mile outside of the Cookstown settlement limit as defined in the Cookstown area plan 2010.

### Relevant Histories

LA09/2022/1027/F – Access and lane to existing yard - Adjacent to 6 Tullyveagh Road Cookstown BT80 8RY – Permission Granted 08/02/2023

LA09/2021/0164/O – Replacement Dwelling – Lands adj to 6 Tullyveagh Road Drummond Cookstown – Permission Granted 23/03/2021

LA09/2020/1188/O – Proposed dwelling in existing cluster under CTY2a (Amended Description – Lands adjacent to 6 Tullyveagh Road Drummond Cookstown – Application Returned

### Representations

2x formal objection letters to the proposed has been received and has been summarised under the summary of issues above. Points 1-11 are answered to under sub-heading Planning Policy Statement 21: Sustainable Development in the Countryside, which provides the main body of this report.

### Mid Ulster District Council Draft Plan Strategy 2030

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes replacement opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

## Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY 1 states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. In this case, the proposal is for a replacement dwelling and is therefore considered under Policy CTY 3 – Replacement Dwellings. The principle of development for a replacement dwelling at this site has been established under the outline permission (ref. LA09/2021/0164/O). With regard to the description of the reserved matters proposal, I am satisfied that the description of ‘proposed dwelling and garage adjacent to 6 Tullyveagh Road’ is adequate and given the outline approval provides the principle for a replacement dwelling at this site, I am content that it is not necessary for the proposal description to contain the word ‘replacement’. Given this, I am content to disregard points 1 and 9 raised in the objections letters as they are not material considerations. I am satisfied that this reserved matters proposal meets all the conditions for the previous outline permission, including that pertaining to the provision of a landscaping scheme. There are no conditions relating to the positioning and ridge height of the dwelling to be proposed at this reserved matters stage.

Policy CTY 3 asks that the proposed replacement dwelling be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. It is accepted in this instance that the original curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling and therefore is deemed acceptable that the dwelling be sited outside the original curtilage.

Critically, the policy also asks 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. Point 3 of the objection maintains that the proposed dwelling would have a significantly greater visual impact than that of the existing building. Upon consideration of the original siting and scale of the dwelling, as well as this point raised in the objection, it was agreed that the proposed failed on this part of the policy. Amendments were sought which would push the proposed dwelling from the original south eastern corner siting to a new positioning which is closer to that of the original dwellinghouse and outbuildings / yard area. The positioning of the garage was changed to be to the rear corner of the dwelling, further away from the road. The agent was also asked to reduce the ridge height. The ridge height has been reduced from 8.5 metres to 6.7 metres from finished floor levels. Consideration is also given to the existing dwellinghouse itself, which is two-storey, albeit sited back further from the road. With the amendments before me, I am content on balance, that while the proposed dwelling will have a greater visual impact than the existing dwelling, it is not considered that this impact will be significant. Point 3 of the objection letters is therefore addressed. Points 2 and 10 raise concerns relating to the positioning of the dwelling, both prior to and following the latest amendment to the siting for the dwelling. The concerns call to attention the case officer’s consideration in the outline approval which the letters states was heavily influenced by the indicative proposed siting for the replacement dwelling,

which was closer to the site for the existing dwelling. As previously mentioned, there is no siting condition in the outline approval. Furthermore I am content that the amended siting for the dwelling is closer to the original dwellinghouse and outbuildings and therefore reads better with these buildings. On balance I am content that points 2 and 10 have been considered and it is deemed that the agent acting on behalf of the applicant has made adequate changes to the plans to address these particular concerns.

It is considered that the design of the replacement dwelling is in keeping with the local rural aesthetic. Slap dash with smooth plastered base and a brick porch element is proposed to the external walls of the dwelling, with black concrete tiles to the roof.

All necessary services are available and access to the public road will not prejudice road safety (see PPS 3 below). Having considered the case at hand together with the relevant points raised in the objection letters, I am satisfied on balance that the proposed complies with CTY 3 of PPS 21.

Policy CTY13 provides 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. Point 5 of the objections raises a concern for the proposed dwelling being unduly prominent. With the requested amended design showing a reduced height from 8.5m to 6.7m from finished floor levels, paired with the amended positioning of the garage to the rear corner of the dwelling, I am content that the proposed dwelling will not be an unduly prominent feature in the environment. The existing trees and hedgerow along the north eastern boundary shall be retained as per condition no. 6 of the outline approval, which shall aid in providing a degree of backdrop for the dwelling. Elsewhere the proposed native species hedgerow along the roadside boundary will further help to integrate the proposal. I am content that the site is complete with enough long-established natural boundaries that it does not rely primarily on the use of new landscaping for the integration of the proposal. It is taken that the proposed will blend with the local landform and read well with the existing buildings to the rear of the proposed site. As above, I am content that the design of the two-storey dwelling is in keeping with the character of the surrounding rural area and I consider the finished external materials to be appropriate for the site and its locality. The proposed complies with Policy CTY 13.

In terms of Policy CTY 14 planning permission will only 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 is considered that the site and its environs are suitable for absorbing a dwelling and garage of this size and scale. The proposed complies with Policy CTY 14. Points 4, 6 and 7 of the objections raise a concern that the proposal, if permitted, would create a gap site suitable to accommodate up to two dwellings under Policy CTY 8. To address these concerns, it has been agreed that a site curtilage condition shall be applied to any permission granted for this application which will remove any gaps with a road frontage.

It is considered that the amendments to the siting and design of the proposed dwelling, as well as the curtilage condition to be applied, have adequately addressed all material concerns raised in the objection letters. I am content that the proposed meets all relevant policy within PPS 21.

### Planning Policy Statement 3: Access, Movement & Parking

The proposed involves the construction of a new access to a public road. DfI Roads were consulted in this application and provided no objection to the proposed subject to a condition. The proposed complies with Policy AMP 2 of PPS 3.

#### Other Material Considerations

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

The site is not subject to any issues pertaining to flooding.

#### **Summary of Recommendation:**

Approve is recommended

#### Approval Conditions

##### Condition 1

The development to which this approval relates must be begun by whichever is the later of the following dates:-

- i. The expiration of a period of 5 years from the grant of outline planning permission; or
- ii. The expiration of a period of 2 years from the date hereof.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

##### Condition 2

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 Rev C uploaded to public access on 15/11/2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

##### Condition 3

All landscaping comprised in the approved details of landscaping on Drawing No 02 Rev C uploaded to public access on 15/11/2023, shall be carried out in the first planting

season following the occupation of the dwelling hereby approved.

Reason: To ensure the development integrates into the countryside.

**Condition 4**

The existing natural screenings of the site, as indicated on Drawing No 02 Rev C uploaded to public access on 15/11/2023 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Condition 5**

The existing dwelling coloured green on the site location plan Drawing No 01 uploaded to public access on 30/03/2023, and the site layout plan Drawing No 02 Rev C uploaded to public access on 15/11/2023, shall be demolished within 6 weeks of the occupation of the new dwelling and all rubble and foundations removed from the site.

Reason: To prevent an accumulation of dwellings on the site.

**Condition 6**

The curtilage of the dwelling hereby approved shall be as designated by the yellow line which is identified on the site layout plan Drawing No 02 Rev C uploaded to public access on 15/11/2023.

Reason: To prevent an infill dwelling opportunity and in the interest of rural character.

**Signature(s):** Benjamin Porter

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	31 March 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  21 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  7 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  9 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  37 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  11 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  15 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  17 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  19 Tullyveagh Road Cookstown Tyrone BT80 8RY  The Owner / Occupier  6 Tullyveagh Road Cookstown Tyrone BT80 8RY</p>	
<b>Date of Last Neighbour Notification</b>	13 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2001/0522/O  Proposals: Proposed 2 storey dwelling and garage  Decision:  Decision Date:</p> <p>Ref: I/2001/0746/O  Proposals: Two storey dwelling and garage</p>	

Decision: PR  
Decision Date: 29-APR-02

Ref: I/1983/020301  
Proposals: DWELLING  
Decision: PG  
Decision Date:

Ref: I/1983/0203  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: LA09/2017/0520/F  
Proposals: Proposed extension and alterations to existing dwelling to provide living area at the rear of property and erection of new detached carport and garage  
Decision: PG  
Decision Date: 26-MAY-17

Ref: I/2006/1257/F  
Proposals: New garage with first floor loft storage, alterations and extension to dwelling with relocation of existing entrance.  
Decision: PG  
Decision Date: 18-JUN-07

Ref: I/2001/0521/O  
Proposals: Proposed 2 storey dwelling and garage  
Decision:  
Decision Date:

Ref: I/2001/0745/O  
Proposals: Proposed two storey dwelling and garage  
Decision: PR  
Decision Date: 19-APR-02

Ref: LA09/2021/0164/O  
Proposals: Replacement dwelling  
Decision: PG  
Decision Date: 23-MAR-21

Ref: LA09/2020/1188/O  
Proposals: Proposed dwelling in existing cluster under CTY2a (Amended Description)  
Decision:  
Decision Date:

Ref: I/1993/6054

Proposals: Proposed Replacement Dwelling Adjacent to 6 Tullyveagh Road Cookstown

Decision: PRER

Decision Date: 14-OCT-93

Ref: LA09/2023/0368/RM

Proposals: Proposed Dwelling and Garage adjacent to 6 Tullyveagh Road

Decision:

Decision Date:

Ref: LA09/2022/1027/F

Proposals: access and lane to existing yard

Decision: PG

Decision Date: 08-FEB-23

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

### **Drawing Numbers and Title**

Elevations and Floor Plans Plan Ref: 04 REV A

Elevations and Floor Plans Plan Ref: 03 Rev B

Site Layout or Block Plan Plan Ref: 02 Rev C

Elevations and Floor Plans Plan Ref: 03 Rev C

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Elevations and Floor Plans Plan Ref: 03

Elevations and Floor Plans Plan Ref: 04

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/0441/F	<b>Target Date:</b> 20 July 2023
<b>Proposal:</b> Proposed new 2 Storey dwelling, including carpark, garden and rear yard with minor alterations to existing dwelling at no.1 derryvale park including new pitched roof.	<b>Location:</b> 1 Derryvale Park and Lands to The SW of 1 Derryvale Park Coalisland Dungannon
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Kieran Talbot 1 Derryvale Park Coalisland Bt71 4SY	<b>Agent Name and Address:</b> Clarman Ltd Unit 1 33 Dungannon Road Coalisland BT71 4HP
<b>Executive Summary:</b>  1No. objection received and the main issues raised were related to the turning head at the proposed dwelling.	



The site is within and on the edge of the settlement limit of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character as it is on the edge of the limits. To the north are agricultural fields interspersed with industrial sheds. The site itself is within a cul-de-sac off Derryvale Road which is mainly detached and semi-detached dwellings. To the north and within the site boundary is a semi-detached dwelling at No.1 Derryvale Park. The area where the proposed dwelling will be located is currently a lawned area. The roadside boundary treatment is a low wooden fence.

### **Description of Proposal**

This is a full application for proposed new 2 Storey dwelling, including carpark, garden and rear yard with minor alterations to existing dwelling at no.1 Derryvale park including new pitched roof.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Planning History**

##### Adjacent Site to the north

LA09/2023/0414/F - Proposed change of house type from that which was approved under LA09/2018/1673/F - Approx 10M South of 1 Derryvale Park, Derryvale Road Dungannon – permission granted 9<sup>th</sup> May 2023

No planning histories at the application site.

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third party objection was received.

The objection was received by letter on the 3<sup>rd</sup> May 2023 from Pauline Morgan who lives at No. 82 Derryvale Road. Her main concern was about the turned head bay across the road from her property and if this was removed this would impact on turning to and from her property. She also had concerns that the proposed dwelling would have on traffic

and the established character of the area and there are no adverse environmental effects. As shown in figure 1 below in the planning assessment the applicant has shown one in-curtilage car parking space to the rear of the proposed dwelling, and I am content the existing turning head will not be affected. In terms of the character of the area, as the proposal is for a single dwelling in a residential area I am content the proposal will not be out of character for the area.

### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interest of acknowledged importance.

### **Dungannon and South Tyrone Area Plan 2010**

The site is located within the settlement limit of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010, so SETT 1 is the relevant policy which applies. As the proposal meets all the criteria in QD1 in PPS 7 I consider it also meets SETT 1.

### **PPS 7 – Quality Residential Environments**

#### **Policy QD 1 – Quality in New Residential Development**

The application site comprises an existing two-storey semi-detached dwelling at No.1 Derryvale Park with in-curtilage parking to the front. To the side of No.1 and within the curtilage is No.1's lawned garden area. The site is on the corner on a row of six semi-detached dwellings. The proposal is for a new two-storey detached dwelling in the side garden area of the existing dwelling at No.1 as shown in figure 1 below. I have no concerns about the location of the proposed dwelling as it is within an existing housing area. The proposal is for a two-storey dwelling which is detached and has three bedrooms. I am content the principle of a two-storey dwelling in this location is acceptable and will not result in overdevelopment of the site. The scale and massing and plot size of the proposed dwelling is similar to No.1 and surrounding dwellings, and I believe is not out of character for the area. In terms of No.1, the proposal also involves the removal of a portion of the existing side return to create a side path to the rear garden of No.1.

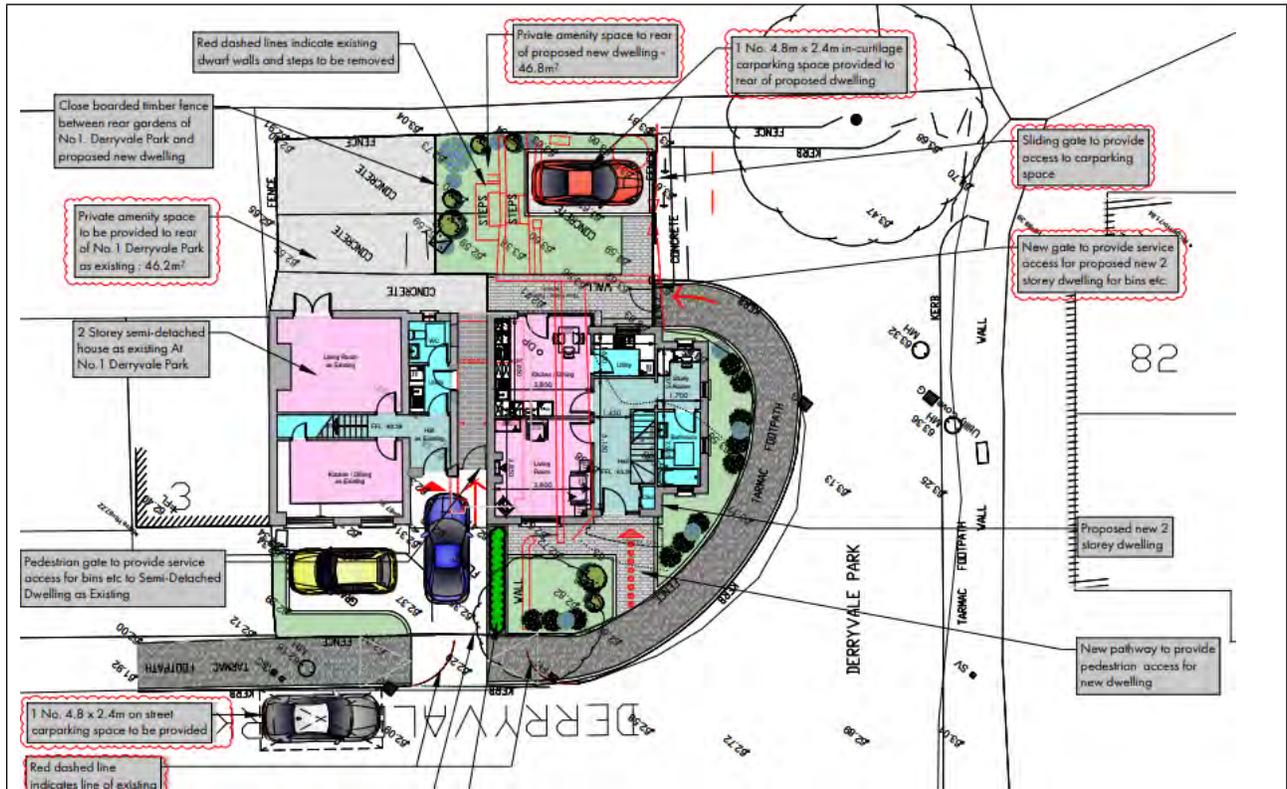


Figure 1 – snapshot of the siting of the proposed dwelling.

There are no archaeological or landscape features at the site.

The Department’s guidance, *Creating Places*, at paragraph 5.19 states that for any individual house, private open space of less than around 40 square metres will generally be unacceptable. The policy also states the private open space should be behind the building line. There is a small amount of space to the rear of the proposed dwelling at 46 sqm as shown in figure 1 above and the proposal involves subdividing the existing rear amenity space. Even-though the amenity space is small most of the other dwellings along this row have a small rear amenity space so I am content the proposal will not be out of character for the area.

As this is a proposal for a single dwelling there is no requirement to provide neighbourhood facilities.

The proposal will create use an existing access off a public road, so DFI Roads were consulted, and they responded with no concerns subject to visibility splays.

As the site is on the edge of the settlement limits of Coalisland there is no footpath for walking to the main shopping area within Coalisland.

Along this row of dwellings all the houses have one in-curtilage car parking space and an attached garage and in discussions with DFI Roads it was agreed that two in-curtilage car parking spaces need to be provided. The applicant can provide two in-curtilage spaces at the existing dwelling but initially it was proposed to have two car parking spaces to the front of the proposed dwelling. DFI Roads in their consultation

response stated it was not acceptable to have access at the corner of the junction. Subsequently the applicant proposed two car parking spaces to the rear of the dwelling and even though Roads considered this acceptable it left limited private amenity space. As shown in figure 1 it was agreed with Roads to have one on-street parking and an in-curtilage space to the rear. I am content this revised parking arrangement is acceptable.

The proposal is for a two-storey dwelling at approximately the same ridge height as the neighbouring dwellings. The dwelling has a square shaped form and the external finishes are red clay brick walls to match existing, dark grey roof tiles and aluminium down pipes. I am content the external materials will not detract of the character of the area. I am content the scale and massing of the proposed dwelling is acceptable as it is approximately the same footprint and size as the dwellings in the immediate area.

The ground level at the application site is approximately 1m than the land at No.1 and the applicant has shown the ridge level of the proposed dwelling is 1.4m higher than No.1. There are no windows on the ground and upper floors on the side walls of the dwelling so I am content there will not be an unacceptable loss of privacy.

The site is within an area where there are other dwellings in the immediate vicinity which I consider provides a certain degree of personal safety from crime.

Overall, I am content the proposal meets all the criteria in QD1 in PPS 7.

## **Addendum to Planning Policy Statement 7 – Safeguarding the Character of Residential Areas**

### **Policy LC 1 – Protecting Local Character, Environmental Quality and Residential Amenity**

The proposal is for a two-storey detached dwelling situated on the side garden area of No.1 Derryvale Park. The footprint of the proposed dwelling is slightly larger than what currently exists at 65sqm for this dwelling and 59sqm for the existing dwelling at No.01. The plot size is roughly like what existing, so I have no concerns about the plot size. In this application at side extension to the existing dwelling is being removed and it is not feasible to have two car parking spaces to the front of the proposed dwelling. I consider the small garden space to the rear reflects the pattern of settlement within the area. Annex A in the policy states a two-storey two-bedroom house should have a floorspace of at least 70m<sup>2</sup> and the proposal is slighter under this. However, the proposed dwelling is a similar size to other existing dwellings along the row, so I am content with the size of the dwelling. Overall, I consider the proposal meets all the criteria in LC1.

### **PPS 3 Access, Movement and Parking**

#### **AMP 2 – Access to Public Roads**

The site does not access onto a protected route, so I have no concerns about these criteria of the policy.

In initial drawings submitted by the applicant it had proposed to an area of land in front of the proposed dwelling for the parking of one car and one car parking space to the front

of the existing dwelling. Most dwellings along the row have only one in-curtilage car parking space and an attached garage but this still counts as a car parking space.

### **Other Considerations**

I completed a check on the statutory map viewers and there are no other ecological, built heritage or flooding issues at the application site.

As the site is within the settlement limit of Coalisland NI Water were consulted and in their initial consultation response on the 4<sup>th</sup> May 2023 they recommended the proposal for refusal. It is stated there are issues with connecting to the network in Coalisland but there is capacity at the Coalisland Wastewater Treatment Works. The applicant has not shown how they will dispose of their sewage and has stated on the application form they will connect to the Mains network. I consider the issue of sewage could be conditioned at a later stage.

### **Summary of Recommendation:**

Approve is recommended

The proposal is recommended for approval as it meets all the criteria in QD1 in PPS 7 – Quality Residential Environments and SETT 1 in the Dungannon and South Tyrone Area Plan 2010.

### **Approval Conditions**

#### **Condition 1**

The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

#### **Condition 2**

The vehicular access, shall be provided in accordance with Drawing No 02 Rev 2 date received 25 OCT 2023 and Drawing No 04 Rev 3 date received 25 OCT 2023, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Condition 3**

The development hereby permitted shall not commence until such time as the applicant has provided adequate evidence to the Council that NI Water will allow connection to the public sewer and this condition has been discharged and received written confirmation that the Council has agreed discharge of this condition.

Reason: In the interests of public health.

**Condition 4**

All landscaping comprised in the approved details of landscaping on the approved Drawing No 2 Rev 2 date received 25 OCT 2023, shall be carried out in the first planting season following the occupation of the development hereby approved. Any tree shrub or other plants identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To protect the amenity of neighbouring residents.

**Signature(s):** Gillian Beattie

**Date:** 20 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 April 2023
<b>Date First Advertised</b>	25 April 2023
<b>Date Last Advertised</b>	25 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 82 Derryvale Road Coalisland BT71 4DY</p> <p>The Owner / Occupier 2 Derryvale Park Dungannon Tyrone BT71 4HH</p> <p>The Owner / Occupier 80 Derryvale Road Coalisland Tyrone BT71 4DY</p> <p>The Owner / Occupier 3 Derryvale Park Dungannon Tyrone BT71 4HH</p> <p>The Owner / Occupier 82 Derryvale Road Coalisland Tyrone BT71 4DY</p> <p>The Owner / Occupier 1 Derryvale Park Dungannon Tyrone BT71 4HH</p>	
<b>Date of Last Neighbour Notification</b>	25 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2000/0189 Proposals: Proposed Housing Development Decision: 360 Decision Date:</p> <p>Ref: M/2011/0110/F Proposals: Ext. Flat roof single storey garage to be upgraded to habitable rooms and extended to 2 storeys with pitched roof Decision: PG Decision Date: 05-MAY-11</p> <p>Ref: M/1991/0222 Proposals: Erection of bungalow Decision: PR</p>	

Decision Date:

Ref: M/2003/0982/F

Proposals: Proposed first floor bedroom extension to dwelling

Decision: PG

Decision Date: 13-OCT-03

Ref: LA09/2023/0414/F

Proposals: Proposed change of house type from that which was approved under LA09/2018/1673/F

Decision:

Decision Date:

Ref: LA09/2023/0441/F

Proposals: Proposed new 2 Storey dwelling, including carpark, garden and rear yard with minor alterations to existing dwelling at no.1 derryvale park including new pitched roof.

Decision:

Decision Date:

Ref: M/1976/0046

Proposals: 33 KV O/H LINES

Decision: PG

Decision Date:

Ref: M/2008/0571/F

Proposals: To erect refabricated dwelling for retirement close to brothers dwelling (type of which details are enclosed)

Decision: PR

Decision Date: 20-AUG-08

Ref: LA09/2018/1673/F

Proposals: Proposed two storey dwelling and garage (infill)

Decision: PG

Decision Date: 03-APR-19

Ref: M/2014/0346/O

Proposals: Proposed second two storey infill dwelling & garage within small gap site

Decision: PR

Decision Date: 27-JAN-15

Ref: M/2013/0534/O

Proposals: Proposed two storey infill dwelling and garage

Decision: PG

Decision Date: 17-APR-14

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-27-09-2023.docx  
DFI Roads - Enniskillen Office-31-08-2023.docx  
DFI Roads - Enniskillen Office-15-11-2023 Conditions.docx  
NI Water - Single Units West-LA09-2023-0441-F.pdf  
DFI Roads - Enniskillen Office-31-05-2023.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02 Rev 2  
Block/Site Survey Plans Plan Ref: 03  
Housing Concept Plan Plan Ref: 04 Rev 3  
Proposed Elevations Plan Ref: 05  
Proposed Plans Plan Ref: 06  
Existing Plans Plan Ref: 07

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2023/0466/O	<b>Target Date:</b> 4 August 2023
<b>Proposal:</b> Erection of dwelling and garage	<b>Location:</b> Land approximately 150 Metres North of 30 Killyfaddy Road Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr arron mcmurray 30 killyfaddy Road Magherafelt BT456EX	<b>Agent Name and Address:</b> Mr Damian Mc Murray 11 Drumvale Avenue Cookstown BT808QZ
<b>Executive Summary:</b> <p>The proposed is for an outline dwelling and garage under Policy CTY 6 - Personal and Domestic Circumstances. With due sympathy to the circumstances of the case, It is recommended that the proposed be refused for the following reason:</p> <p>It is deemed that there is insufficient evidence to suggest that a new dwelling at the proposed site is a necessary response to the particular circumstances of the case. It has been agreed that the proposed does not comply with Policy CTY 6 of PPS 21.</p> <p>It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 0.7 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2010. The site for the proposed dwelling comprises the northern portion of an agricultural field which is located approximately 150m north of 30 Killyfaddy Road, Magherafelt. A second dwelling sits just south west of the site and is identified as

no. 28. The site is approximately 0.25 ha and slopes gradually up from the Killyfaddy road, with access via the same. Site boundaries include mature hedgerow and trees along the western, northern and eastern edges of the field. The southern boundary is undefined and opens up into the remaining and much larger field. The wider surrounding environment consists of agricultural fields and farm clusters.

### **Description of Proposal**

This is an outline application for the proposed erection of a dwelling and garage. The application is submitted with a supporting statement for a dwelling under Policy CTY 6 - Personal and Domestic Circumstances of the PPS 21.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Magherafelt Area Plan 2015**

The site of the proposed development is located in the rural countryside approximately 0.7 miles south and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2010.

#### **Relevant Histories**

None

#### **Representations**

No third party representation have been received to date.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

#### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings for compelling and site specific reasons under Policy CTY 6 – Personal and Domestic Circumstances. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

#### Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling in the countryside for personal and domestic circumstances. This application is therefore assessed under Policy CTY 6 of PPS 21.

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

With regard to part A, It is accepted that the special personal circumstances of the applicant supported by the appropriate medical evidence has been provided in the statement of case. Details of the level of care required in relation to the medical conditions pertaining to the applicant is also provided, including the identity of the main carer.

However, an explanation that is sufficient enough as to why care can only be provided at the proposed site location and how genuine hardship would be caused if planning permission were refused is not forthcoming. The agent suggests that the applicant would benefit from having his own place and the policy is open to such cases where independent living is encouraged. However, the policy states that a new dwelling must be a necessary response. Upon consideration of the case at hand with the senior planner, it is considered that a new dwelling, while likely to be beneficial to the applicant, is not a necessary action. Furthermore, it has not been adequately demonstrated that genuine hardship would be caused if planning permission were refused at this current moment in time.

With regard to part B, the supporting statement suggests that care can no longer be provided at the applicant's current address at no. 30 Killyfaddy Road (which is also the address of the main carer), due to a large number of people living at the house. When considered against policy, this is arguably more of an inconvenience rather than a compelling push-factor which would warrant the building of a new dwelling in the countryside. The supporting statement does touch on alternative solutions, though it is agreed with the senior planner that these are not adequately explored. It is stated that the existing dwelling has already been extended twice which and therefore cannot accommodate a further extension. Upon review of the existing site curtilage, it is considered that on the contrary, a further extension or domestic annex could be accommodated. It is also stated in the supporting statement that there is no suitable accommodation to rent or purchase in the town, though it is felt that this has not been adequately explored. For example, there is no reason put forward as to why there is no suitable accommodation to purchase or rent in Magherafelt, which is less than a mile from the current address of the main carer.

Having assessed the statement of case with the senior planner it has been agreed that the proposed outline dwelling fails to meet Policy CTY 6 of PPS 21.

Policy CTY 13 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 is considered that a well-designed dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site is complete with long-established natural boundaries in the form of mature hedgerow and trees. It is therefore a site that would not rely primarily on the use of new landscaping. I am content that ancillary works and any future dwelling at the site could be designed in such a way as to integrate with the surrounding locality. The proposed complies with Policy CTY 13 at this outline stage.

Policy CTY 14 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. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. The proposed complies with Policy CTY 14 at this outline stage.

#### Other material considerations

DfI Roads were consulted in this application and provided no objection to the proposed subject to the standard RS1 condition.

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

The site is not subject to any issues pertaining to flooding.

Recommendation

With due sympathy to the circumstances of this case, it is noted that the proposed fails to comply with Policy CTY 6 of PPS 21. It is therefore recommended that this application be refused.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case has not been provided.

**Signature(s):** Benjamin Porter

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 April 2023
<b>Date First Advertised</b>	2 May 2023
<b>Date Last Advertised</b>	2 May 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 27 Killyfaddy Road Magherafelt Londonderry BT45 6EX The Owner / Occupier 28 Killyfaddy Road Magherafelt Londonderry BT45 6EX The Owner / Occupier 30 Killyfaddy Road Magherafelt Londonderry BT45 6EX	
<b>Date of Last Neighbour Notification</b>	2 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2008/0167/F  Proposals: Retrospective application for garage for storing boat and trailer plus retrospective approval for reducing ground level to form hard standing area.  Decision: PG  Decision Date: 18-AUG-08</p> <p>Ref: H/2007/0439/F  Proposals: Extension to a Dwelling  Decision: PG  Decision Date: 15-APR-08</p> <p>Ref: LA09/2015/0560/O  Proposals: Erection of a replacement dwelling  Decision: PG  Decision Date: 07-MAR-16</p> <p>Ref: H/2004/1544/O  Proposals: Site of Dwelling and Detached Garage.  Decision: PR  Decision Date: 11-JAN-06</p>	

Ref: H/1998/0336

Proposals: ALTERATIONS AND ADDITIONS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2021/0322/F

Proposals: Erection of replacement dwelling & detached garage.

Decision: PG

Decision Date: 19-JAN-22

Ref: LA09/2023/0466/O

Proposals: Erection of dwelling and garage

Decision:

Decision Date:

Ref: H/2008/0084/F

Proposals: Replacement 1½ storey dwelling and 1½ storey garage at 25 Killyfaddy Road  
Magherafelt

Decision: PG

Decision Date: 21-MAY-09

Ref: H/2006/0941/F

Proposals: Production of electricity for domestic dwelling by erection of a proven WT  
6000 6KW wind turbine with TM 1500 15m mast

Decision: PG

Decision Date: 16-MAY-07

Ref: LA09/2018/0635/O

Proposals: Infill development , involving the erection of chalet type bungalow with  
detached garage.

Decision: PG

Decision Date: 11-DEC-18

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

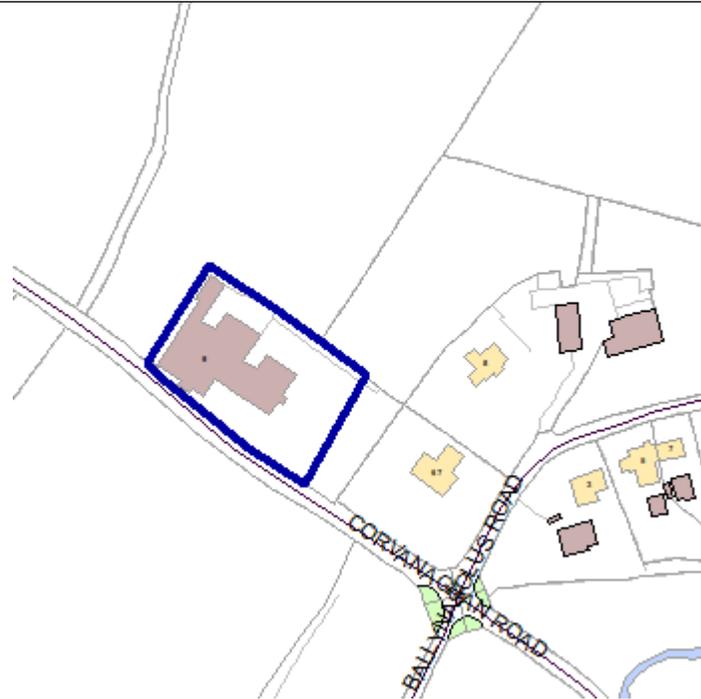


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2023/0499/F	<b>Target Date:</b> 25 August 2023
<b>Proposal:</b> Change of use and extension of existing bar and restaurant to part light industrial part storage or distribution	<b>Location:</b> 9 Corvanaghan Road Cookstown BT80 9TN
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Brian McGarrity 24 Tullyreavy Road Dungannon BT70 3JN	<b>Agent Name and Address:</b> Mr Christopher Quinn 11 Dunamore Road Cookstown BT80 9NR
<b>Executive Summary:</b> <p>Application is for a change of use from former bar / restaurant facility to storage and distribution and light industry. Relevant policy is policy PED 4 of PPS 4 (re-development of an established economic development use in the countryside).</p> <p>Proposal is presented to committee as it is contrary to the main premise of PED 4 in that the former use cannot be classed as an "economic development use." However, the proposal complies with all the specific criteria in relation to this policy and in the interests of sustainability, it is felt that the proposed use would be more beneficial at this location than the former use, where it is to resume from this location. The reasoning behind this is set out in the case officers report.</p> <p>For this reason, the proposal is treated as an exception to policy and approval is recommended.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	Response 24 May 2023.docx
Statutory Consultee	NI Water - Strategic Applications	LA09-2023-0499-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

## **Characteristics of the Site and Area**

The site in question consists of an existing building on a road side plot. The building is overgrown and dilapidated and clearly no longer in use. The former use of the building was a restaurant bar area known as Thorndale House. There is still some signage associated with this use on the existing building.

The road side boundaries of the site and the eastern boundary are undefined with the northern and western boundary of the site defined by tall evergreen trees.

The area is a rural upland area, with the predominant land use being mostly residential dwellings. There are 2 detached dwellings adjacent to the site to the east.

## **Description of Proposal**

The proposal is for a change of use from existing restaurant to light industrial and storage and distribution use. The proposal will also involve the demolition of some part of the existing building as well as an extension to the existing building in the form of a new warehouse.

## **Planning Assessment of Policy and Other Material Considerations**

### **Policy Consideration**

The following policies are relevant;

- Cookstown Area Plan
- SPPS
- PPS 21 – Sustainable Development in the Countryside
- PPS 4 – Planning and Economic Development
- PPS3 – Access, Movement and Parking

### **Cookstown Area Plan**

The site is in the countryside, outside of any settlement limit. The Sperrin AONB boundary is close by but the site is not within the designation. The proposal should therefore be assessed against prevailing planning policy for the rural area.

### **SPPS**

The SPPS states that the planning system should seek to enable development which contributes to a sustainable rural economy and where this is done, to ensure high standards of siting and design in order to safeguard the natural environment and the

character of the countryside. It also goes on to say at para. 6.82 that we should support rural economic development of an appropriate scale and nature and support the re-use of previously developed economic development sites and buildings, for economic development uses.

#### PPS 21 / PPS 4

Policy CTY 1 states that one of the categories of acceptable development in the countryside is the development of economic uses in accordance with PPS 4. Policy PPS 4 therefore becomes the default policy for this development to be assessed against.

Policy PED 2 of PPS 4 sets out the range of economic development that are deemed acceptable in the countryside. One of these is the redevelopment of an established economic development use – Policy PED 4.

PED 4 states that the re development of an established economic development use in the countryside, for industrial or business purposes, will be acceptable. The preamble to PPS 4 states that for the purposes of interpreting the policy, the term “economic development use” refers to uses in classes B1, B2, B3 and B4. The site was formerly in use as a restaurant and therefore, the former use cannot be described as an “economic development use” under this rationale because a restaurant is sui generis use as per The Planning (Use Classes) Order (Northern Ireland) 2015 and does not belong to any use class.

PED 4 also goes on to state a range of criteria which such proposals must meet and these are considered below;

**the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area;**

This proposal will not involve any increase in the site area. The main part of the existing building (the front part of the building with the pitched roof and appearance of a dwelling house) has a ridge height of approximately 8.5m. This part of the building is proposed to be demolished as part of this development and a new warehouse style building erected in the northern corner of the site will become the largest part of the building. This will have a slightly smaller building height of 8m but it will be a continuous height of 8m as opposed to a single ridge of 8m. Therefore, the building height is slightly smaller than the existing height, the potential exists for this building to have an equal or more significant ridge height.

However, in my opinion, the site will be able to absorb this proposed change in building appearance given the mature trees which border the site. These trees will screen the development on the approach from the NW and will act as a backdrop when approaching from the SE. The site plan shows these trees to be retained “where possible” but to caveat this, a condition can be imposed to any approval ensuring that all boundaries must be retained for the purposes of visual amenity.



View of site from NW



View of site on approach from SE

**there would be environmental benefits as a result of the redevelopment;**

The present building on the site, in a prominent road side location is unattractive and in its dilapidated state represents an eyesore in the local environment. The development will involve the visitation of 5 additional vehicles on a daily basis and when compared to the former use of the site as a busy restaurant, this is a significant reduction in vehicle journeys which would be permitted if the site opened again as a restaurant. This therefore represents an environmental benefit in terms of reduced vehicle numbers.

In terms of natural environment, the demolition of buildings in the countryside would normally require the carrying out of a bat surveys to ensure no harm to the local bat population which are a protected species. However, in this case, having assessed the buildings to be demolished against the criteria in Q1 of part 2 of the NI Biodiversity Checklist, further ecological information is not required in this regard.

**the redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site**

The scheme proposed deals with the entirety of the site and will leave no existing buildings undeveloped. It will go even further and also utilise the existing disused car park area of the site as a turning area for visiting vehicles and parking for staff car parking.

**the overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.**

This has been explained in the above paragraph in response to criterion (a). The mature boundaries of the site mean that the site can absorb the proposed development which is intended to replace the existing building.

In summing up my assessment of this proposal against PED 4, I am of the view that whilst the development is contrary to policy in terms of its former use not being considered as an economic development use, all the criteria laid out in PED 4 have been met. Whilst a restaurant (former use) is not considered as an economic development use, it is still a use which generates employment and wealth in the local area. The site could reopen as a restaurant without requiring planning permission and this would be less desirable, from a sustainability perspective, than the proposed use would be. A restaurant is better suited to an urban location in order to tie in with other night time uses, larger populations and public transport - and therefore reduce the need to travel to rural locations such as this.

Therefore, I am of the view that whilst the proposal is contrary to the general thrust of PED 4, it complies with the specific criteria and the use of the site as the use proposed is more desirable than the existing use in terms of environmental benefits.

Policy PED 9 also sets out the general criteria for all economic development to adhere to

and these are assessed below;

- a) it is compatible with surrounding land uses;**
- b) it does not harm the amenities of nearby residents;**
- e) it does not create a noise nuisance;**

The development is located in a rural area where the main land use is intermittent detached residential dwellings. The proposal is for storage and light industry which will not create an issue in terms of noise or nuisance. Environmental Health have been consulted and do not offer an objection subject to a condition, which limits the use to conditions which control the use and the operating hours, as well as other issues relating to the development.

2 nearby houses have been notified and no objections have been received.

- c) it does not adversely affect features of the natural or built heritage;**

No natural environment or historic environment assets in close proximity to the site. The issue of the impact on protected species has been discussed in the assessment of PPS 4.

- d) it is not located in an area at flood risk and will not cause or exacerbate flooding;**

Site not affected by any flood plain as per the DFI flood maps. PPS 15 does not apply.

- f) it is capable of dealing satisfactorily with any emission or effluent.**

NI Water have been consulted and have no objections to this proposal.

- g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;**

- (h) adequate access arrangements, parking and manoeuvring areas are provided;**

- i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;**

The proposal involves access to a site which is long established. DFI Roads have been consulted and have no objections in relation to proposal insofar as to how it pertains to road safety. Parking arrangements for this facility will be provided in the disused car park on the site.

- j) the site layout, building design, associated infrastructure and landscaping**

**arrangements are of high quality and assist the promotion of sustainability and biodiversity;**

Existing boundaries are to be retained and this will be caveated via a condition.

**(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;**

This site is well screened from the Corvanaghan Road due to existing boundaries as explained in the preceding paragraphs above.

**(l) is designed to deter crime and promote personal safety**

Visibility into the site is high from the public road and also from 2 nearby dwellings. The site is open to the public ensuring a high level of natural surveillance.

**(m) In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.**

As explained above, site is capable of absorbing the site visually because of the existing integration provided by the natural screenings of the site on the northern and western boundaries.

Having considered all of the above, I am of the view that while the proposal does not qualify under the basic premise set out by PED 4, it is capable as being treated as an exception to policy for the reasons outlined above. The proposal meets all the specific criteria in PED 4 and also meets the criteria set out in PED 9.

#### PPS 3 – Access Movement and Parking

The site is proposed to access onto the Corvanaghan Road which is a B Class Road. DFI Roads have been consulted and whilst they expressed initial concern about a crest on the Corvanaghan Road and how it would potentially impact upon visibility and forward sight distance, amended drawings which were submitted have addressed this issue and DFI Roads now have no issue subject to visibility and FSD being provided in accordance with the amended drawing.

#### **Summary of Recommendation:**

Approve is recommended

Given all of the above considerations, I recommend this proposal is approved, subject to the following conditions.

## Approval Conditions

### Condition 1

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

### Condition 2

The existing mature trees and vegetation along the site boundaries shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without prior consent in writing to the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given in writing at the earliest possible moment.

Reason: To ensure the maintenance of screening to the site in order to aid the visual integration of the development.

### Condition 3

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 REV 1 which was uploaded to the portal on 1st August 2023, prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

### Condition 4

No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 Rev1 bearing date March 2023 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

REASON: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

### Condition 5

The development hereby permitted shall be used only for the purposes specified in

either Class B2 - Light Industrial and/or Class B4 - Storage or Distribution, as defined in the Planning (Use Classes) Order (NI) 2015.

Reason: To protect nearby residential amenity from noise and odour

**Condition 6**

There shall be no site operation at the proposed development site, including dispatch or delivery of goods, outside 08:00 hours - 18:00 hours Monday to Friday, 08:00 hours - 13:00 hours Saturday, and no site operation at the proposed development site on Sunday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise

**Condition 7**

During the hours of operation of use hereby permitted in condition 2, all external doors including roller shutter doors to the proposed development shall remain closed at all times except for access and egress.

Reason: To protect nearby residential amenity from noise.

**Condition 8**

There shall be no construction or manufacture of products in the external yard areas of the business, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

**Signature(s):** Colin McKeown

**Date:** 8 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	12 May 2023
<b>Date First Advertised</b>	23 May 2023
<b>Date Last Advertised</b>	23 May 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 8 Corvanaghan Road Cookstown Tyrone BT80 9TN The Owner / Occupier 7 Corvanaghan Road Cookstown Tyrone BT80 9TN	
<b>Date of Last Neighbour Notification</b>	19 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1983/0064  Proposals: EXTENSION TO LICENSED RESTAURANT  Decision: PG  Decision Date:</p> <p>Ref: I/2006/1137/F  Proposals: Proposed Extension to provide Entrance Porch, Toilet and Staff Facilities and Internal Alterations  Decision: PG  Decision Date: 23-APR-07</p> <p>Ref: I/2009/0436/O  Proposals: 8 no. units of self catering accommodation (Tourism facilities) - Renewal of I/2005/1456/0  Decision: PG  Decision Date: 16-NOV-09</p> <p>Ref: I/2005/1456/O  Proposals: 8 no. Units of self-catering accommodation.  Decision: PG  Decision Date: 07-AUG-06</p>	

Ref: LA09/2023/0499/F

Proposals: Change of use and extension of existing bar and restaurant to part light industrial part storage or distribution

Decision:

Decision Date:

Ref: I/2002/0074/O

Proposals: 8no units of Self-Catering Accommodation

Decision: PG

Decision Date: 22-NOV-02

Ref: I/1983/0368

Proposals: BOTTLE STORE

Decision: PG

Decision Date:

Ref: I/1998/0402

Proposals: Proposed extension to public house to provide 8 no. bedrooms and ancillary facilities

Decision: PG

Decision Date:

Ref: I/1976/0129

Proposals: ALTERATIONS TO LICENSED PREMISES

Decision: PG

Decision Date:

Ref: I/1980/0222

Proposals: EXTENSION TO LICENSED PREMISES

Decision: PG

Decision Date:

Ref: I/1982/0256

Proposals: PUBLIC BAR AND LICENCED RESTAURANT

Decision: PG

Decision Date:

Ref: I/1982/0007

Proposals: TEMPORARY PUBLIC HOUSE

Decision: PG

Decision Date:

Ref: I/2010/0358/Q

Proposals: Change of Use from Redundant Function Room, Kitchen, Dining Rooms & Stores to Light Industrial Use (Class B2)

Decision: ELR

Decision Date: 24-MAY-11

**Summary of Consultee Responses**

Environmental Health Mid Ulster Council-  
DFI Roads - Enniskillen Office-Responce 24 May 2023.docx  
NI Water - Strategic Applications-LA09-2023-0499-F.pdf  
Environmental Health Mid Ulster Council-Planning response.pdf  
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

**Drawing Numbers and Title**

Existing and Proposed Elevations Plan Ref: 04  
Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Elevations Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02 Rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2023/0597/O	<b>Target Date:</b> 12 September 2023
<b>Proposal:</b> Proposed 4 luxury apartments and associated car parking	<b>Location:</b> Land 30M East of 41 Clabby Road, Fivemiletown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Henry & Jordan Mc Clure 41 Clabby Road Fivemiletown BT75 0PU	<b>Agent Name and Address:</b> Mr D Mc Nulty 4 Dergmoney Court Omagh BT78 1HA
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response2 LA09-23-0597.pdf
Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0597-O.pdf
Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0597-O.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	04-07-2023.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-23-0597.pdf

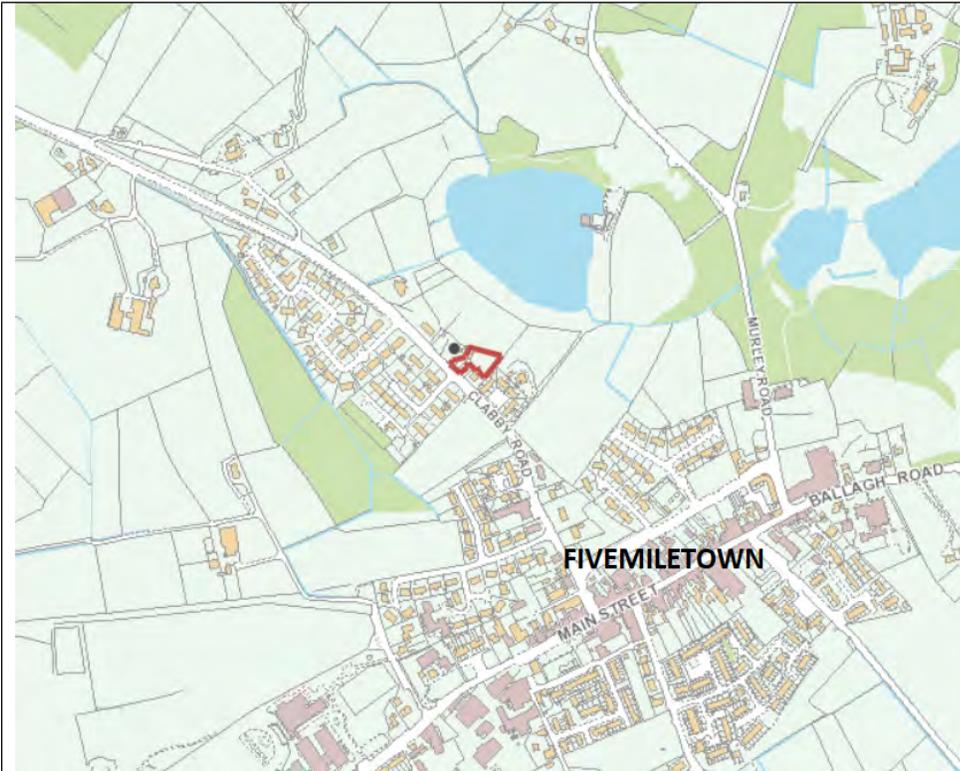
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies within the settlement limits of Fivemiletown towards the northern limits and also outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010.



The red line comprises an irregular shaped plot of land which includes an access between numbers 41 and 43 Clabby Road, which is a narrow grassed area as well as the existing tarred access of number 43 and opens into a larger square corner in the south portion of a larger agricultural field.



The roadside boundary is a low cropped hedgerow with a small portion of a low block wall, the rear

boundary is undefined on the ground, the eastern boundary is again a low cropped native species hedgerow and the western boundary is the divide between the site and number 43 which is made up of a small shed. The land is relatively flat.

## Description of Proposal

The proposal seeks outline planning for 4 luxury apartments. The applicant has provided an indicative layout and guide elevation below.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### Planning Assessment of Policy and Other Material Considerations

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

The following documents provide the primary policy context for the determination of this application:

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Dungannon and South Tyrone Area Plan 2010
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 7 - Quality Residential Environments

### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, no third-party objections were received.

### **History on Site**

There is no relevant planning history on this site.

### **Key Policy Considerations/Assessment**

The site sits within the designated settlement limits of Fivemiletown as defined within the DSATP2010.

The SPPS gives specific provision for housing in settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential development in settlements. As such, existing policy will be applied. Planning Policy Statement 7 (PPS7): Quality Residential Environment applies. Policy QD1 states planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment and requires all criteria to be met which are considered below.

Due to the location within Fivemiletown the occupants of the proposed development would be able to make use of local facilities in the village.

The proposed development seeks outline for four apartments and therefore is of a relatively small scale and as such no drainage assessment is required and the applicant is not required to provide necessary neighbourhood facilities.

As previously mentioned the site is within close proximity to local facilities within Fivemiletown and to local public transport links.

The proposed (indicative) layout drawing 2A would not cause conflict to any neighbouring or adjoining land uses.

Having considered all of the above I feel this proposal is acceptable and would recommend an approval

be granted for the development.



#### **Planning Policy Statement 7 - Quality Residential Environments**

Policy QD 1 of PPS 7 (Quality in New Residential Development) states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment.

It also states that all proposals for residential development will be expected to conform to all of the following criteria:

a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas; - the proposal is for 4 units which on the indicative plan would be in the form of one large property. The indicative site layout demonstrates that the proposed number of units is achievable in the site whilst still providing an acceptable level of private parking and outdoor space, both for the proposed units and existing development.

b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development; -

The proposal will have no impact on any features of archaeological or built heritage.

c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area; - This is an outline planning application and due to the size of the site (less than 1 ha) and the nature and scale of the development, (less than 25 units) it is not felt that an area of public

open space is required. As well as this, the retention of the existing mature SE boundaries will be conditioned as well as details on new additional planting, especially along the Northern provided should a reserved matters application be forthcoming.

d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development; - the proposal site is situated within a convenient and location within walking distance of the centre of the village of Fivemiletown, occupants would be able to make use of local facilities.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures; - the proposal site is located within a convenient location within the village of Fivemiletown thus movement into the village could be by the use of a private car or alternatively either by foot or bike.

f) adequate and appropriate provision is made for parking - Individual off street parking has been indicated for each proposed unit. The indicative layout shows 6 parking spaces, therefore an acceptable rate of 1.5 cars per unit is achievable. The access arrangements were accessed by DFI Roads and they advised they had no objections subject to conditions.

g) the design of the development draws upon the best local traditions of form, materials and detailing; - as this is an outline application no form or detailing will be approved, however, the applicant has submitted an indicative layout and taking this into consideration, as well as the specifics of the site and the existing built form, it is considered a modest 2 storey design (similar to the indicative drawing) could be accommodated on site.

h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; - design and layout has not been established at this point however due to the surrounding existing vegetation and having considered the submitted block plan I don't foresee any unacceptable adverse effect on existing or proposed properties. At reserved matters stage the proposal can be designed and landscaped appropriately so as to have minimal impact on the surrounding neighbouring properties.

i) the development is designed to deter crime and promote personal safety. - this is a modest housing development proposal and sufficient off street parking and private amenity space can be provided.

NI Water were consulted and have no objections subject to the construction of a private Wastewater Treatment Works which was shown on the indicative layout. Having discussed this at internal group, it has been agreed to attach a negative condition to this approval requiring written agreement between the applicant and NI Water on these issues prior to the commencement of development on site.

This is an outline application the finalised details of layout, landscaping and dwelling design are not a consideration at this stage, this will be a matter for a forthcoming reserved matters or full planning application.

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

Condition 1

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

Condition 2

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

Condition 3

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 70.0m to the West and 2.4mx 60.0m to the East for both access points shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

Condition 4

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

REASON: To ensure waiting vehicles do not encroach onto the carriageway.

Condition 5

At Reserved Matters stage parking and servicing shall be in accordance with the

requirements of the current published Parking Standards.

Reason: To ensure the provision of adequate parking facilities to meet the needs of the development and in the interests of road safety and the convenience of road users.

**Condition 6**

None of the residential units hereby approved shall be occupied until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

Reason: In the interests of residential amenity and to ensure there is a satisfactory means of sewage disposal.

**Condition 7**

The existing hedgerow and vegetation along the Southern and Eastern boundaries of the site shall be retained and shall be allowed to grow on or as agreed in writing with the Council

Reason: To ensure the maintenance of screening to the site.

**Condition 8**

During the first available planting season after the occupation of the building for its permitted use, a native species hedgerow including trees shall be planted along the Northern boundary of the site in accordance with a scheme submitted to and approved by the Department at Reserved Matters stage.

REASON: In the interest of visual amenity and to ensure a visible break between the settlement limits and the open countryside.

**Signature(s):** Peter Hughes

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	30 May 2023
<b>Date First Advertised</b>	12 June 2023
<b>Date Last Advertised</b>	12 June 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 39 Clabby Road Fivemiletown Tyrone BT75 0QU The Owner / Occupier 17 Meadowview Fivemiletown Tyrone BT75 0PZ The Owner / Occupier 2 Meadowview Fivemiletown Tyrone BT75 0PZ The Owner / Occupier 41 Clabby Road Fivemiletown Tyrone BT75 0QU The Owner / Occupier 8 Lakeview Crescent Fivemiletown Tyrone BT75 0PY	
<b>Date of Last Neighbour Notification</b>	9 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  Environmental Health Mid Ulster Council-Planning Response2 LA09-23-0597.pdf NI Water - Multiple Units West-LA09-2023-0597-O.pdf NI Water - Multiple Units West-LA09-2023-0597-O.pdf DFI Roads - Enniskillen Office-04-07-2023.docx Environmental Health Mid Ulster Council-Planning Response LA09-23-0597.pdf	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

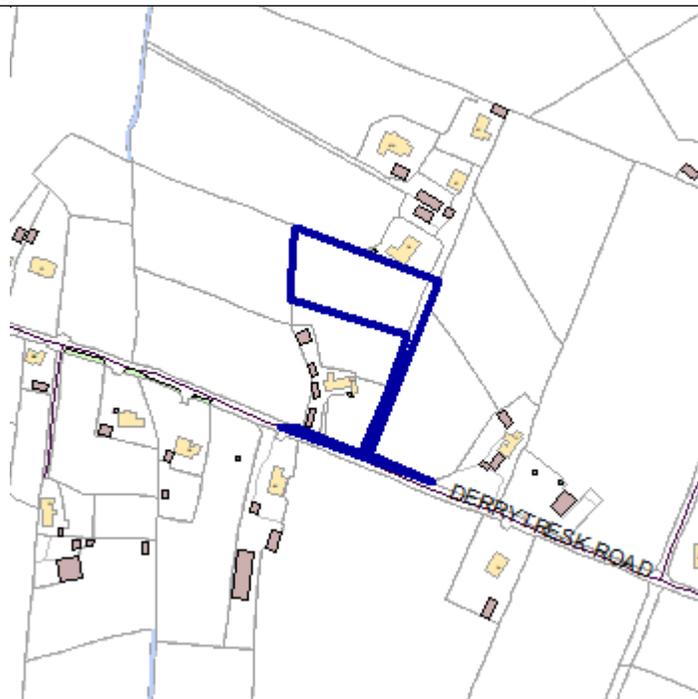


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2023/0629/O	<b>Target Date:</b> 19 September 2023
<b>Proposal:</b> Proposed gap site for dwelling and domestic garage	<b>Location:</b> Lands Approx 60M NE of 45 Derrytresk Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mary Daya 45 Derrytresk Road Coalisland BT71 4QL	<b>Agent Name and Address:</b> McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b> <p>This proposal at the outset was applied for as the development of a small gap site under Policy CTY 8 of Planning Policy Statement 21 'Ribbon Development'. During the processing of the application as it was not considered to meet the exception within Policy CTY 8 to permit a dwelling on a small gap site the applicant was given the opportunity to submit a farm case for consideration under Policy CTY 10 Dwellings on Farms. A farm case was submitted however it was not considered sufficient to demonstrate that the farm business that has been established for at least 6 years and is currently active.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0629-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan approx. 2.37km southeast of Annaghmore and 2km north of the Tamnamore roundabout.

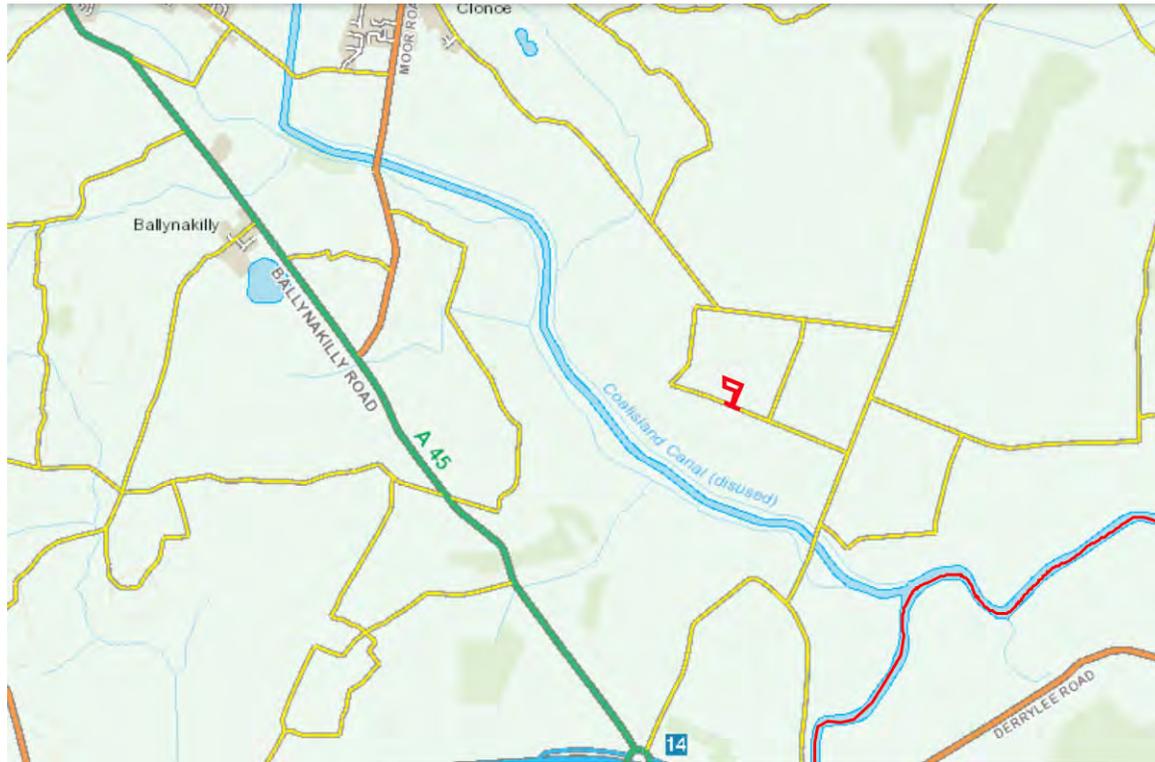


Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively flat plot comprising the roadside frontage and northern half of a

much larger field. The site is bound by a line of road frontage development including 3 dwellings, nos. 39, 41 & 43 Derrytresk Road with ancillary buildings running respectively to the north of the site; and bound to the south by the remainder of its host field with a small paddock / field extending further south beyond. The small paddock / field is located to the southeast side of no. 45 Derrytresk Road, a small single storey dwelling with ancillary outbuildings.

The north boundary is defined by a relatively low close boarded fence and the west boundary by relatively low hedgerow vegetation. The southern boundary of the site is undefined onto the host field. The west boundary of the lane proposed to serve the site is undefined onto the host field and onto a small paddock / field located to the south of the host field, which it is proposes to cut through; and the east boundary of the lane proposed to serve the site is defined by relatively low hedgerow vegetation.

Views of the site will be from the Derrytresk Road when travelling west to east and vice versa over a few hundred meters on the approach to and passing along it's access of the Derrytresk Road.

Whilst the area surrounding the site is primarily rural in character comprising largely agricultural lands it has come under development pressure in recent years with a large no. of roadside dwellings, ancillary buildings and farm groups extending along both, but particularly to the south side of the Derrytresk Rd, a minor rural road.

### **Description of Proposal**

This is an outline planning application for a dwelling and domestic garage to be located on lands approx. 60m NE of 45 Derrytresk Road Coalisland.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **The following documents provide the primary policy context for the determination of this application:**

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

### **Planning History**

N/A

### **Consultees**

1. DfI Roads – were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and advised the farm business stipulated on the P1C Form accompanying the application whilst allocated in 1992 had been closed as it has had been no agricultural activity for the last 5 years.

**Dungannon and South Tyrone Area Plan 2010** - The site is located in the rural countryside outside any designated settlement.

**The Strategic Planning Policy Statement (SPPS) for Northern Ireland** - advises that the policy provisions relevant to this proposal including Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

### **Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside**

- is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS 21. This proposal has been applied for under one of these instances, the development of a small gap site under Policy CTY 8 of PPS 21 'Ribbon Development'.

Policy CTY8 states that an exception will be permitted for 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 criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings

along a road frontage without accompanying development to the rear.

I do not consider this application in principle acceptable under Policy CTY8 as the site is not located within a line of 3 or more buildings along a road frontage without accompanying development to the rear. Whilst a line of road frontage development including 3 dwellings runs immediately to the north of the site, it is not bound by road frontage development to the south. It is bound to the south by the remainder of its host field, with a small paddock / field extending further south beyond. The small paddock / field is located to the southeast side of no. 45 Derrytresk Road, small single storey dwelling with ancillary outbuildings. No. 45 Derrytresk Road does not have a road frontage therefore is unable to bookend the site's host field to the south. This proposal would also be contrary to Policy CTY14 of PPS 21 in that it would result in the extension of ribbon development along the road it fronts onto leading to a further erosion of the areas rural character.

Accordingly, the agent / applicant was advised that the proposal submitted, in Planning's opinion, does not comply with Policy CTY8 of PPS 21 and as such asked had all other cases for a dwelling in the countryside been explored? E.g. does the applicant farm, is there any investment and return from farming, does an opportunity exist under Policy CTY 10 of PPS21 for a dwelling on a farm? If there is a possible farm case information should be submitted to demonstrate compliance with Policy CTY10 of PPS 21.

The agent / applicant subsequently submitted additional information to make a case for a dwelling on a farm under Policy CTY10 of PPS21 this included:

- a completed P1C form detailing that the applicant had taken over farm business, that was established over 50 years ago, from John McNally her deceased brother. Later evidence from the applicant states the farm owner John McNally was her uncle. Noting the P1 C form completed was signed by the agent not the applicant, it appears the relationship of the applicant to the farmer business owner appears to simply have been an error, that the business owner was her uncle.
- a letter of support from the applicant stating she inherited the farmstead and has been doing works to restore it to its former glory including works to the buildings on it. That Brian Donnelly has helped with the front garden, hedges and shrubs and Seamus Donnelly a local farmer maintains the lands in a farming capacity and takes care of drains and hedges.
- a letter of support from Brian Donnelly stating that in relation to the upkeep of the farm area belonging to the applicant he has looked after and maintained the garden, hedges and shrubs.
- a letter of support from Seamus Donnelly stating he has taken the applicant's lands in conacre for the past 15-20 years. That he along with the applicant's family, who have always owned the lands, has maintained them until now cleaning drains, cutting hedges, replacing gates and fences.

The Department of Agriculture, Environment and Rural Affairs (DAERA) were consulted in relation to the farm business detailed above. DAERA advised that whilst the business was allocated in 1992, DAERA had closed it as it had no agricultural activity in the last 5 years. As such the business detailed was no longer established and the additional information as detailed above did not support that the business has been established

more than 5 years and currently active. It did not demonstrate investment and return from farming.

The agent / applicant was advised of Planning's opinion, that the proposal at present does not comply with Policy CTY10 of PPS 21 as it has not been demonstrated that the farm business is currently active and has been established for at least 6 years. That DAERA's consultation response advised the business detailed had been closed. Planning offered the agent / applicant the opportunity to submit evidence of the con acre agreement/payments to the owner and invoices/receipts for the works the owner has paid for to maintain the land in good agricultural condition for past 6 years.

The applicant / agent subsequently submitted further information regarding how the applicant's uncle's farm business that she had inherited operated largely in goodwill. This included a letter of support from the applicant's brother Peter Campbell stating the lands were maintained by the family. Whilst the additional information was taken into account it was not considered sufficient to demonstrate the applicant's investment and return from farming and that the farm business that has been established for at least 6 years and is currently active.

Bearing in mind the above, I have considered other instances listed under Policy CTY1 of PPS 21 whereby the development of a dwelling in the countryside is considered acceptable however like the infill opportunity and farm dwelling under polices CTY 8 and CTY 10 respectively this proposal fails to meet with these instances.

#### **Other Policy and Material Considerations**

I consider had a dwelling been deemed acceptable on this site in principle under one of the instances listed in Policy CTY1 of PPS 21, subject to a suitably designed scheme, it should not have had any unreasonable impact on the neighbouring properties amenity in terms of overlooking or overshadowing given the separation distances that could have been retained.

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural heritage features of significance on the site.

Flood Maps NI indicate no flooding on site.

#### **Recommendation**

Refuse

#### **Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to 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.

### Reason 2

The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the road frontage leading to a further erosion of the areas rural character.

### Reason 3

The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and has been established for at least 6 years.

**Signature(s):** Emma Richardson

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 June 2023
<b>Date First Advertised</b>	20 June 2023
<b>Date Last Advertised</b>	20 June 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 46 Derrytresk Road Coalisland Tyrone BT71 4QL The Owner / Occupier 39 Derrytresk Road Coalisland Tyrone BT71 4QL The Owner / Occupier 45 Derrytresk Road Coalisland Tyrone BT71 4QL	
<b>Date of Last Neighbour Notification</b>	9 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DAERA - Omagh-LA09-2023-0629-O.docx DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2023/0682/F	<b>Target Date:</b> 3 October 2023
<b>Proposal:</b> Retention of Block 2	<b>Location:</b> Block 2 (21,23,25 & 27) Castle Lane Mews, Thomas Street, Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Peter O'Donnell 34 Culrevog Rd Dungannon BT71 7PY	<b>Agent Name and Address:</b> Mr John Aidan KELLY 50 Tullycullion Road DUNGANNON BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

### Description of Proposal

The proposal seeks full planning permission for the retention of changes to the newly constructed apartment block two approved under planning reference LA09/2019/1305/F. The changes involves re orientation to avoid a water main traversing the site and removal for two front projections.



### Planning Assessment of Policy and Other Material Considerations

## **Policy Consideration**

### **Representations.**

At the time of writing one Representation has been received from the resident of number 6 Castlefield's.



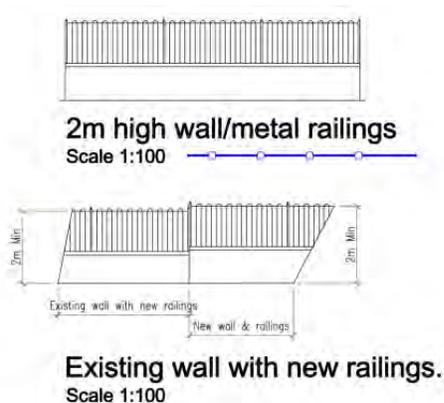
### **Objectors concerns;**

The main concern was regarding the lack of boundary treatment to the rear as depicted on the previously approved drawings.

### **Consideration of objections.**

The objector's main line of concern was regarding the replacement of a boundary wall /railings which was approved under planning referenced LA09/2019/1305/F with a wooden fence to a small portion of the rear boundary line.

The previous approval detailed a boundary wall with railings on top to a maximum height of 2 metres. See below.

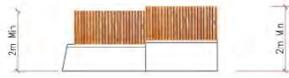


### **FENCING DETAILS**

The main reason for this boundary treatment was to stop people having a freeway of access between the apartments or Thomas Street and Castlefields. It was feared by the objectors at that stage that people would park in Castlefields and enter the site from that end as the previous boundary was a small wall.

The applicant has failed to comply with this detail and has instead constructed a 2-metre-high closed

board wooden fence.



Existing wall with new railings.  
Scale 1:100

#### FENCING DETAILS

It is my opinion that the fence as built will provide as much deterrence for a foot fall of traffic between the site and Castlefields and will have an added benefit of providing more screening between both. I would have no concerns with this change.

#### History

LA09/2019/0811/PAD - Proposed apartments - 63 Thomas Street, Dungannon.

LA09/2019/1305/F – Proposed apartments – 63 Thomas Street, Dungannon – GRANTED

#### The following policy documents will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Dungannon and South Tyrone Area Plan 2010 (DSTAP)
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 7 - Quality Residential Environments.

#### Strategic Planning Policy Statement (SPPS)

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The proposal will not impact on any priority habitat or designated sites. The proposal will not impact on residential amenity by way of overlooking, loss of light or unacceptable noise levels.

#### Dungannon and South Tyrone Area Plan 2010

The site is within the development limits of Dungannon as defined in the DSTAP 2010 and is outside the defined Town Centre Boundary. It is not subject to any Area Plan Designations or Zonings. As such, existing planning policy should be applied.

#### Mid Ulster Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the

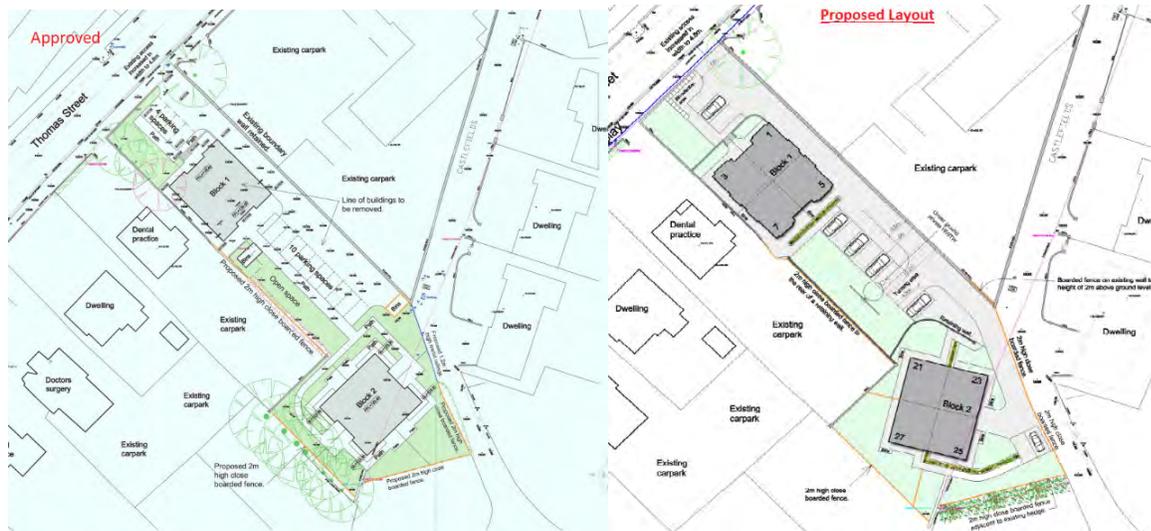
District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (Dfi) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

### Planning Policy Statement 3 - Access, Movement and Parking

The parking layout has not been effected by the proposed amendments.

### Consideration

This is a residential proposal which lies within the settlement limits of Dungannon Town Centre. The previous approval has been built and the rear most apartment block has been re-orientated and had a new front projection. See previously approved and new proposed layouts below.



There is no increase in housing density, the apartments are no bigger in footprint or higher in ridge height. There is still sufficient parking, private amenity space and garden areas. In my view there is no significant impact on the character of the surrounding area.

There are no issues of overlooking or overshadowing caused by the amendment therefore neighbouring residential amenity is not impacted. The relationships between the proposal and neighbouring dwellings were considered under the previous application and I am confident there will be no detrimental impacts.

The remainder of policy QD1 of PPS7 has been considered under LA09/2019/1305/F and the SPPS does not make any changes to PPS7.

### Other considerations

The site is not subject to flooding and neighbouring land use will not be detrimentally impacted. There are no land contamination or public health issues to consider. The building is not listed therefore LBC is not required.

### Summary of Recommendation:

Approve is recommended

Approval Conditions

Condition 1

This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

**Signature(s):** Peter Hughes

**Date:** 21 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	20 June 2023
<b>Date First Advertised</b>	3 July 2023
<b>Date Last Advertised</b>	3 July 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 1 Castlefields Dungannon Tyrone BT71 6DZ The Owner / Occupier 6 Castlefields Dungannon Tyrone BT71 6DZ The Owner / Occupier 65 Thomas Street Dungannon Tyrone BT70 1HW The Owner / Occupier 59 Thomas Street Dungannon Tyrone BT70 1HW The Owner / Occupier 61 Thomas Street Dungannon Tyrone BT70 1HW	
<b>Date of Last Neighbour Notification</b>	26 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  -	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 0203 Elevations and Floor Plans	

**Notification to Department (if relevant)**

Not Applicable

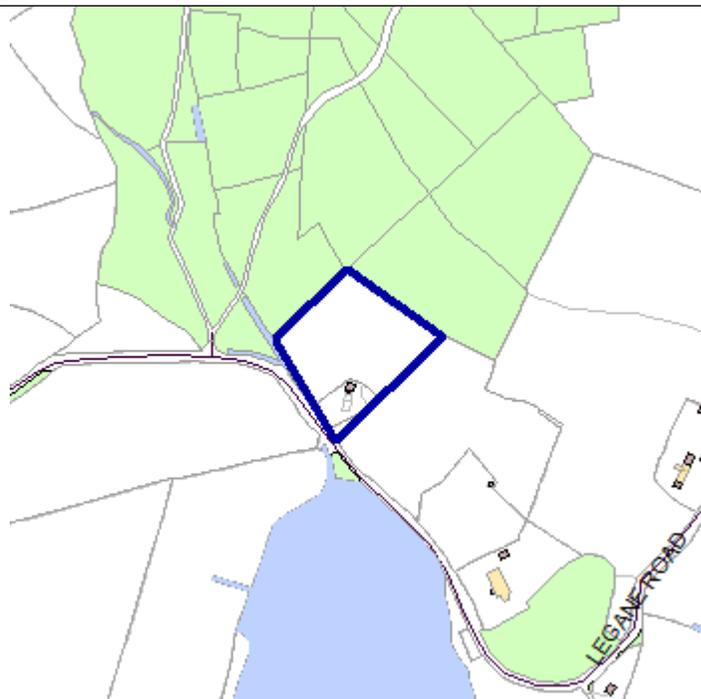


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/0711/F	<b>Target Date:</b> 12 October 2023
<b>Proposal:</b> Proposed amendment to site layout including site access as previously approved under M/2008/0556/F	<b>Location:</b> 225M West of 21 Creevelough Road Carnteel Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Tony Rafferty 39 Killyman Rd Dungannon BT71 6DG	<b>Agent Name and Address:</b> Mr John Aidan Kelly 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	2023 0711 Coversheet.docx2023 0711 Checklist.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The application site is located in the rural countryside as defined within the Dungannon and South Tyrone Area Plan 2010, adjacent the Creevelough Road approx. 4.1km south southeast of Carnteel and just north of Legane Lough.

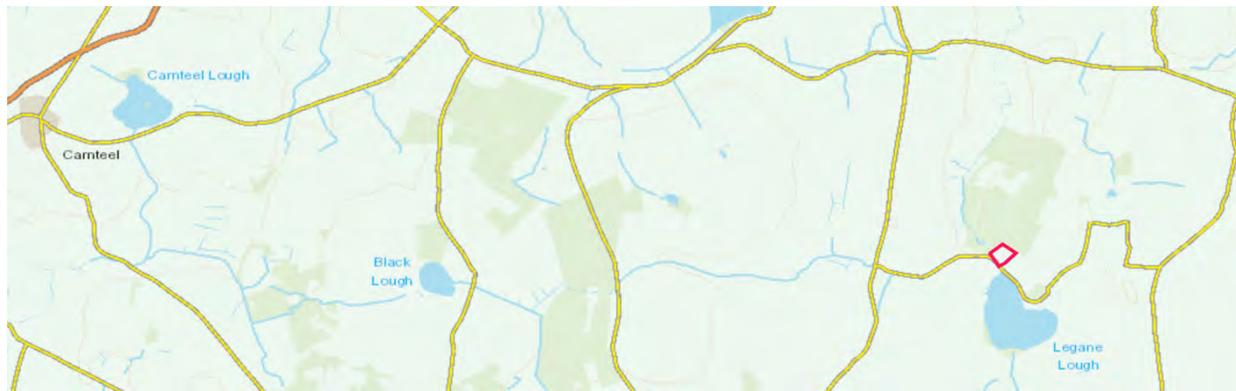


Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively square shaped plot comprising the northwest half a larger roadside field. It is bound to the northwest and northeast by trees from a neighbouring forest that runs further to its north; bound to the southwest, its roadside frontage, by a mix of mature hedgerow and tree vegetation; and undefined to the southeast onto the host field. The southern corner of the site, just back from the Creeveough Road, contains what appears to be the overgrown foundations of a dwelling approved under planning application M/2008/0556/F (see ‘Planning History’ further below). The site is accessed off the Creevelough Road via an existing access to the front of the foundations (See Fig 9, further below under ‘Planning Assessment of Policy and Other Material Considerations’).

Critical views of the site are on the southeast approach from a point passing no. 19 Creevelough Road a bungalow; and passing along its access of the Creevelough Road. Views of the site from the Creevelough Road are screened on the northwest approach by the mature vegetation bounding the site.

The wider area surrounding the site is characterised predominantly by undulating agricultural lands dispersed with single dwellings and farm holdings; the lough to its south; and the forest to its north.

## Description of Proposal

This is a full planning application for the proposed amendment to the site layout including access to a dwelling previously approved under planning application M/2008/0556/F on lands 225m west of 21 Creevelough Road Carnteel Dungannon.



Figs 3 & 4: Site layout including access previously approved under planning application M/2008/0556/F and site layout including access currently sought, respectively.

As seen above the current proposal primarily seeks a modest increase to the previously approved dwellings curtilage to its southeast and northeast / rear. The increase to the previously approved dwellings curtilage to its southeast allows for the amended access arrangements also sought. The applicant seeks to access the dwelling off the Creevelough Road immediately to its front rather than off the Creevelough Road via a sweeping drive to its northwest side.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

**The following documents provide the primary policy context for the determination of this application:**

Regional Development Strategy 2030  
Dungannon and South Tyrone Area Plan 2010  
Strategic Planning Policy Statement for Northern Ireland  
Planning Policy Statement 3 - Access, Movement and Parking  
Revised Planning Policy Statement 15 - Planning and Flood Risk  
Planning Policy Statement 21 - Sustainable Development in the Countryside  
Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Representations**

Press advertisement and Neighbour Notification has been carried out in line with the Council's statutory duty. At the time of writing, no third party representations were received.

### **Planning History**

- M/2004/1161/O - Proposed private dwelling - 225m west of 21 Creevelough Road Legane Carnteel - Granted 12<sup>th</sup> October 2004
- M/2007/0368/RM - Proposed private dwelling - 225m west of 21 Creevelough Road Legane Carnteel - Granted July 2007
- M/2008/0556/F - Change of house type as previously approved under M/2007/0368/RM - 225m west of 21 Creevelough Road Legane Carnteel - Granted 13<sup>th</sup> August 2008

The dwelling most recently approved on site under M/2008/0556/F was to have commenced before the 12<sup>th</sup> October 2010.

### **Consultees**

1. Dfi Roads were consulted in relation to access arrangements and raised no objections subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 - the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland - advises that the policy provisions of the retained policies including Planning Policy Statement 21: Sustainable Development in the Countryside and Planning Policy Statement 3: Access, Movement and Parking are retained.

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside. Policy CTY 1 of PPS 21 sets out the 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.

The principal of this development had been established through full planning approval M/2008/0556/F. The full approval was granted on 13<sup>th</sup> August 2008 and condition 1 of this approval was that the development permitted was to be begun before the 12<sup>th</sup> October 2010. On the date of site my site inspection I observed foundations on site in the general location approved. A Building Control letter submitted by the agent in support of this application confirmed that Building Control had site inspected foundations on this site on the 8<sup>th</sup> & 11<sup>th</sup> October 2010. As such, whilst there are gaps in available orthophotography between August 2010 and June 2013 (see Figs 5 & 6, below) I am content based on Building Control's letter the works (foundations) begun before the 12<sup>th</sup> October 2010 time limit and based on the orthophotography available (Fig 6, below) in the general position approved.



Fig 5 & 6: Orthophotography flown 31<sup>st</sup> August 2010 and 7<sup>th</sup> June 2013, respectively.

The above said the below pre commencement vehicular access condition was also attached to the approval to ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users:

The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted is occupied and shall be retained and kept clear thereafter.

However, when I completed my site visit on 9<sup>th</sup> September 2021 the vehicular access including visibility splays were not in place as conditioned / approved (see Fig 3, further above in 'Description of Proposal') and reviews of historical orthophotography (see Figs 5 & 6, further above) and google street view (see Figs 7-9, further below) indicated the access had not been put in place as approved and conditioned prior to the commencement of the development on site.



Fig 7: Google Street View, image capture May 2009.



Fig 8: Google Street View, image capture June 2011.



Fig 9: Google Street View, image capture July 2021.

As the access and visibility splays were not put in place, the pre commencement condition of the approval M/2008/0556/F was not met. Due to the failure to provide the access before the commencement of the works, the applicant would be unable to obtain a certificate of lawfulness. The consideration of whether or not development is lawful is a legal test set down by legislation, if it cannot meet those tests then it should be refused.

However, a planning application allows the decision makers to exercise some discretion and can take into account other factors that are material to the decision making process.

In this case the applicants have clearly commenced development on the site within the time frame set out in their planning permission. Section 63 of the Planning Act states

‘development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out— where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;’ this is the same as was stated in Article 36 of the Planning Order, which was in effect at the time the development was begun. Works have taken place on the site with the foundations put in place in the general location approved and as detailed further above Building Control’s letter confirmed they were in place before the 12<sup>th</sup> October 2010 time limit attached to M/2008/0556/F.

Members should also be aware that approval M/2008/0556/F and those before it on this site (see ‘Planning History’) appeared to be for a replacement dwelling. This assessment is based on the description of the existing use of lands on the P1 Application Forms accompanying the previous applications stating the existing use of the lands on site was ‘an existing dwelling’; the building/dwelling being shown on the accompanying plans; and google street view appearing to support this (see Fig 9 showing gable of building/dwelling). Whilst under the previous and most recent approval on site M/2008/0556/F a new upgraded access was proposed and approved to serve the new ‘replacement’ dwelling on site, I would note that a replacement dwelling proposal is not normally deemed intensification of use of an existing access and an upgrade required though the applicant may have wish to upgrade in the interests of road safety. Furthermore, whilst it would not appear the vehicular access including visibility splays were put in place as conditioned / approved there is an access to the site in the position currently proposed which available orthophotography (see Figs 5 & 6, further above) and google street view (see Figs 7-9, further below) indicate has been in place for more than 5 years and therefore is immune to enforcement action.

Whilst it is clear there is no legitimate fallback position here as the applicant does not have a certificate of lawful development in place. Members take account of the following factors that I believe are site specific and would not create a wide ranging precedent for new dwellings in the countryside:

- planning permission was previously granted for this dwelling.
- works on site have been carried out in the course of the erection of the dwelling within the lifetime of the permission lapse.
- the dwelling approved on site it would appear was a replacement dwelling whereby an upgraded access is not normally required by policy.
- an access to the site in the position currently proposed, evidence would indicate, has been in place for more than 5 years (and therefore immune to enforcement action).

I consider it would be unduly harsh to not allow the dwelling previously approved on site to be completed as approved and recommend that in this exceptional case the factors outlined above are suffice to secure it completion hence allow the consideration of the revised proposal currently sought.

The revised proposal currently sought, the new site layout including site access to the dwelling now proposed, must still comply with Policy CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character of PPS 21 and PPS 3 Access,

## Movement and Parking.

I consider the modest increase to the previously approved dwellings curtilage to its southeast and northeast / rear with ancillary planting to aid integration of the dwelling and including the amended access arrangements should result in an amended scheme with no significantly greater visual impact when viewed from surrounding vantage points than that previously approved. In fact, I consider the amended access arrangements off the Creevelough Road immediately to the front of the dwelling should have less visual impact than the previous sweeping, and in my opinion, urban style drive off the Creevelough Road approved. As such, I am content the proposed amendments / resultant scheme will integrate in accordance with Policy CTY13 and with minimal disruption to the rural character of the area in accordance with Policy CTY14. I am also content the proposal will comply with the provisions of PPS 3 as detailed further above DfI Roads were consulted in relation to access arrangements and raised no objections subject to standard conditions and informatives, which I consider reasonable to attached to any subsequent decision to comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

### **Other Policy/Considerations**

I am content given the design of the dwelling on site is to remain as previously approved and substantial separation distances are to be retained the amenity of neighbouring properties should not be adversely impacted by this proposal to any unreasonable degree, in terms of overlooking or overshadowing.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked and identified no built heritage assets or natural heritage interests of significance on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding however a watercourse runs in part along the frontage of the site. As per the previous approval on site the revised layout submitted advises that this roadside drain will be piped to Rivers Agency specification to create verge. I am content Policy FLD 4 Artificial Modification of Watercourses of PPS 15 as had been previously approved and as is the case here permits the culverting of a short length of a watercourse necessary to provide access to a development site. Any alteration of a watercourse approved by Planning will also be subject to approval from DfIRivers under Schedule 6 of the Drainage Order 1973.

**Taking all of the above into consideration I would recommend the approval of this application.**

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

All proposed landscaping as detailed on Drawing No. 01 received 28 JUN 2023, shall be carried out during the first available planting season following the occupation of the dwelling approved on site under planning application M/2008/0556/F. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

#### Condition 2

The vehicular access including visibility splays of 2m x 60m in both directions and any forward sight distance, shall be provided in accordance with Drawing No. 01 received 28 JUN 2023, within 6 months of the date of this decision. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Signature(s):** Emma Richardson

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	29 June 2023
<b>Date First Advertised</b>	10 July 2023
<b>Date Last Advertised</b>	10 July 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2002/0101/O Proposals: Site for single storey dwelling. Decision: PG Decision Date: 14-MAY-02</p> <p>Ref: M/2005/1210/O Proposals: Proposed dwelling house Decision: PG Decision Date: 16-JUL-05</p> <p>Ref: M/2005/1212/O Proposals: Proposed dwelling house Decision: PG Decision Date: 16-JUL-05</p> <p>Ref: M/2004/1161/O Proposals: Proposed private dwelling Decision: PG Decision Date: 12-OCT-04</p> <p>Ref: M/2008/0556/F Proposals: Change of house type as previously approved under M/2007/0368/RM</p>	

Decision: PG  
Decision Date: 20-AUG-08

Ref: M/2007/0368/RM  
Proposals: Proposed private dwelling .  
Decision: PG  
Decision Date: 11-JUL-07

Ref: LA09/2023/0711/F  
Proposals: Proposed amendment to site layout including site access as previously approved under M/2008/0556/F  
Decision:  
Decision Date:

Ref: M/2005/0940/O  
Proposals: Renewal of M/2002/0101/O- site for single storey dwelling.  
Decision: PG  
Decision Date: 10-AUG-05

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-2023 0711 Coversheet.docx2023 0711 Checklist.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2023/0714/O	<b>Target Date:</b> 11 October 2023
<b>Proposal:</b> Site for new dwelling and garage under Planning Policy CTY 6	<b>Location:</b> Adj to 20 Sessiagh Road Tullyhogue Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Alan Nethercott 30 Old Rectory Park Cookstown BT80 9XR	<b>Agent Name and Address:</b> Rodney Henry 2 Liscoole. Cookstown BT80 8RG
<b>Executive Summary:</b> <p>The proposed is for an outline dwelling and garage under Policy CTY 6 - Personal and Domestic Circumstances. With due sympathy to the circumstances of the case, It is recommended that the proposed development be refused for the following reason:</p> <p>It is deemed that there is insufficient evidence to suggest that a new dwelling at the proposed site is a necessary response to the particular circumstances of the case. It has been agreed that the proposed does not comply with Policy CTY 6 of PPS 21.</p> <p>It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 0.2 miles east and outside of the Tullyhogue settlement limit as defined in the Cookstown Area Plan 2010. The site for the proposed dwelling comprises the south western portion of an agricultural field which is located adjacent and east to no. 20 Sessiagh Road, Tullyhogue. The red-lined site area is approximately 0.2 ha and slopes gently and gradually up from east to west. The site sits higher than the Sessiagh Road and the proposed access is via the same. Site boundaries include low-cut hedgerow along the roadside boundary, two metre high hedgerow along the western edge of the field and a backdrop of mature trees along the rear north western boundary. The eastern boundary is undefined and opens up into the remaining and much larger field. The wider surrounding environment consists of the nearby Tullyhogue settlement to the west and elsewhere agricultural fields and farm buildings / dwellings scattered sparingly throughout the local area.

### **Description of Proposal**

This is an outline application for a new dwelling and garage under Planning Policy CTY 6.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Cookstown Area Plan 2010**

The site of the proposed development is located in the rural countryside approximately 0.2 miles east and outside of the Tullyhogue settlement limit as defined in the Cookstown Area Plan 2010.

#### **Relevant Histories**

None

#### **Representations**

No third party representation have been received to date.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan

Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings for compelling and site specific reasons under Policy CTY 6 – Personal and Domestic Circumstances. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling in the countryside for personal and domestic circumstances. This application is therefore assessed under Policy CTY 6 of PPS 21.

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

- a) The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
- b) There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

With regard to part A, It is accepted that the special personal circumstances of the applicant supported by the appropriate medical evidence has been provided. Details of the level of care required in relation to the medical conditions pertaining to the applicant is also provided, including the identity of the main carers.

The applicant's current address in the southern end of Cookstown is 3-4 miles away from the identified main carers residing at 19 and 23 Sessiagh Road. Nos. 19 and 23 are located 100 metres south west on the other side of the road from the proposed site for

the dwelling. It is accepted that the applicant would benefit from living closer to his carers at these addresses. Part A of the policy requires that satisfactory evidence be provided showing that a new dwelling is a necessary response. It is arguably the case that a new dwelling is a favourable response given the details of the hardship evidenced in this case. However, under Part B, for a new dwelling to be a necessary response it must also be provided that there are no alternative solutions to meet the particular circumstances of the case. This can include an extension or annex attached to an existing dwelling; or the conversion or reuse of another building within the curtilage of a property; or the use of a temporary mobile home for a limited period of time. The supporting statement provides that a temporary mobile home is not a solution as the applicant is not an elderly person. While it is accepted that the applicant would benefit from living closer to his carers, there is no compelling reason provided why this could not amount to an extension or domestic annex within the curtilage of no. 23 Sessiagh Road, for example. Other alternative solutions, such as the potential to rent or purchase property within Tullyhogue (which is within close proximity to the carers) have not been fully elaborated on. It is therefore agreed with the senior planner that the case is not without viable alternative solutions that could meet the needs of the applicant and his carers.

Having assessed the statement of case with the senior planner it has been agreed that the proposed outline dwelling fails to meet Policy CTY 6 of PPS 21.

Policy CTY 13 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 is considered that a well-designed dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site is complete with long-established natural boundaries in the form of hedgerow and trees, particularly along the western and north western boundaries of the site. It is therefore a site that would not rely primarily on the use of new landscaping. I am content that ancillary works and any future dwelling at the site could be designed in such a way as to integrate with the surrounding locality. The proposed complies with Policy CTY 13 at this outline stage.

Policy CTY 14 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. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. The proposed complies with Policy CTY 14 at this outline stage.

#### Other material considerations

DfI Roads were consulted in this application and provided no objection to the proposed subject to the standard RS1 condition.

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

The site is not subject to any issues pertaining to flooding.

Recommendation

With due sympathy to the circumstances of this case, it is noted that the proposed fails to comply with Policy CTY 6 of PPS 21. It is therefore recommended that this application be refused.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case has not been provided.

**Signature(s):** Benjamin Porter

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	28 June 2023
<b>Date First Advertised</b>	11 July 2023
<b>Date Last Advertised</b>	11 July 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 20 Sessiagh Road Cookstown Tyrone BT80 8SN	
<b>Date of Last Neighbour Notification</b>	4 July 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docFORM RS1 STANDARD.docRoads outline.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	

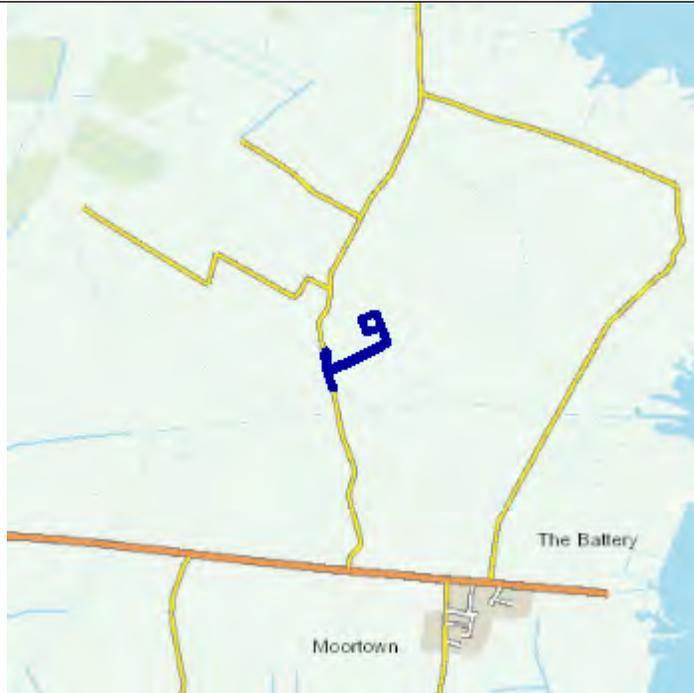


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2023/0758/O	<b>Target Date:</b> 23 October 2023
<b>Proposal:</b> Proposed site for new dwelling between 11A and 15A Annaghmore Road, Moortown, Coagh, Cookstown, BT80 0JQ	<b>Location:</b> Between 11A and 15A Annaghmore Road Coagh Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Micheal Ryan 13A Annaghmore Coagh Cookstown BT80 0JQ	<b>Agent Name and Address:</b> Gibson Design & Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docDC Checklist 1.docRods outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

This site is located in the rural countryside as defined by the Cookstown Area Plan 2010 approx. 0.7km north and 1km west of Moortown Settlement Limits and Lough Neagh,

respectively.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively flat, square shaped plot comprising an agricultural field. It is well set back approx. 150m from and accessed off the Annaghmore Road via a dead-end concrete lane serving approx. 10 detached dwellings generally low ridge but with a mix

or ridge heights, designs, and finishes including no. 13 Annaghmore Road, a 1 ½ storey dwelling of bungalow appearance and applicant's home. The site sits to the rear / north of no. 13, the east side garden of which it is to be accessed off the concrete lane through. The site is defined to the north and west by mature hedgerow vegetation; to the east including along it access of the concrete lane by a mature line of tall trees; and to the south by a fence approx. 1.2m high. The west side of its access off the concrete lane is open onto no. 13's garden.

The site sits within a cluster of development comprising detached dwellings and ancillary buildings. This development has formed to the east side of the Annaghmore Road along and to the north of the lane serving the site. In addition to no. 13 bounding the site to the south, other development within this cluster including nos. 17A & 17B Annaghmore Road and nos. 11C & 11A Annaghmore Road bounding the site to the east and northwest / west, respectively.

Critical views of this site are extremely limited from the public Annaghmore Road due to its location within the cluster of development, which alongside the existing mature vegetation bounding the site and within the wider vicinity, encloses and screens it.

The area surrounding the site is characterised by its rural location just west of the shores of Lough Neagh. The immediate area comprises generally flat lying to gently undulating agricultural landscape. The area has come under development pressure in recent times as the site sits within a substantial cluster development as detailed above.

### **Description of Proposal**

This is an outline application for a new dwelling on lands between 11A and 15A Annaghmore Road Cookstown.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **The following documents provide the primary policy context for the determination of this application:**

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Cookstown Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards

## Planning Policy Statement 21: Sustainable Development in the Countryside in particular: Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

### Relevant Planning History

I/2010/0204/O - Infill dwelling & garage - To the rear of 13A Annaghmore Road Cookstown - Refused September 2010 as contrary to PPS 21 Sustainable Development in the Countryside:

- Policy CTY1 of in that no overriding reasons why this development is essential in this rural location and could not be located within a settlement; and
- Policy CTY14 in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change and further erode the rural character of the countryside.

### Consultees

1. Dfi Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

### Consideration

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside and all other policies relevant to this proposal have been retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 - Development in the Countryside. One of these instances is a new dwelling in an existing cluster in accordance with Policy CTY 2a.

Policy CTY 2a – New Dwellings in Existing Clusters states planning permission will be

granted for a dwelling at an existing cluster of development provided all the following criteria bullet pointed criteria are met:

The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

- I consider the site lies within a small cluster of development lying outside of a farm and consisting of four or more buildings of which more than three are dwellings. The cluster, which in my opinion, has formed to the east side of the Annaghmore Road along and to the north of the lane serving the site comprises well in excess of four or more buildings and of which more than 10 are dwellings.

The cluster appears as a visual entity in the local landscape.

- I consider when travelling west to east and vice versa along the lane serving the site the aforementioned cluster of development appears as a visual entity in the local landscape.

The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.

- The cluster of development is not associated with a focal point or located at a cross-roads.

The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.

- The site is well enclosed by the mature vegetation defining its boundaries; and the residential development within the aforementioned cluster that bounds it on three sides. As detailed in the 'Characteristics of the Site and Area' further above, no. 13 Annaghmore Road bounds the site to the south; nos. 17A & 17B Annaghmore Road bound the site to the east; and nos. 11C & 11A Annaghmore Road bound the site to the northwest / west, respectively.

Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.

- Due to the enclosed nature of the site bound on three sides by development / dwellings in the cluster I am content a dwelling could be readily absorbed into the existing cluster through consolidation with no significant impact on the existing character, or visually intruding into the open countryside.

Development would not adversely impact on residential amenity.

- As this is an outline application the details of the siting, size, scale and design of the dwelling can be considered further under any subsequent reserved matter

application. However, I believe subject to a 6.5 metre ridge height a suitably designed dwelling and garage on this site should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the separation distances that can be retained, existing vegetation that can be retained and additional planting that can be requested.

Bearing in mind all the above, I would agree with the Department's previous assessment of this proposal (see 'Relevant Planning History' further above) that the site does not meet the exception within Policy CTY 8 of PPS21 for the infilling of a small gap site with a dwelling. Having however re-assessed the proposal under Policy CTY2a of PPS21 just above, albeit it has no focal point, I consider the site is clearly located in a cluster of development, meets all other parts of the Policy CTY2a, is within the overall thrust of the policy and should be approved.

### **Additional considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Flood Maps NI indicate no flooding on site.

**Recommendation:** Approve

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

#### **Condition 2**

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

Condition 3

Full particulars, detailed plans and elevations of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

Reason: To enable the Council to consider in detail the proposed development of the site.

Condition 4

The proposed dwelling shall have a ridge height no greater than 6.5 metres above finished floor level.

Reason: In the interests of visual and residential amenity.

Condition 5

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interests of visual and residential amenity.

Condition 6

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: In the interests of visual and residential amenity.

Condition 7

The existing mature trees and vegetation along the boundaries of the site as indicated in yellow on Drawing No. 01 REV.01 received on the 3 AUG 2023 shall be retained except where it is required to provide access and / or sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual and residential amenity.

Condition 8

During the first available planting season following the commencement of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of

those trees to be retained and measures for their protection during the course of development and a native species hedge to be planted along the boundaries identified green on Drawing No. 01 REV.01 received on the 3 AUG 2023. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species in the next planting season.

Reason: In the interests of visual and residential amenity.

**Condition 9**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be in accordance with the RS1 form attached to the DFI Roads comments dated 14 AUG 2023 on the Planning Portal and shall include sight splays of 2.4m x 70m in both directions onto the public road and a 70m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Signature(s):** Emma Richardson

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 July 2023
<b>Date First Advertised</b>	15 August 2023
<b>Date Last Advertised</b>	25 July 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  13B Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  15 Annaghmore Road Ardboe Cookstown Tyrone BT80 0JQ  The Owner / Occupier  17B Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  11C Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  13A Annaghmore Road Ardboe Cookstown Tyrone BT80 0JQ  The Owner / Occupier  13 Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  11 Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  11B Annaghmore Road Cookstown Tyrone BT80 0JA  The Owner / Occupier  17A Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  11A Annaghmore Road Cookstown Tyrone BT80 0JQ  The Owner / Occupier  15A Annaghmore Road Cookstown Tyrone BT80 0JQ</p>	
<b>Date of Last Neighbour Notification</b>	20 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2004/0609/O  Proposals: Dwelling (ridge height 7.2m)  Decision: PG  Decision Date: 14-JUL-04</p>	

Ref: I/1996/0012

Proposals: Site for dwelling and garage

Decision: WITHDR

Decision Date:

Ref: LA09/2023/0758/O

Proposals: Proposed site for new dwelling in infill between 11A and 17B Annaghmore Road, Moortown, Coagh, Cookstown, BT80 0JQ

Decision:

Decision Date:

Ref: I/2003/0813/O

Proposals: Proposed site for dwelling

Decision:

Decision Date:

Ref: I/2000/0081/O

Proposals: Dwelling.

Decision: PG

Decision Date: 05-OCT-00

Ref: I/1988/0207

Proposals: NEW BUNGALOW

Decision: PG

Decision Date:

Ref: I/2000/0898/RM

Proposals: Dwelling & domestic garage

Decision: PG

Decision Date: 26-FEB-01

Ref: M/2006/0187/Q

Proposals: Change of use from electrical store to an engineering building.

Decision: 211

Decision Date: 27-JAN-06

Ref: I/2003/0052/O

Proposals: Dwelling

Decision: PG

Decision Date: 18-MAR-03

Ref: I/1992/0275

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/2001/0011/F  
Proposals: Proposed Domestic Dwelling & Garage  
Decision: PG  
Decision Date: 01-MAR-01

Ref: I/2004/0327/O  
Proposals: Domestic dwelling  
Decision:  
Decision Date:

Ref: I/2000/0429/O  
Proposals: Site for dwelling  
Decision: PG  
Decision Date: 18-AUG-00

Ref: I/1997/0392B  
Proposals: Erection of dwelling and garage  
Decision: PG  
Decision Date:

Ref: I/1997/0392  
Proposals: Erection of dwelling  
Decision: PG  
Decision Date:

Ref: I/2005/1221/RM  
Proposals: Dwelling & garage.  
Decision: PG  
Decision Date: 30-NOV-05

Ref: I/2007/0251/RM  
Proposals: 1 No. dwelling  
Decision: PG  
Decision Date: 16-JUL-07

Ref: I/2009/0036/F  
Proposals: Single storey granny flat extension to rear comprising of living room, bedroom shower and new utility and internal alterations to existing ground floor utility and bathroom  
Decision: PG  
Decision Date: 14-MAY-09

Ref: I/2013/0286/F  
Proposals: Replacement dwelling and garage  
Decision: PG  
Decision Date: 10-DEC-13

Ref: I/1994/0267

Proposals: Extension and Alterations to Dwelling

Decision: PG

Decision Date:

Ref: I/2002/0387/O

Proposals: Proposed domestic dwelling

Decision: PG

Decision Date: 06-SEP-02

Ref: I/2013/0013/F

Proposals: Change of use from garage to disabled shower room

Decision: PG

Decision Date: 08-APR-13

Ref: LA09/2021/0429/F

Proposals: Proposed extension to dwelling to create additional living, dining, kitchen accommodation

Decision: PG

Decision Date: 21-JUN-21

Ref: I/2010/0204/O

Proposals: Infill dwelling & garage

Decision: PR

Decision Date: 28-SEP-10

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2023/0760/O	<b>Target Date:</b> 23 October 2023
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> Lands approximately 600M West of 10B Beaghbeg Road, Cookstown
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Stephen McGurk 10 Beaghbeg Road Cookstown BT80 9PE	<b>Agent Name and Address:</b> MOR Architects Ltd 11 Dunamore Road Cookstown BT80 9NR
<b>Executive Summary:</b> <p>The current application is presented as an approval, however it is being presented at Committee as an exception to policy.</p> <p>It was considered during group discussion that this application does not comply with Policy CTY 8 as it cannot be deemed a substantial and built-up frontage as the policy requires a line of 3 or more buildings along a road frontage. No. 10B Beaghbeg Road does not extend to public road, therefore could not be considered as road frontage for the policy test.</p> <p>However, planning application LA09/2019/1302/O at lands 110m West of No. 12 Beaghbeg Road was approved under Policy CTY 8, and within the planning report No. 10B Beaghbeg Road was included as continuous and built up frontage. Given the fact that No. 10B was relied upon for the approval of planning application LA09/2019/1302/O, this approval must hold material weight, and therefore this application is recommended as an exception to policy.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline.docxFORM RS1 STANDARD.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is identified as lands approximately 600m West of No. 10B Beaghbeg Road, Cookstown. The proposal site is a roadside,

agricultural field which is bound by wire and post fencing. The western boundary is also bound by mature trees and hedging. The surrounding area is rural in nature, with predominantly agricultural land uses, with scattered dwellings and their associated outbuildings.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling at lands approximately 600m West of No. 10B Beaghbeg Road, Cookstown.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

##### Representations

Five neighbour notifications were issued, however no representations were received in connection with this application.

##### Relevant Planning History

No relevant planning history on this site.

### **Planning Assessment of Policy and Other Material Considerations**

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

Development in the countryside is controlled under the provisions of PPS 21: Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development area are acceptable in the countryside. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21. Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however 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.

A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. To the immediate west of the proposed site is a detached dwelling No. 8A Beaghbeg Road, and west of this property is No. 4 Beaghbeg Road. To the immediate east of the site is a small agricultural plot of land, and set back behind this land (northeast of the proposed site) lies No. 10B Beaghbeg Road. No. 10 Beaghbeg Road lies north of the site, behind the field, set back from the road.

During group discussion, it was considered this proposal does not comply with policy CTY 8, as it cannot be deemed a substantial and built-up frontage as the policy requires a line of 3 or more buildings along a road frontage. No. 10 Beaghbeg Road does not extend to public road, and No. 10B Beaghbeg Road is set back, with an agricultural plot of land separating this dwelling from the public road. Therefore, during group discussion

it was considered both these dwellings could not be considered as road frontage for this policy test.

However, it has come to light that planning application LA09/2019/1302/O at lands 110m West of No. 12 Beaghbeg Road was approved under Policy CTY 8. Within the planning report it stated:

*“I sought the views of senior planners with regards to 10B in order to determine what if any material weight can be given to the inclusion of 10B presenting a continuous and built up frontage in accordance with the definition provided by the policy CTY 8. Their consensus whilst acknowledging the 10B did not share a common frontage nonetheless it was felt that there is a visually linked with the application site from my site visit.*

*The above interpretation is reflective in the Justification and Amplification set out in para 5.33 (PPS21) interpretation of this policy a road frontage included a footpath or private lane. A ‘ribbon’ does not necessarily have to be served by individual accesses nor have a 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.”*

On this basis, No. 10B Beaghbeg Road was included as continuous and built up frontage this, and this application was approved under CTY 8. Given the fact that No. 10B was relied upon for the approval of planning application LA09/2019/1302/O, this approval must hold material weight, and therefore this application is recommended as an approval as an exception to policy.



**Other policy and material considerations**

PPS 3: Access, Movement and Parking

DfI Roads were consulted, and their response confirmed that they had no objection, subject to conditions. I am content that the access is acceptable under PPS 3.

I have no flooding, ecological or residential amenity concerns.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserve matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted shall be begun by whichever is later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or

ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

REASON: Time Limit.

Condition 2

Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

REASON: To enable the Council to consider in detail the proposed development of the site.

Condition 3

The proposed dwelling shall exhibit the traditional elements of rural design particularly in form, proportion, and finishes, as set out in the Department of Environment's Sustainable Design guide for the Northern Ireland countryside, 'Building on Tradition'.

REASON: To ensure the dwelling is in keeping with the character of the rural area.

Condition 4

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with Mid Ulster District Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the of the visibility splays. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

REASON: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

Condition 5

The proposed dwelling shall have a ridge height of less than 6.5 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.

REASON: To ensure that the development is not prominent and satisfactorily integrated into the landscape, and in keeping with the character of surrounding development and landform.

Condition 6

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

REASON: In the interest of visual amenity.

Condition 7

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with RS1 Form.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Signature(s):** Seáinín Mhic Íomhair

**Date:** 21 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 July 2023
<b>Date First Advertised</b>	25 July 2023
<b>Date Last Advertised</b>	25 July 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 7 Beaghbeg Road Cookstown Tyrone BT80 9PE The Owner / Occupier 10A Beaghbeg Road Cookstown Tyrone BT80 9PE The Owner / Occupier 8A Beaghbeg Road Cookstown Tyrone BT80 9PE The Owner / Occupier 10 Beaghbeg Road Cookstown Tyrone BT80 9PE The Owner / Occupier 10B Beaghbeg Road Cookstown Tyrone BT80 9PE	
<b>Date of Last Neighbour Notification</b>	1 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2017/1578/F Proposals: Farm dwelling for farm hands Decision: PG Decision Date: 06-JUN-18  Ref: I/1987/0200 Proposals: EXTENSION AND IMPROVEMENTS TO FARMHOUSE Decision: PG Decision Date:  Ref: I/2009/0418/F Proposals: Extension & alterations to existing dwelling comprising of single storey side extension & 2 storey rear extension comprising of living room, kitchen, utility, bedroom, bathroom Decision: PG Decision Date: 01-OCT-09	

Ref: LA09/2019/1302/O

Proposals: Proposed dwelling and domestic garage on infill site (Planning Policy CTY 8)

Decision: PG

Decision Date: 14-NOV-19

Ref: LA09/2022/0228/RM

Proposals: Proposed dwelling and domestic garage on infill site (Planning Policy CTY8)

Decision: PG

Decision Date: 20-JUL-22

Ref: LA09/2016/1024/F

Proposals: Proposed 11kv Overhead line to facilitate wind turbine at 28 Keerin Road

Decision: PG

Decision Date: 07-OCT-16

Ref: I/2010/0529/Q

Proposals: Proposed dwelling

Decision: 211

Decision Date:

Ref: I/2014/0198/F

Proposals: Dwelling and garage on a farm and proposed new access

Decision: PG

Decision Date: 27-JAN-15

Ref: I/2005/0269/O

Proposals: Proposed dwelling and domestic garage.

Decision: PG

Decision Date: 23-MAY-05

Ref: I/2005/1054/F

Proposals: Proposed dwelling & domestic garage

Decision: PG

Decision Date: 01-JUN-06

Ref: I/2013/0233/O

Proposals: Dwelling and garage

Decision: PG

Decision Date: 02-APR-14

Ref: I/1997/0496

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: I/1986/0012

Proposals: EXTENSION AND RENOVATIONS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2017/0561/F

Proposals: Retrospective planning approval to changes to house type as approved under SRNI Policies PSU by provision of accommodation in the roof space and single storey side extension for conservatory

Decision: PG

Decision Date: 30-JUN-17

Ref: I/2014/0011/F

Proposals: Proposed dwelling max ridge height 6m with detached domestic garage

Decision: PG

Decision Date: 13-MAY-14

Ref: I/2004/1198/O

Proposals: Site for Dwelling

Decision:

Decision Date:

Ref: I/1977/0251

Proposals: EXTENSIONS AND IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2023/0760/O

Proposals: Proposed dwelling

Decision:

Decision Date:

Ref: I/1976/0247

Proposals: EXTENSION TO DWELLING.

Decision: PG

Decision Date:

Ref: I/2004/0289/O

Proposals: Proposal Site for Dwelling

Decision: PG

Decision Date: 20-MAY-04

Ref: I/2004/0941/RM

Proposals: Proposed dwelling and garage.

Decision: PG

Decision Date: 16-DEC-04

Ref: I/1975/0270  
Proposals: RENOVATION TO FARMHOUSE  
Decision: PG  
Decision Date:

Ref: I/2009/0318/F  
Proposals: Proposed new dwelling on a farm.  
Decision: PG  
Decision Date: 11-DEC-09

Ref: I/1976/0262  
Proposals: MV O/H LINE  
Decision: PG  
Decision Date:

Ref: I/1976/0128  
Proposals: ERECTION OF FARM BUNGALOW  
Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc  
DFI Roads - Enniskillen Office-Roads outline.docxFORM RS1 STANDARD.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2023/0761/O	<b>Target Date:</b> 23 October 2023
<b>Proposal:</b> Proposed house on a farm	<b>Location:</b> Lands adjacent to and immediately NW of 4 Derryvaren Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> James Campbell 10 Derryvaren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b> <p>The siting of the proposed dwelling does not cluster or visually link with the established group of buildings on the farm. The agent has stated in a supporting statement that there are health and safety reasons why the proposed dwelling cannot be located beside the farm buildings. It is stated that due to farm traffic the existing laneway to adjacent fields cannot be used. There are no planning approvals around the farm buildings to expand the farm.</p> <p>Also, the application site would add to ribbon development which is detrimental to rural character and there is limited enclosure at the site.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc Roads outline.docx FORM RS1 STANDARD.doc
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0761-O.docx
Statutory Consultee	Shared Environmental Services	LA09-2023-0761-O [No LSE] HRA 22.09.23.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The application site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. To the southeast of the site are approximately 8 dwellings all with a roadside frontage to the public road. The site itself is a portion of a larger agricultural field with a flat topography and there is low hedging at three boundaries and the rear boundary is undefined.

### **Description of Proposal**

This is an outline application for proposed house on a farm at lands adjacent to and immediately NW of 4 Derryvaren Road, Coalisland.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, no third-party objections have been received.

#### **Planning History**

There are no planning histories at the application site.

#### **Planning histories for Mr James Campbell and farm holding.**

M/2013/0113/O - Proposed infill site for house - Lands Adjacent To 10 Derryvarren Road, Derrytresk, Coalisland – permission granted 8<sup>th</sup> July 2013.

M/2013/0474/RM - Proposed dwelling and domestic garage - Lands Adjacent To 10 Derryvarren Road, Derrytresk, Coalisland – permission granted 21<sup>st</sup> January 2014.

LA09/2018/1412/O - Proposed dwelling and garage - Adjacent To 6 Derryvaren Road, Coalisland - permission granted 16<sup>th</sup> January 2019.

LA09/2019/0878/RM - Proposed dwelling and garage - Adjacent To 6 Derryvaren Road, Coalisland - permission granted 21<sup>st</sup> August 2019.

### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24<sup>th</sup> September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Dungannon and South Tyrone Area Plan 2010**

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations as defined in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes farm dwelling opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA confirmed the farm business ID as stated on the P1C form has been in existence for over 6 years and the farm is a Category 1 farm business. Also, DAERA confirmed the application site is within the farm boundary maps and farm subsidies are currently being claimed at the site and farm holding. Overall, I am content the farm business has been active for the past 6 years and is currently an active and established business.

There are dwellings to the east of the site and along the frontage to the road. I

completed land registry checks on the dwellings, and it showed Mrs Lorraine Donaghy owns these dwellings, and it was transferred to herself in May 2022 from Mr Keith Campbell. In a supporting statement submitted by the agent it is stated Mr Keith Campbell is the applicant's brother and Lorraine Donaghy is his daughter. This land has not been shown in blue and is not within the applicant's farm holding. It is stated in the supporting statement that the land at No.6 Derryvaren Road has never been part of the applicant's farm holding and has belonged to the applicant's brother for over 20 years.

However, when I completed a check on planning histories it showed that M/2013/0113/O and M/2013/0474/RM were granted approval and the applicant in both these approvals was Mr James Campbell who is the applicant in this case. This would not correlate with what has been stated in the supporting statement.

M/2013/0474/RM granted approval for a dwelling for Mr James Campbell who is the applicant in this application for a dwelling at No.10B Derryvaren Road which is directly adjacent to the farm holding. Mr James Campbell signed certificate A on this application.

M/2013/0113/O granted approval for a dwelling for Mr James Campbell who is the applicant in this application for an infill dwelling. Mr James Campbell signed certificate A on this application to show he owned the land. This application was originally submitted as a farm dwelling, and I have attached a screenshot from the farm boundary maps submitted by Mr James Campbell in this application.



Figure 1 – Image of a previous farm boundary map submitted with M/2013/0113/O.

The applicant has stated he lives at No.10 Derryvaren Road which comprises of a single storey dwelling and 2no. agricultural sheds. I am content there is an established group of buildings on the farm. The site is an agricultural field 14m northwest of the group of farm buildings at No.10 and the proposed dwelling will not cluster or visually link with these buildings at No.10. A new access is proposed to the site so the proposal will not be accessed via an existing laneway.

The applicant provided a supporting statement stating why the proposed dwelling cannot cluster with existing farm buildings. It is stated there are no other groups of buildings on

the farm which the applicant can cluster the proposed dwelling with.



Figure 2 – Image from the supporting statement.

There is a field to the northwest of the existing sheds in which the proposed dwelling could be sited in, and the proposal would use an existing laneway. Figure 2 has been submitted by the agent to show why the field at the end of the laneway could not be used. It is stated the field is used as an odour reducing paddock area and there is a cattle hard standing area. When I was on site, I did not observe a concrete hardstanding area in this field to the north of the group of farm buildings as shown in figures 3 and 4 below.



Figure 3 – Image of a field which is a possible alternative site.



Figure 4 – Orthophotography image of the existing farm grouping.

The policy in CTY 10 states that an alternative site elsewhere on the farm will be considered where there are no other group of buildings on the farm or out farm and where there are demonstrable health and safety reasons or verifiable plans to extend the farm grouping. The agent has stated there are no other farm buildings to cluster or visually link with. There are no other planning approvals for farm sheds at the filed

shown in figure 5. It is stated in the supporting statement that the field in figure 5 is not viable as there are vehicular and cattle movements along the access to the farmyard and it is not safe for health and safety reasons to have access to a farmyard.

Having accessed all the evidence, I consider the proposal does not meet all the criteria in CTY 10.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The site itself is a portion of a larger agricultural field with a flat topography and there is low hedging at three boundaries and the rear boundary is undefined. As the site has a relatively flat topography and there is a row of dwellings to the east, I consider a dwelling at this location would not be a prominent feature in the landscape. There is a low fence along the roadside boundary and a low hedge along the northwest boundary. There is minimal vegetation at the application site to create a suitable degree of enclosure. As this is an outline application the access and design will be considered at the reserved matters stage. The site is not visually linked or sited to cluster with the group of buildings on the farm at No.10 Derryvaren Road.

### **CTY 14 – Rural Character**

As stated earlier in the assessment I consider the proposal will not be a prominent feature in the landscape due to the flat topography and the proposed dwelling will be viewed with other dwellings in critical views. There is already a lot of development pressure in the immediate area from the construction of single dwellings so I consider another dwelling in this location would not have a detrimental effect on rural character. I consider a single storey dwelling at this location would respect the traditional pattern of settlement in the area as the predominant house type is a modest single storey dwelling. I believe the proposal would add to a ribbon of development as it is at the end of a row of dwellings, and this is not acceptable in the countryside as ribbon development is detrimental to rural character. I consider the proposal fails to meet all the criteria in CTY 14.

### **PPS 3 Access, Movement and Parking**

#### **Policy AMP 2 – Access to Public Roads**

The site does not access onto a protected route, so I have no concerns in this regard.

A new access is proposed at the front of the site and DFI roads had no objections to the proposal as the visibility splays are already in-situ.

### **Other Considerations**

I completed checks on the statutory map viewers and I am content there are no other ecological, built heritage or flooding issues at the application site.

The site is within Lough Neagh Ramsar Site and Shared Environmental Services were initially informally consulted and they requested a formal consultation. SES responded on the 22<sup>nd</sup> September 2023 stating they are content there will not be an unacceptable

impact on the Ramsar Site and no further assessment will be required.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 in that there is no overriding reason why the development could not be located within a settlement.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 in that the development does not cluster or visually link with the established group of buildings on the farm and there are no verifiable plans to expand the farm business at the existing building group.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that there is a limited degree of enclosure at the application site and the proposed dwelling does not cluster or visually link with an established group of buildings on a farm.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the development if permitted would add to a ribbon of development and this is detrimental to rural character.

**Signature(s):** Gillian Beattie

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	10 July 2023
<b>Date First Advertised</b>	25 July 2023
<b>Date Last Advertised</b>	25 July 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 4 Derryvaren Road Coalisland BT71 4QP	
<b>Date of Last Neighbour Notification</b>	11 July 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1980/0537  Proposals: GENERAL PURPOSE HOUSE  Decision: PG  Decision Date:</p> <p>Ref: M/2013/0113/O  Proposals: Proposed infill site for house .  Decision: PG  Decision Date: 08-JUL-13</p> <p>Ref: LA09/2019/0878/RM  Proposals: Proposed dwelling and garage  Decision: PG  Decision Date: 21-AUG-19</p> <p>Ref: M/2011/0535/PREAPP  Proposals: Dwelling on a farm  Decision: ELR  Decision Date: 02-AUG-13</p> <p>Ref: LA09/2023/0761/O  Proposals: Proposed house on a farm</p>	

Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads outline.docxFORM RS1  
STANDARD.doc  
DAERA - Omagh-LA09-2023-0761-O.docx  
Shared Environmental Services-LA09-2023-0761-O [No LSE] HRA 22.09.23.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01 Rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2023/0787/F	<b>Target Date:</b> 7 November 2023
<b>Proposal:</b> Development for 2 no detached storey and a half chalet dwellings with associated access and car parking	<b>Location:</b> Site N of 1 Mullagh Court Maghera
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> SC Properties 84 Ballynease Road Portglenone BT44 8NX	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b> <p>This application is being presented to members of the planning committee with the recommendation to approve. The reason it is being presented to members is that NI Water are recommending refusal as the proposed development may experience nuisance due to its proximity to the operations of the existing Wastewater Treatment Works. However, it is felt unnecessary for the planning department to request the applicant to produce an Odour Encroachment Assessment due to the number of other dwellings located between the application site and the WWTW. The distance between the WWTW and the site is approximately 310m.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0787-F.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site is a small brownfield site which was formerly tennis courts and which backs onto a small development of single storey dwellings within Mullagh Court. The site is also bounded to the north-east by a number of single storey dwellings at Mullagh Close. The

site is flat, sits at road level with road frontage of 35m on Mullagh Road and 30m on Mullagh Court. The site is enclosed by a brick wall which runs along the whole boundary of the site. NI Water confirmed there was sufficient sewage capacity. DfI Roads are content subject to a condition. No objections have been received from any neighbours or third parties.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is a full planning application for the development for 2 no detached storey and a half chalet dwellings with associated access and car parking.

### **Site History**

LA09/2019/1431/O- Proposed outline development for 2 no. detached storey and a half chalet dwellings with associated access and car parking. Permission Granted 9th February 2021.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement  
PPS 3 - Access, Movement and Parking.  
PPS 7 - Quality Residential Environments.  
PPS 11: Planning and Waste Management

The SPPS has superseded PPS 1 (General Principles.). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of out build and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to any interests of acknowledged importance. The proposed development is not within an area of archaeological importance.

The SPPS gives specific provision for Housing in settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential developments in settlements. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

As the site is located on a brownfield site within the Magherafelt Area Plan 2015, the critical planning policy is therefore PPS 7.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

- (a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;*
- (b) *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*
- (c) *adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area;*
- (d) *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;*
- (e) *a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;*
- (f) *adequate and appropriate provision is made for parking;*
- (g) *the design of the development draws upon the best local traditions of form, materials and detailing;*
- (h) *the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and*
- (i) *the development is designed to deter crime and promote personal safety.*

With regards the above policy criteria, it is important to note that an outline application was approved for two detached storey and a half dwelling's granted in February 2021. Whilst this is a full planning application it does not have to comply with the conditions applied at outline. Whilst some concern was initially raised regarding the design of the dwellings, the agent has put forward a case identifying how the proposal is similar to what was approved at outline in terms of the layout of the site. I am content that given the location of the site, the development respects the character of the site and the massing of the buildings respects the character of the area. I have no concerns regarding any impacts on archaeological or built heritage.

I am content that adequate provision has been made for private amenity space with House Type 1 providing 137sqm and House Type 2 providing 105sqm. There are two small areas of open space at the front of the development. Given the development is for two dwellings within the town, I am content that access to neighbourhood facilities is in place and that the development allows for easy access to existing footpaths and roads adjacent to the site.

Adequate space has been provided for two car parking spaces per dwelling. I am content with the design of the dwellings with regards the materials and detailing.

Some concern was raised regarding the design and the potential for overlooking on adjacent dwellings and especially the separation distance between the two proposed dwellings and the side elevations facing each other with a 6m wooden fence approximately 1m away. However, it was noted that given the outline approval, if a reserved matters application was submitted following the conditions there would still be limited separation distance between the two dwellings and would also have window openings on these elevations. The agent has removed some upper floor windows to reduce the overlooking, and I am content given the previous outline approval on site and the design of the dwellings overlooking will be reduced. House type 1 on the north side of the site allows for a 4m separation from the boundary of the adjacent dwelling, which means there is approximately 10m between this dwelling and the proposed siting of house type 1 which I feel is sufficient within this settling. I have no concerns regarding loss of light, the two proposed dwellings have been staggered slightly to reduce the risk of this and ensure both dwellings get as much light as possible. I have no concerns regarding crime or personal safety on this site.

### PPS 3: Access, Movement and Parking

DfI Roads were consulted on the proposal and offered no objection subject to a condition being applied.

### PPS 11: Planning and Waste Management

Policy WM 5 states that proposals involving the development of land in the vicinity of existing or approved waste management facilities and wastewater treatment works (WWTWs), will only be permitted where all the following criteria are met:

- *it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and*
- *it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.*

The site is located approximately 310m north east of a Waste Water Treatment Works (WWTWs). I am content that the proposal will not prejudice or unduly restrict activities permitted to be carried out within the waster water treatment works.

NI Water were consulted on the proposal and recommend that this application for planning approval should be Refused as the proposed development may experience nuisance due to its proximity to the operations of the existing Wastewater Treatment Works. However, as has been the case with previous applications Mid Ulster District

Council is content that there is a large number of dwellings located within closer proximity of the WWTW and do not feel an odour assessment is required in this instance. A recent planning application LA09/2022/1451/O which is located 100m north east of this application site also received the same response from NI Water and in that case Environmental Health were consulted to determine if there had been any reports of nuisance from the WWTW which there had not been. From this, I am recommending the application can be approved despite NI Waters comments as it would unnecessary for an Odour Encroachment Assessment to be carried out given the number of existing dwellings located within closer proximity. NI Water confirmed there was sufficient sewage capacity.

### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

#### Condition 2

All hard and soft landscaping shall be carried out in accordance with drawing No. 01 Rev A and drawing No 04. The works shall be carried out prior to the occupation of any part of the development hereby approved.

Reason: To ensure the dwellings integrate and to protect residential amenity.

#### Condition 3

The vehicular access including visibility splays 2.4 x 60 metres North and 2.4 x 70 metres South and a 60-metre forward sight distance, shall be provided in accordance with Drawing No. 01 Rev A prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays

shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Signature(s):** Ciaran Devlin

**Date:** 20 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	25 July 2023
<b>Date First Advertised</b>	8 August 2023
<b>Date Last Advertised</b>	8 August 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  15 Mullagh Road Maghera Londonderry BT46 5EB  The Owner / Occupier  13 Mullagh Road Maghera Londonderry BT46 5EB  The Owner / Occupier  RNN - 5 Mullagh Road Maghera Londonderry BT46 5EB  The Owner / Occupier  1 Mullagh Close Maghera Londonderry BT46 5GA  The Owner / Occupier  28 Mullagh Court Maghera Londonderry BT46 5RH  The Owner / Occupier  8 Mullagh Road Maghera Londonderry BT46 5EB  The Owner / Occupier  6 Mullagh Road Maghera Londonderry BT46 5EB  The Owner / Occupier  2 Mullagh Court Maghera Londonderry BT46 5RH  The Owner / Occupier  1 Mullagh Court Maghera Londonderry BT46 5RH</p>	
<b>Date of Last Neighbour Notification</b>	15 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1991/6017  Proposals: HOUSING DEVELOPMENT CARRICKNAKEILT ROAD MAGHERA  Decision: QL  Decision Date:</p> <p>Ref: H/2001/0005/Q  Proposals: Disposal Of Surplus Lands  Decision: 300  Decision Date: 08-FEB-01</p>	

Ref: H/1995/0516  
Proposals: HOUSING DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: H/1992/6098  
Proposals: DISPOSAL OF LAND CARRICKNAKEILL RD MAGHERA  
Decision: QL  
Decision Date:

Ref: H/1993/6134  
Proposals: SITE FOR RESIDENTIAL DEVELOPMENT OFF MULLAGH ROAD  
MAGHERA  
Decision: QL  
Decision Date:

Ref: LA09/2023/0787/F  
Proposals: Development for 2 no detached storey and a half chalet dwellings with  
associated access and car parking  
Decision:  
Decision Date:

Ref: LA09/2019/1574/F  
Proposals: Proposed demolition of existing derelict dwelling/outbuildings and erection of  
18 new dwellings  
Decision: PG  
Decision Date: 04-AUG-20

Ref: H/1984/0417  
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

Ref: LA09/2017/1400/O  
Proposals: Proposed demolition of existing derelict dwelling/ outbuildings and erection of  
16 new dwellings  
Decision: PG  
Decision Date: 02-NOV-18

Ref: LA09/2017/0961/PAD  
Proposals: Residential Development (16 units)  
Decision: PAD  
Decision Date: 30-AUG-17

Ref: LA09/2019/1431/O

Proposals: Proposed outline development for 2 no. detached storey and a half chalet dwellings with associated access and car parking.

Decision: PG

Decision Date: 09-FEB-21

Ref: H/1979/0155

Proposals: LAYOUT OF HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/1986/0386

Proposals: Alterations and additions to bungalow

Decision: HISAPP

Decision Date:

Ref: H/1991/0215

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/1978/0023

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: H/1988/0005

Proposals: CHANGE OF USE OF PRIVATE STORES TO COMMERCIAL STORES

Decision: PG

Decision Date:

Ref: H/1993/0137

Proposals: HOUSE AND GARAGE

Decision: PG

Decision Date:

Ref: LA09/2015/0330/TPO

Proposals: Consent to carry out works to a protected tree.

Decision: WTPOG

Decision Date: 23-JUN-15

Ref: H/1990/0413

Proposals: STORE

Decision: PG

Decision Date:

Ref: H/2003/0152/F

Proposals: Sun Lounge  
Decision: PG  
Decision Date: 11-APR-03

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx  
NI Water - Multiple Units West-LA09-2023-0787-F.pdf

**Drawing Numbers and Title**

Site Location Plan    Plan Ref: 01  
Proposed Plans        Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2023/0789/O	<b>Target Date:</b> 9 November 2023
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Adjacent to and East of Eglishe GAA 108 Killyliss Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr James Muldoon 4 Sanaghanroe Manor Eglishe Dungannon BT70 1QL	<b>Agent Name and Address:</b> J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	2023 789 RS1 Form.doc2023 789 checklist.docx
Statutory Consultee	DFI Roads - Enniskillen Office	2023 789 Coversheet.docx
Statutory Consultee	NI Water - Single Units West	LA09-2023-0789-O.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NI Water - Single Units West	LA09-2023-0789-O.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-23-0789.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The applicant has stated on the P1 form that they will use a septic tank to dispose of sewage. I consulted NI Water who recommended the proposal for refusal as the site is within the odour boundary of Wastewater Assets. However, I consulted Environmental Health who responded with no objections as the site is located approximately 220m from the nearby Wastewater Treatment Works. Environmental Health also state there is a housing development closer to the treatment works than the site and there have been no complaints from the residents of the housing development. As Environmental Health are content with the proposal, I have no concerns.

### **Characteristics of the Site and Area**

The application site is within the settlement limits of Eglish as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is urban in character and across the road from the site is a primary school. To the west of the site is Eglish GAA club building and playing pitch and to the southeast is a housing development under construction. The application site is an agricultural field with a flat topography and a roadside frontage to the public road. Along the south and east boundaries of the site are established trees and these are within the applicant's control.

### **Description of Proposal**

This is an outline application for proposed dwelling and garage at lands adjacent to and East of Eglish GAA , 108 Killyliss Road, Dungannon.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the

Council's statutory duty. At the time of writing, no third-party objections were received.

## **Planning History**

No planning history at the application site.

## **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

## **Dungannon and South Tyrone Area Plan 2010**

The site is within the settlement limit of Eglish as defined in the Dungannon and South Tyrone Area Plan 2010, so SETT 1 is the relevant policy which applies. The site is not within any other zonings or designations within the Plan. As the proposal meets all the criteria in QD1 in PPS 7 I am content it also meets SETT 1.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

## **Planning Policy Statement 7 – Quality Residential Environments**

### **Policy QD 1 – Quality in New Residential Development**

The application site is a field with a flat topography and a roadside frontage to the public road. Along the south and east boundaries of the site are established trees and these are within the applicant's control. Across the road is a primary school and to the west is Eglish GAA club. As the site is within the settlement limit of Eglish and there are a mix of residential and non-residential uses in the area, I have no concerns about the principle of a dwelling on this site. As this is an outline application no design for the dwelling has been submitted but the applicant has shown a proposed sitting for the dwelling. The dwelling will be located to the rear of the site along the southern boundary. To the southeast of the site is a relatively new housing development with two storey dwellings so I have no concerns about a two-storey dwelling at this location.

There is no landscape, archaeological or built heritage features at the application site.

In terms of public open space, this is not a requirement due to the size of the proposal. In terms of private open space this would be shown at the Reserved Matters Stage, but I am content and due to the size of the site I consider a garden area of at least 40sqm

could be created at the site.

The application site is on the edge but within the village of Eglisish and there is a footpath from the entrance to the main shops and services within Moy. I am content there is adequate access to walk and cycle from the site.

As this is an outline application the parking and turning not been shown. This material consideration will be considered at a Reserved Matters Stage, but sufficient space would need to be provided for the parking and turning of at least 2 cars within the curtilage of the site.

Again, the design of the dwelling would be considered at the Reserved Matters Stage.

As the dwelling will be sited to the rear of the site and there is established hedging along the eastern boundary where the Shamnoy housing development is located I am content there will not be unacceptable overlooking or overshadowing.

As the site is located within a settlement and there are other commercial, community and residential buildings nearby this would reduce the potential for crime.

Overall, I am content that the proposal complies with all the criteria in QD 1 in PPS 7.

### **Planning Policy Statement 3 – Access, Movement and Parking**

#### **Policy AMP 2 – Access to Public Roads**

The site does not access onto a protected route, so I have no concerns in this regard.

DFI roads were consulted and were content with the proposal subject to visibility splays of 2.4m x 60m in both directions.

#### **Other Considerations**

I completed checks on the statutory map viewers and I am content there are no ecological, built heritage or flooding issues at the application site.

The applicant has stated on the P1 form that they will use a septic tank to dispose of sewage. I consulted NI Water who recommended the proposal for refusal as the site is within the odour boundary of Wastewater Assets. However, I consulted Environmental Health who responded with no objections as the site is located approximately 220m from the nearby Wastewater Treatment Works. Environmental Health also state there is a housing development closer to the treatment works than the site and there have been no complaints from the residents of the housing development. As Environmental Health are content with the proposal, I have no concerns.

Site is within the 200m buffer zone of archaeological site TYR061:030 and I consulted Historic Environment Division who responded with no concerns.

## Summary of Recommendation:

Approve is recommended

The proposal is recommended for approval as it complies with all the criteria in QD1 in PPS 7 – Quality Residential Environments and AMP 2 in PPS 3 Access, Movement and Parking.

## Approval Conditions

### Condition 1

As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted shall be begun by whichever is later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason. Time Limit.

### Condition 2

Approval of the details of the access, siting, design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.

Reason. To enable the Council to consider in detail the proposed development of the site.

### Condition 3

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

### Condition 4

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 60m in both directions and any forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

**Condition 5**

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those hedgerows to be retained and measures for their protection during the course of development. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

**Signature(s):** Gillian Beattie

**Date:** 22 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	27 July 2023
<b>Date First Advertised</b>	7 August 2023
<b>Date Last Advertised</b>	7 August 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier RNN - 108 Killyliss Road Dungannon BT70 1LE The Owner / Occupier RNN - 109 Killyliss Road Dungannon BT70 1LE The Owner / Occupier Roan Primary School 114 Killyliss Road Dungannon Tyrone BT70 1LE	
<b>Date of Last Neighbour Notification</b>	4 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-2023 789 RS1 Form.doc2023 789 checklist.docx DFI Roads - Enniskillen Office-2023 789 Coversheet.docx NI Water - Single Units West-LA09-2023-0789-O.pdf Historic Environment Division (HED)- NI Water - Single Units West-LA09-2023-0789-O.pdf Environmental Health Mid Ulster Council-Planning Response LA09-23-0789.pdf	
<b>Drawing Numbers and Title</b>  Site Location Plan    Plan Ref: 01 Proposed Plans        Plan Ref: 02	

**Notification to Department (if relevant)**

Not Applicable

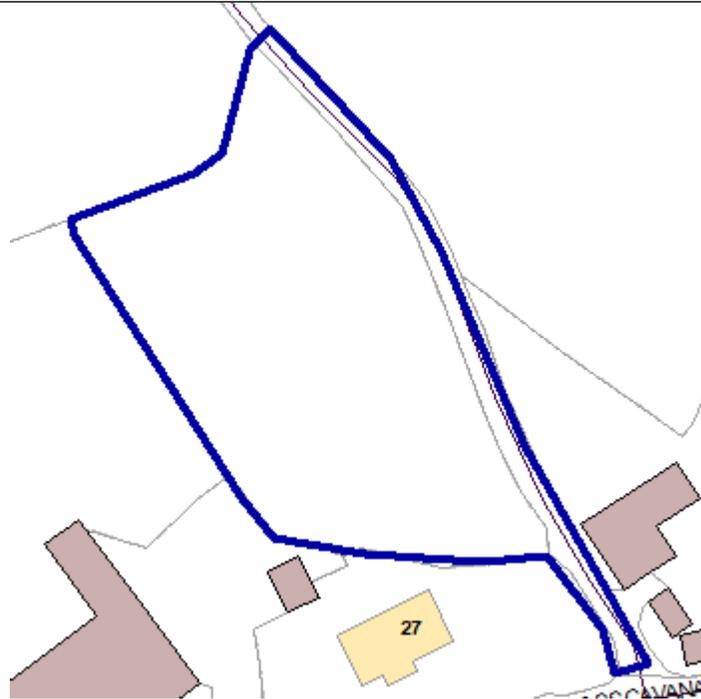


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2023/0851/O	<b>Target Date:</b> 27 November 2023
<b>Proposal:</b> Site for Dwelling	<b>Location:</b> Lands Approx. 78 Metres North West of 25 Crosscavangh Road, Galbally
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ms Sinead Kelly 2 Lurgylea Road Galbally Dungannon BT70 2NX	<b>Agent Name and Address:</b> Mr Aidan Begley 76 Main Street Pomeroy Dungannon BT70 2QP
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Rivers Agency	659633 - Final reply.pdf
	DFI Roads - Enniskillen Office	Roads outline.docx FORM RS1 STANDARD.doc
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The application site is located at lands 78 Metres North West of 25 Crosscavangh Road,

Galbally. The application site is located in the countryside and is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The topography of the site is flat and is enclosed by existing vegetation and trees. The application site is surrounded by other agricultural fields and dwellings.

### **Description of Proposal**

Site for Dwelling

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

#### **Representations**

Two (2) neighbouring properties were notified regarding the application and no representations have been received.

#### **Planning History**

There are no planning histories at the application site.

#### **Consultees**

**DFI Rivers** were consulted regarding the application and have offered advice.

**DFI Roads** were consulted and offer no objection subject to condition.

#### **Mid Ulster Development Plan 2030 – Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

#### **Dungannon and South Tyrone Area Plan 2010**

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP

has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwelling in an existing cluster opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling in a cluster CTY 2a is the relevant policy in the assessment.

### **Policy CTY 2a – New Dwellings in Existing Clusters**

Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;*

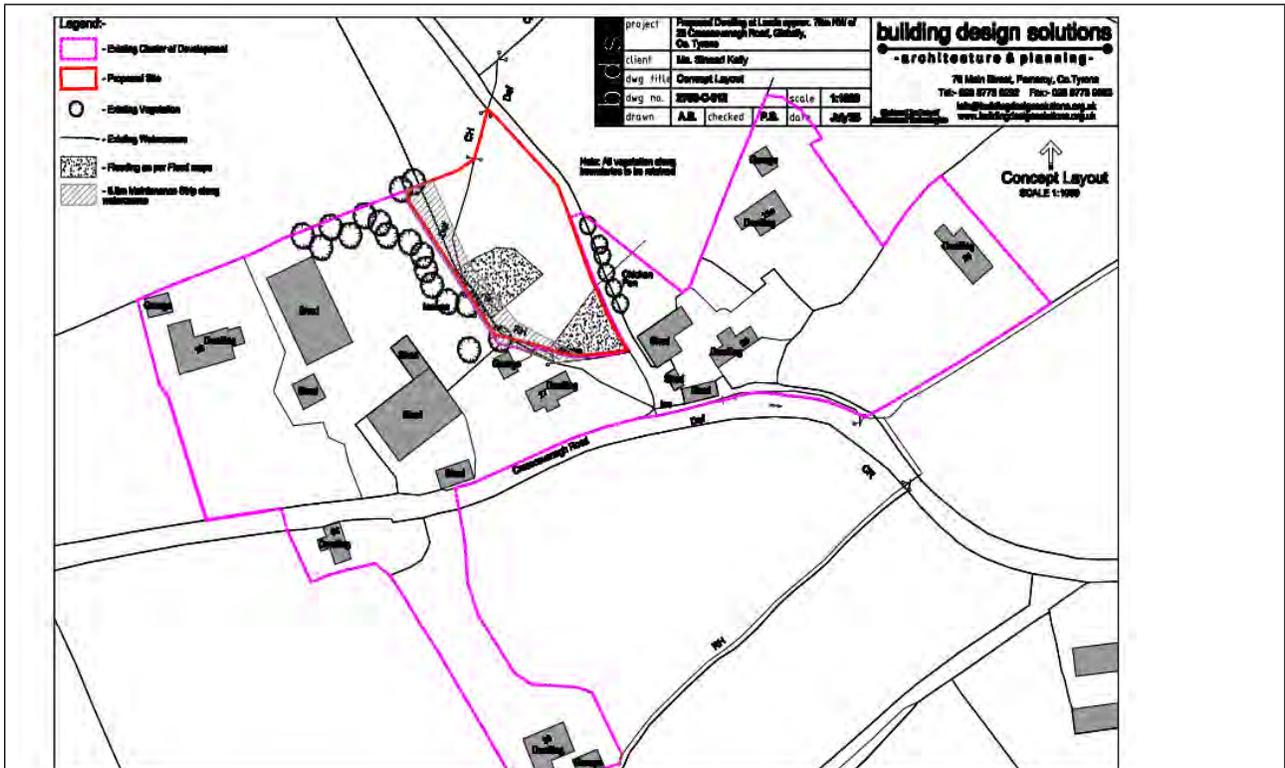


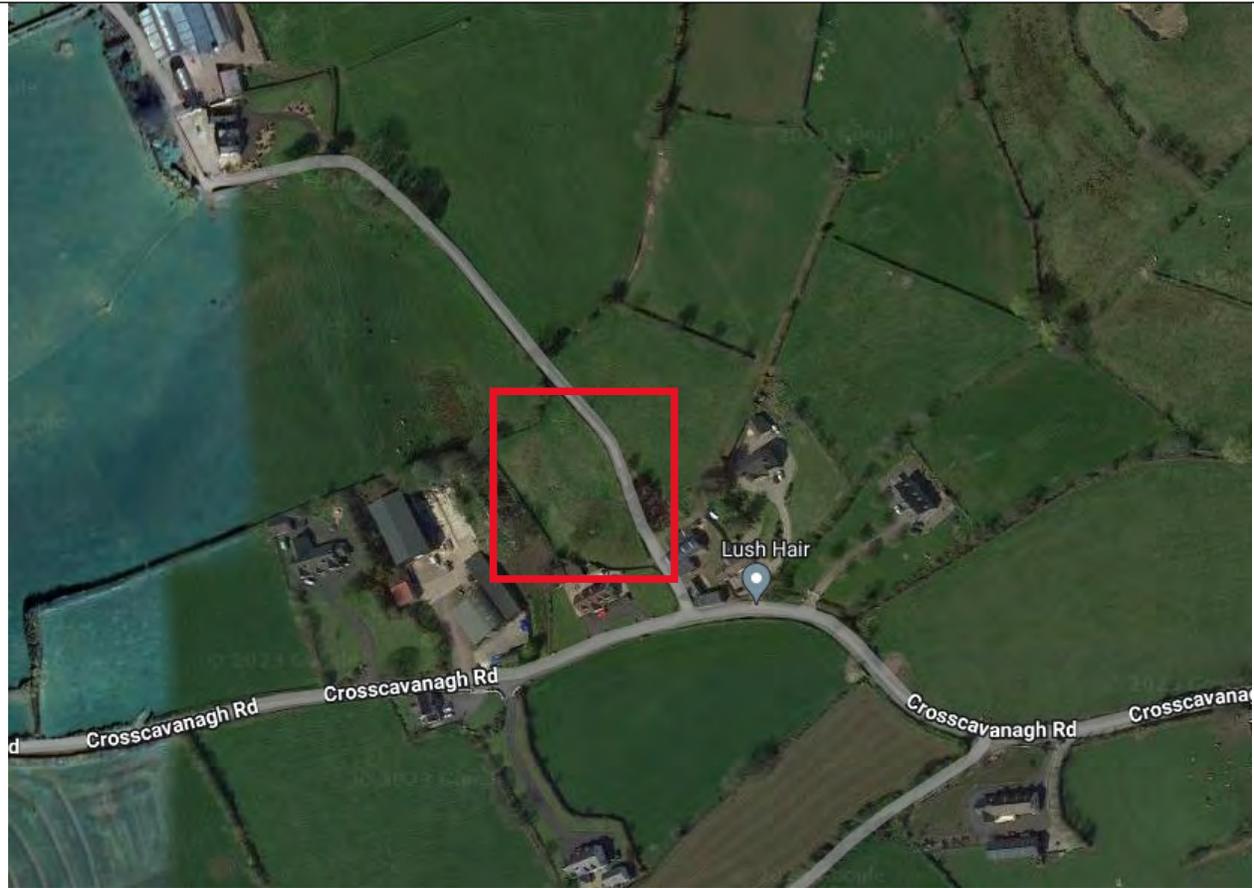
Figure 1 shows location of application site outlined in red.

As shown in figure 1 above I consider that the location of the application site can be considered a cluster as it lies outside a Farm and there is 3 or more buildings present on figure 1 as shown above. The application site lies outside a farm and sits on the edge of the cluster. The farm is not in the cluster only development.

- the cluster appears as a visual entity in the local landscape;

I believe that the cluster appears as a visual entity in the local landscape given its location and existing boundary treatment helping it integrate into the existing landscape.

- the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,



*Figure 2 shows an aerial of the application site outlined in red.*

Figure 2 shows that there is no focal point located in the vicinity of the application site and the site is not located near a cross road thus it fails to meet this criteria.

- *the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;*

Figure 2 shows that there is existing vegetation and trees that enclose the site however the application site is only bounded by development in the identified cluster on one side.

- *development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;*

The development cannot be absorbed into the existing cluster as it sits on the edge of the existing cluster within the development.

- *development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

**CTY 13 – Integration and Design of Buildings in the Countryside**

As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the existing vegetation which would provide a backdrop.

**CTY 14 – Rural Character**

As stated earlier in the assessment I am content a dwelling in this location would not be a prominent feature in the landscape. There are already several other dwellings in the immediate area so I am of the opinion another dwelling would not exacerbate a suburban style build-up of development. I consider a dwelling in this location would not have an unacceptable impact on rural character.

**Other Considerations**

I have completed checks on the statutory map viewers and I am content there are no ecological, built heritage issues. However, DFI Rivers have stated that a portion of the site is located within a fluvial flood plain, this can be seen as acceptable if the application dwelling is not built on this portion of the site.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site sits outside a cluster of development, it is not bounded on at least two sides with other development, the site is not located at a cross-roads and the site is not associated with a focal point.

**Signature(s):** RJ McAleer

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	14 August 2023
<b>Date First Advertised</b>	28 August 2023
<b>Date Last Advertised</b>	28 August 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 29 Crosscavanagh Road Dungannon Tyrone BT70 3BJ The Owner / Occupier 27 Crosscavanagh Road Dungannon Tyrone BT70 3BJ	
<b>Date of Last Neighbour Notification</b>	17 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  Rivers Agency-659633 - Final reply.pdf DFI Roads - Enniskillen Office-Roads outline.docxFORM RS1 STANDARD.doc DFI Roads - Enniskillen Office-DC Checklist 1.doc	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	
<b>Notification to Department (if relevant)</b>  Not Applicable	





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 December 2023	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2023/1031/F	<b>Target Date:</b> 12 January 2024
<b>Proposal:</b> Removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage	<b>Location:</b> On Lands Approx 35M North of No 12 Drumard Road Kilrea
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Colm Bradley 74 DRUMNAGARNER ROAD KILREA BT51 5TE	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  The application to seeking to remove a siting condition of LA09/202/1294/O. The agent has not identified any alternative sites where they would want the dwelling to be located. However, it is felt anywhere outside the area shaded in green would result in either the dwelling being a prominent feature in the landscape given the topography of the site and also if sited anywhere in the southern portion of the site would result in it not being sited to cluster or visually linking with an established group of buildings on the farm. No consultations were required, and three neighbouring properties were notified.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site comprises of the front portion of a larger agricultural field. The site rises in an eastern direction from the road to the eastern boundary of the red line, which is currently undefined as the field extends further east and levels out. A low-level hedge defines the northern and western

boundary with mature trees and hedges defining the southern boundary. The surrounding area is a mix of agricultural and single dwellings, with a dwelling located directly north of the site with associated farm buildings and a third-party dwelling and buildings located to the south.

### **Representations**

No third party written representations have been received.

### **Description of Proposal**

This is a planning application which is seeking the removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage.

### **Planning History**

LA09/2022/1294/O- Site for dwelling & domestic garage. Permission Granted 17th April 2023.

### **Planning Assessment of Policy and Other Material Considerations**

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SSPS)  
PPS 21: Sustainable Development in the Countryside  
Mid Ulster Local Development Plan 2030- Draft Plan Strategy

This application seeks to remove condition 4 of planning approval LA09/2022/1294/O which states the following:

*“The proposed dwelling shall be sited in the area shaded green on drawing L01 uploaded on Public Access on 22 Aug 2022*

*Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21”*

The image below is a snippet of the approved drawing for reference to show the location of the area shaded in green.



The above application was initially presented to the planning committee with the recommendation to be refused as the site failed to comply with criteria C of CTY 10 in that it wasn't visually linked or sited to cluster with an established group of buildings on the farm. It was also recommended to refuse as it would be contrary to CTY 13 and CTY 14 on the basis it would be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

The application was subsequently deferred for an office meeting where it was agreed that the senior planning officer would carry out a site visit to investigate potential alternative sites which would be more policy compliant.

Following this the senior planning officer identified the site in the northwest corner of the site would meet the visual linkage test contained within CTY 10. It would be obvious when travelling along the Drumard Road that a dwelling sited here was connected with the farm buildings at number 10. It was also felt it would be necessary to condition the ridge height, floor space and siting of the dwelling to ensure that the dwelling would not appear prominent on this road side site, which does rise considerably in an Eastern direction. It was also acknowledged that the applicants preferred location for siting a dwelling does not cluster with the farm buildings and in my opinion would fail to visually link with the farm buildings. It would result in a dwelling that would be too prominent on this site hence why the siting condition was applied.

The agent has applied to remove this siting condition however has not indicated an alternative siting.

In this case I feel the siting condition which was applied to planning approval LA09/2022/1294/O is necessary to ensure that the proposal complies with policy CTY 10 criteria C, Policy CTY 13 and CTY 14. Should a dwelling be sited to the immediate east of the green shaded area, it would comply with criteria C of CTY 10, but it would fail to comply with CTY 13 and CTY 14 in that it would appear as a prominent feature in the landscape as it would be located at the top of a hill with no existing screening or

buildings to allow it to integrate. Anywhere in the southern portion of the red line a dwelling would not be sited to visually link or cluster with the established buildings on the farm. It would result in a gap between the established farm buildings and the proposed dwelling. Furthermore, a dwelling sited in the south eastern portion of the site, which was the preferred siting location for the application LA09/2022/1294/O would also fail to fully meet CTY 10, CTY 13 and CTY 14.

Therefore, it is recommended that this application to remove condition 4 should be refused as it would result in a dwelling being sited anywhere outside the area shaded in green and resulting in a dwelling being a prominent feature in the landscape and/or would not be sited to cluster or be visually linked to the established group of buildings on the farm.

### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 10 of Planning Policy Statement 21 as the applicant has not demonstrated that the removal of the condition would result in a dwelling being sited to visually link or cluster with an established group of buildings on the farm.

#### **Reason 2**

The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 13 of Planning Policy Statement 21 as the applicant has not demonstrated that the removal of the condition would not result in a dwelling being prominent feature in the landscape nor that there is a suitable degree of enclosure for a new dwelling to integrate into the landscape.

#### **Reason 3**

The removal of condition 4 from LA09/2022/1294/O is contrary to Policy CTY 14 of Planning Policy Statement 21 as the applicant has not demonstrated that the removal of the condition would not result in a dwelling being an unduly prominent feature in the

landscape.

**Signature(s):** Ciaran Devlin

**Date:** 23 November 2023

<b>ANNEX</b>	
<b>Date Valid</b>	29 September 2023
<b>Date First Advertised</b>	10 October 2023
<b>Date Last Advertised</b>	10 October 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 12A Drumard Road Kilrea Londonderry BT51 5TJ The Owner / Occupier 10 Drumard Road Kilrea Londonderry BT51 5TJ The Owner / Occupier 12 Drumard Road Kilrea Londonderry BT51 5TJ	
<b>Date of Last Neighbour Notification</b>	3 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2017/0016/NMC  Proposals: Proposed in line movement of Structure IMP73 (2 metres) West of previously approved location.  Proposed in line movement of Structure IMP56 (1.5 metres) South West of previously approved location.  All alterations are contained within the land ownership boundaries of the landowners who requested the movements.  Decision: CG  Decision Date: 17-JAN-17</p> <p>Ref: LA09/2022/1294/O  Proposals: Site for dwelling &amp; domestic garage  Decision: PG  Decision Date: 17-APR-23</p> <p>Ref: LA09/2017/0002/DC  Proposals: Discharge of conditions 11 and 12 on Planning Application LA09/2015/1294/  Decision: AL  Decision Date: 13-JAN-17</p>	

Ref: LA09/2023/1031/F

Proposals: Removal of Condition 4 (the dwelling shall be sited in the area shaded green on drawing L01) of Planning Application LA09/2022/1294/O for a dwelling and domestic garage

Decision:

Decision Date:

Ref: LA09/2017/0017/NMC

Proposals: Proposed in line movement of Structure IMP42 (11 metres) West of previous approved location.

Proposed in line movement of Structure IMP76 (3 metres) West of previously approved location.

Proposed in line movement of Structure IMP79 (30 metres) North to boundary hedge.

This will require a further movement to structures AM78 (10 metres) and AM81 (10 metres) to accommodate this new structure location.

All alterations are contained within the land ownership boundaries of the landowners who requested the movements.

Decision: CG

Decision Date: 17-JAN-17

### **Summary of Consultee Responses**

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### **Drawing Numbers and Title**

### **Notification to Department (if relevant)**

Not Applicable