

A

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 7 February 2017 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Clarke, Chair

Councillors Bateson, Bell, Cuthbertson, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid, Robinson, J Shiels (7.04pm)

Officers in Attendance

Mr Tohill, Chief Executive
Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Ms Doyle, Senior Planning Officer
Mr Marrion, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McEvoy, Head of Development Plan & Enforcement
Ms McKearney, Senior Planning Officer
Nora Largy, Council Solicitor
Una Mullen, Council Solicitor
Miss Thompson, Committee Services Officer

Others in Attendance

Applicant Speakers

I/2014/0399/F	Mr Ward
	Mr Ross
LA09/2015/1239/F	Ms Jobling
LA09/2016/0848/O	Mr Cassidy
LA09/2016/0997/F	Mr Cassidy
LA09/2016/1032/O	Councillor S McGuigan
	Mr Gourley
LA09/2016/1034/F	Councillor D Molloy
	Ms Muldoon
LA09/2016/1583/O	Mr Cassidy
LA09/2016/1599/O	Mr Cassidy
LA09/2016/1739/A	Mr Cassidy

The meeting commenced at 7.03 pm

P014/17 Apologies

None.

P015/17 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

Councillor Glasgow declared an interest in planning application I/2014/0399/F and requested speaking rights for this application.

P016/17 Chair's Business

Councillor J Shiels entered the meeting at 7.04 pm

The Planning Manager advised that as the Council Solicitor was now on maternity leave arrangements had been put in place with Belfast City Council to provide legal advice at planning committee meetings and welcomed Nora Largy and Una Mullen to tonight's meeting.

The Planning Manager referred to recently received consultation from Planning Appeals Commission in relation to examination of Local Development Plans. The Planning Manager advised that he had a couple of concerns in relation to the consultation with regard to the following –

Soundness – Planning Commission suggests that onus should be on objectors to say why soundness had not been met. The Planning Manager suggested that Council reply stating that this is not made so onerous as to rule out valid representations because the person making the representation does not understand the tests in relation to soundness.

Representations from Agents – The Planning Manager suggested that the Council should advise that unjustified representations such as those which object to every policy or proposal in a plan and/or every other representation should be ruled out on the grounds of soundness.

The Planning Manager advised that as the timeline for response to this consultation was before the next Planning Committee meeting he requested that the committee delegate power to himself to reply to the consultation with the comments as above.

The Chief Executive advised that the consultation response should be brought to February Council meeting.

Proposed by Councillor Mallaghan
Seconded by Councillor McPeake and

Resolved That Council submit response to Planning Appeals Commission consultation highlighting the concerns in relation to soundness and representations prior to deadline. This item to be brought to February Council meeting and should Members then decide to withdraw the Council response it can do so.

Councillor McPeake asked if there was any update in relation to concerns he had raised at a previous meeting in relation to untimely response times from Roads Service.

The Planning Manager advised that he had met with the Divisional Roads Manager in the past week and had raised the concerns in relation to response times to

consultations particularly over the summer months and reminded Roads Service of their statutory duty. The Planning Manager advised that the Divisional Roads Manager recognised that there had been issues in relation to response times over the summer period and that assurances were given that Roads Service were endeavouring to make their response within 21 days and that in 70% of cases they were doing so. It was hoped that any backlog to responses should be cleared within the next week.

P017/17 Confirm Minutes of the Planning Committee Meeting held on Monday 9 January 2017

Proposed by Councillor Reid
Seconded by Councillor Kearney and

Resolved That the minutes of the meeting of the Planning Committee held on Monday 9 January 2017, (P001/17 – P009/17 & P013/17), were considered and, subject to the foregoing, signed as accurate and correct.

Matters for Decision

P018/17 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

I/2014/0399/F Wind turbine, blade to tip height of 92.5m, to compliment approval I/2010/0211, at Beltonanean Mountain, Cookstown for Mr Graham Bell

Ms McCullagh (SPO) presented a report on planning application I/2014/0399/F advising that it is recommended for refusal.

The Chair advised the committee that requests to speak on the application had been received and invited Mr Ward to address the committee in the first instance.

Mr Ward stated that he lived at 8 Beltonanean Road with his wife and family and that the rear of his property, which is the main living area, would face the direction of the wind turbine. Mr Ward questioned the effect this turbine would have on his family and the amenity of their property. Mr Ward commented that Beltonanean Mountain was one of the last mountains in the area not to have a wind turbine situated.

Mr Ward referred to previous application for a wind turbine at a nearby location which went to appeal and advised of site visit made by Planning Appeals Commission. Mr Ward advised that the appeal made in relation to the previous application was subsequently dismissed and referenced the impact that application would have on his property.

Mr Ward expressed his concern on the effect the granting of this wind turbine and any further wind turbines would have and felt there would be a generational impact as families would move away from the area. Mr Ward appealed to Members to refuse this application for the sake of his family.

Mr Ross, agent for the applicant stated that he felt the reasons for refusal were weak and advised that the proposed location for the turbine was a farmed hill and was not a highly sensitive area. Mr Ross advised that the proposed turbine would indeed be located to the rear of 8 Beltonanean Road but would be some 860m from the property and stated that there was already an approval for a turbine which is closer to the same property. Mr Ross stated that he felt it was unreasonable to refuse the application based on amenity and that consultees had not reported any issues. Mr Ross advised that the applicant had made a fair application which was for green energy.

Councillor Glasgow advised he was speaking on behalf of the applicant and that he would be in support of the application. Councillor Glasgow referred to Beltonanean Mountain as a farming mountain and not a tourist area and questioned the amount of money Beltonanean Mountain attracts as a tourist location. Councillor Glasgow stated he understood the concern of objectors but felt that the application would blend into the mountain and would create valuable green energy. The Councillor also reminded Members that consultees had not objected to the application.

Councillor Glasgow withdrew to the public gallery.

Councillor Mallaghan stated that it was incumbent upon Council to protect the Sperrins and referred to the remarks made that the ground is used for farming. Councillor Mallaghan advised he would expect this in an AONB and would propose the officers recommendation to refuse the application.

Councillor Cuthbertson asked if this application was being jeopardised because there was an additional wind farm application.

The Planning Manager advised that this application was not being refused because of another application but that it was important for Members to be aware of other applications which the officer had highlighted in their report. The Planning Manager advised that Members should not give determining weight to an undetermined application and should not assume it will be approved.

Councillor Cuthbertson advised that the reason he made the comment was because there was a perception that it was easier to get a wind farm approved than a single turbine.

Councillor Bell seconded Councillor Mallaghan's proposal to refuse the application.

Councillor Reid asked if wind farms and single turbines were considered under different policies. The Councillor also asked when the area was declared an AONB when there was a wind turbine which had already been approved.

The Planning Manager advised that the Sperrins were declared an AONB in 1968.

Councillor Reid asked that being the case, why a turbine had already been approved.

Ms McCullagh advised that SPPS had been introduced since last approved application.

The Planning Manager advised that wind farms and single turbines were both considered within the same policy, he stated that while there may be a perception that it was easier to get a wind farm approved this was not a reality. The Planning Manager advised that every application would be considered on its own merits.

Councillor Reid asked why NIEA had come back with no objections when they would be the body responsible for AONBs.

The Planning Manager advised that Council determine the outcome of an application, not NIEA, he stated that in relation to natural heritage, NIEA had looked at the impact of the application on wildlife and were satisfied that there would be no detrimental effects on upper Ballinderry River.

Councillor McKinney proposed the approval of the application.

The Planning Manager asked Councillor McKinney if he appreciated the height of the proposed turbine.

Councillor McKinney advised that he did appreciate the height of the turbine and referred to the proximity and overlooking some houses have to each other within towns.

Councillor McElDowney questioned why the applicant needed a second turbine.

Councillor Robinson seconded Councillor McKinney's proposal.

Members voted on Councillor Mallaghan's proposal to refuse the application –

For – 9

Against - 5

Resolved That planning application I/2014/0399/F be refused on grounds stated in the officer's report.

Councillor Glasgow left the meeting at 7.45 pm

**M/2014/0596/F Erection of single wind turbine and associated cabinets
435m NE of 14 Culkeeran Road, Moy for Mr Adrian
McMullan**

The Chair, Councillor Clarke asked Members to note addendum to planning agenda in relation to this application which read –

The description of the development should read 'Erection of single wind turbine and associated cabinets.'

The revised proposal has been re-screened against Planning EIA Regulations (NI) 2015.

The following condition should be attached to any permission 'One turbine only shall be erected within the area of the site identified in red on drawing No 01 Rev 1 24 Nov 2016. Reason: This turbine is in substitution for M/2012/0432/F and is not for an additional turbine.'

Application listed for approval subject to conditions as per the officer's report and as above.

Proposed by Councillor J Shiels
Seconded by Councillor Kearney and

Resolved That planning application M/2014/0596/F be approved subject to conditions as per the officer's report and as listed above.

M/2014/0599/F Substitution of single wind turbine approved under planning permission M/2011/0465/F with a single wind turbine measuring 40m to hub with 27m blade length, including associated electricity cabinets 262m SW of 39 Culkeeran Road, Moy for Mr Brian McLean

The Chair, Councillor Clarke asked Members to note addendum to planning agenda in relation to this application which read –

The description of the development should read 'Substitution of single wind turbine approved under planning permission M/2011/0465/F with a single wind turbine measuring 40m to hub with 27m blade length, including associated electricity cabinets.'

The revised proposal has been re-screened against the Planning EIA Regulations (NI) 2015.

Application listed for refusal on grounds listed in officer's report.

Proposed by Councillor Mallaghan
Seconded by Councillor McKinney and

Resolved That planning application M/2014/0599/F be refused on grounds stated in the officer's report.

LA09/2015/1092/F Dwelling approx. 30m W of Castledawson Open Farm, 46 Leitrim Road, Castledawson for Mr Martin McMullen

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bateson
Seconded by Councillor Bell and

Resolved That planning application LA09/2015/1092/F be approved subject to conditions as per the officer's report.

LA09/2015/1239/F Variation of condition 6 of previous approval (H/2007/0546/F) to vary the hours of operation to Mon-Fri 5am to 10 pm and Sat 5am to 3pm at Blackpark Road, Toomebridge for Creagh Concrete Products Ltd

Councillor Glasgow rejoined the meeting at 7.50 pm

Mr McCrystal (SPO) presented a report on planning application LA09/2015/1239/F advising that it is recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Ms Jobling to address the committee.

Ms Jobling asked the committee to approve this application as it would mean operatives could remove moulds from dry pre cast concrete in the morning and carry out quality control checks in the evening, meaning the company could work at maximum efficiency. Ms Jobling understood that the company had brought about the breach of conditions but had lodged this application to remedy the situation, she advised that the company had worked hard to rebuild itself following the downturn in the building trade and spoke in relation to the numerous contracts the company had won and the clear economic need for the variation in hours to guarantee jobs and any future contracts. Ms Jobling stated that the variation in hours would not affect local residents.

It was noted that Councillor Bell had not been present in the meeting for the entire presentation of this application and could therefore not take part in any debate/vote relating to it.

Councillor Mallaghan referred to the evidence provided in relation to contracts awarded and guarantee of jobs which had only come to light tonight. The Councillor felt that there were only a small number of objections and if the application was not granted it would have a detrimental effect on the company by not being able to deliver on contracts and provide security of employment.

Councillor Reid felt that given the evidence which had come to light he would propose the approval of the application.

Councillor Bateson stated he would second Councillor Reid's proposal to approve the application and was surprised more objections had not been received given that the application site was located within a built up area. Councillor Bateson felt that an economic case of need had been put forward in relation to the viability of the company.

Councillor McKinney declared an interest in this application and requested to speak on it.

Councillor McKinney stated that he believed that the statements made by the agent in relation to the application and the future viability of the company to be true.

Councillor McKinney withdrew to the public gallery.

The Planning Manager advised that the application was before Members tonight as the company had wanted a decision to be made on it. The Planning Manager stated that the pertinent issues of the application related to noise and disturbance and he felt that the conditions suggested by Environmental Health were not sufficient enough. The Planning Manager suggested that the application be deferred for noise assessments to be carried out and allow for Council to specify what noise levels are acceptable as part of conditions.

The Chair, Councillor Clarke asked Members if they were prepared to defer the application.

Councillor McPeake stated he would propose that the application be deferred but had concerns that other issues were being brought into consideration.

Councillor Reid asked what time delay would be involved in a deferral.

Councillor Mallaghan stated he thought the conditions in relation to noise could be attached to an approval of the application.

The Planning Manager advised that the applicant was currently in breach of a condition notice and that Council could move to Court at any moment. The Planning Manager suggested that Councillors could give an instruction not to move to Court during deferral.

The applicant advised Members of a meeting taking place the next day in regard to the award of a further contract on which a decision on the variation of hours would depend.

Councillor Mallaghan expressed concern that deferral of the application would create additional problems and that it appeared to be the general feeling amongst Members that the variation of hours should be allowed.

Councillor Glasgow stated he would not support the deferral of this application.

Councillor McAleer asked for clarification in relation to conditions cited by Environmental Health.

The Planning Manager advised that the conditions cited by Environmental Health did not meet legal requirements and therefore would not be enforceable. The Planning Manager reminded Members that the applicant had broken the conditions of their previous approval and again suggested that this application be deferred to enable a solution to be found regarding noise that was both workable and enforceable. The Planning Manager further suggested that during this deferral it would not be expedient for Council to push forward regarding enforcement of breach.

Councillor Mallaghan commented that this could not be the only business within Mid Ulster that starts operations at 5am and is in close proximity to residential property.

Councillor Reid stated that his previous proposal was to approve the application outright but would amend this to allow for conditions in relation to noise to be attached.

The Planning Manager stated that the argument in relation to jobs being lost was erroneous.

Council Solicitor advised that the solution offered by the Planning Manager would allow the business to continue operating as it is at the moment as no action would be taken on breach of condition during deferral meaning there was no urgency in Members taking a decision tonight. The Solicitor urged caution to Members in making a decision that could become subject to challenge.

Councillor Glasgow stated that one of the objectors listed was a business and did not feel a variation of hours would have any detrimental effect on the business. The Councillor also highlighted that none of the objectors had requested to speak on the application nor were in attendance tonight and felt that the only way to overcome the breach of conditions was to approve the application.

The Planning Manager advised that if the Council was challenged by a third party he would not be able to give evidence to state that there were no issues in relation to noise given both a condition had been breached and that a noise abatement order was served by Council.

In response to the Chair's question the Council Solicitor advised she was aware of previous cases of Councillors being surcharged.

Councillor McKinney referred to the success of the company and the manner in which it had built itself up again in recent years.

The Planning Manager stated he understood the feeling of Members that the company was an important business in the area but asked for the chance to seek resolution in relation to noise issues.

Councillor Bateson felt that it appeared the company was being penalised.

Councillor J Shiels left the meeting at 8.30 pm

The Chair, Councillor Clarke clarified that if the application is deferred the company could still continue its business as is at the moment as enforcement would not be expedited until a resolution was sought in relation to noise conditions.

Councillor McPeake stated he would propose this but would prefer that the application is dealt with on its own merit.

The Planning Manager advised that as there was a noise issue outstanding then appropriate consideration needed to be given to noise issues for this application.

Councillor Robinson stated that on listening to the legal opinion given tonight he would propose the deferral of the application. The Councillor stated that whilst he realised the importance of the company it was important to do what is right legally.

Councillor McPeake stated that he would reluctantly agree that the application needed to be considered as a whole package.

Councillor Reid asked how long the deferral would take.

The Planning Manager advised that the matter could be resolved in two months and that during this time no further enforcement action would be taken.

Councillor McPeake proposed that the application be deferred for further consideration of noise issues however he was cautious of links being made to other areas of the business.

Councillor Bateson seconded Councillor McPeake's proposal.

Councillor Robinson agreed with the proposal.

Resolved That planning application LA09/2015/1239/F be deferred to consider Environmental Health conditions relating to noise. No further enforcement action to be taken whilst this is being resolved.

Councillor Reid asked why the application had come before Members tonight when there appeared to be numerous issues outstanding.

Councillor Mallaghan stated that he wanted to record his concern at the manner in which this application had been brought before Members and felt the whole process had been badly handled.

Councillors Reid and Glasgow agreed with the comments made by Councillor Mallaghan.

The Planning Manager advised that the only reason the application was brought before Members tonight was because the company had pushed for it to be put on the schedule.

Ms Mullen – Solicitor left the meeting at 8.50 pm

LA09/2016/0420/F Change of house type to supersede previously approved under H/2006/0806/RM, at approx. 40m E of 16 Rocktown Lane, Knockloughrim for Miranda McManus

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/0420/F be approved subject to conditions as per the officer's report.

LA09/2016/0634/O Replacement of existing filling station, shop and car wash an incorporation of mixed use units at 132 Drum Road, Cookstown for Mr Seamus Molloy

Ms McCullagh (SPO) presented a report on planning application LA09/2016/0634/O advising that it is recommended for refusal.

Councillor Mallaghan proposed that the application be deferred for an office meeting.

Councillor Glasgow seconded Councillor Mallaghan's proposal.

Resolved That planning application LA09/2016/0634/O be deferred for an office meeting.

LA09/2016/0730/F Residential development of 120 dwellings (30 detached and 90 semi-detached), associated road accesses, provision of amenity space and associated site works at development lands at 14 Moneymore Road; adjacent and SW of Oakvale Manor; adjacent and NE of Thornhill Avenue between Coolshinney Road and Moneymore Road, Magherafelt for the Johnston family

The Chair, Councillor Clarke asked Members to note addendum to planning agenda in relation to this application which advised that an additional letter of objection had been received since the planning report had been issued.

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/0730/F be approved subject to conditions as per the officer's report.

LA09/2016/0848/O Dwelling and garage at 24m N of Five Mile Straight, Bracaghreilly for Mr Colm Lynn

Mr McCrystal (SPO) presented a report on planning application LA09/2016/0848/O advising that it is recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that the planning department had accepted that the proposal would lie within a cluster but did not accept that it could be associated with a focal point. Mr Cassidy referred to precedent set by other Councils and Planning Appeals Commission who have taken decisions to the contrary. Mr Cassidy advised that the

site is bounded by development to the north and south and requested that the application be deferred.

Councillor Reid proposed that the application be deferred as there appeared to be issues in relation to the ownership of a laneway.

The Planning Manager advised that the laneway issues had been resolved and provided clarification in relation to policy CTY2a.

Councillor McKinney rejoined the meeting at 9.06 pm

Councillor Cuthbertson proposed the officers recommendation to refuse the application.

Councillor McPeake seconded Councillor Reid's proposal to defer the application.

Councillor Cuthbertson did not get a seconder for his proposal.

Members voted on Councillor Reid's proposal to defer the application –

For – 9

Resolved That planning application LA09/2016/0848/O be deferred for an office meeting.

LA09/2016/0905/O Dwelling on a farm at 28 Meenanea Road, Cookstown for Seamus Loughran

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Mallaghan
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/0905/O be approved subject to conditions as per the officer's report.

LA09/2016/0997/F Relocation of existing approved storage shed and extension of site curtilage for the storage of plant machinery and building materials, 50m E of 47 Ballymoyle Road, Coagh for Mr Martin Loughran

Ms Doyle (SPO) presented a report on planning application LA09/2016/0997/F advising that it is recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy stated that the yard and shed are approved for commercial use and advised that the applicant operates a civil engineering business which had continually grown over the years. Mr Cassidy stated that the previously approved

shed had not been built and was now intended to be relocated to allow for the storage of machinery and requested that the application be deferred for office meeting.

Councillor Glasgow felt that as the application was to relocate a shed that was needed to store equipment then he would be happy to approve the application.

The Planning Manager felt that an office meeting was required to ascertain why the shed needs to be relocated outside of the established curtilage.

Councillor Cuthbertson proposed that the application be deferred for an office meeting.

Councillor Bateson seconded Councillor Cuthbertson's proposal.

Resolved That planning application LA09/2016/0997/F be deferred for an office meeting.

LA09/2016/1032/O Erection of dwelling and domestic garage on a farm at land approx. 80m E of 27 Ashfield Road, Ballyscally, Clogher for Mr Dermot McElroy

Mr Marrion (SPO) presented a report on planning application LA09/2016/1032/O advising that it is recommended for refusal.

The Chair advised the committee that requests to speak on the application had been received and invited Councillor S McGuigan to address the committee in the first instance.

Councillor McGuigan stated that the outcome of the application appeared to depend on how a group of buildings were defined. Councillor McGuigan felt that the applicant had proven that there were an existing group of buildings that could be associated with this application and that a precedent would not be set. Councillor McGuigan stated that approval of this application would ensure that families could continue to live together within a rural community.

In response to Councillor McPeake's question Mr Marrion advised that evidence of when the sheds were built was only received on receipt of request for speaking rights.

The Planning Manager advised that the balance of probability was that the sheds referred to were erected within the timeframe stated in the affidavit submitted. The Planning Manager also referred to judicial review which had been taken on an application in the past and was made based on no reasonable grounds for an exception to policy being made. The Planning Manager also explained difficulties in obtaining a mortgage for a dwelling on a shared laneway.

The Planning Manager asked Mr Gourley to explain the exception in relation to the laneway.

Mr Gourley advised that policy states that, where practicable, a laneway should be obtained from an existing lane but that it did not state it must. Mr Gourley also spoke in relation to the need to move away from a shared laneway for mortgage reasons.

The Planning Manager asked if there were benefits in locating the dwelling as proposed and not further up the lane.

Mr Gourley advised that that proposed site was the best site and was well integrated.

Councillor McKinney spoke of the health and safety issues related to the farm laneways and proposed the approval of the application.

The Planning Manager clarified that it was the view of the committee to approve the application for the following reasons – that the buildings are established, that the site has environmental benefits in relation to its high degree of integration subject to road safety concerns being met and provided vegetation is kept.

Councillor Bell seconded Councillor McKinney's proposal.

The Planning Manager stated that the following conditions should be applied to the approval of the application as follows –

- Retention of vegetation
- Siting of proposal as indicated
- Access and visibility splays
- Curtilage

The Planning Manager referred to Members reliance on planning appeal decisions when focus should be on planning policy.

Resolved That planning application LA09/2016/1032/O be approved with conditions in relation to retention of vegetation, access and visibility splays and curtilage to be attached. Siting of dwelling to also be as indicated.

LA09/2016/1034/F Retrospective application for change of house type from previously approved 2 storey dwelling (M/2014/0295) to 2 semi detached units within the same curtilage at 75 Killyliss Road, Dungannon for Mr G McCann

Mr Marrion (SPO) presented a report on planning application LA09/2016/1034/F advising that it is recommended for refusal.

The Chair advised the committee that requests to speak on the application had been received and invited Councillor Molloy to address the committee in the first instance.

Councillor Molloy advised that the footprint of the proposal is the same as that of the single dwelling approved but that the applicant needed this approval to be changed to two dwellings for economic reasons.

Ms Muldoon advised that the previous approval was for a 4,300sqft dwelling, however due to lack of interest shown this had now been amended to two dwellings. Ms Muldoon advised that the changes to the property were minimal and that the subdivision of the property had no impact on the countryside. Ms Muldoon stated that the size and footprint of the building had been retained and that there were no environmental impacts associated with the application and that the site continued to integrate.

Councillor McKinney clarified that the two houses were no bigger than the one approved.

Ms Muldoon confirmed that the two dwellings are on the same footprint as the approval with minor amendments.

Councillor Bell stated that there was a housing shortage within Mid Ulster which this application was helping to address and on considering the application on its own merits he would propose the approval of the application.

The Planning Manager stated he did not see any policy objection from changing from one to two units and that a conversion argument could fit. The Planning Manager asked if there any environmental impacts on having the two units.

Mr Marrion advised that there was no visual impact however environmental impacts would include two families being located at the site and two septic tanks.

The Planning Manager asked if there was discharge consent for the one septic tank on site.

Ms Muldoon confirmed that discharge consent was in place and stated that she was not convinced that the environmental impact for two dwellings was any greater.

Councillor Bateson seconded Councillor Bell's proposal.

The Planning Manager stated that if sharp practice as associated with this application was to continue it could bring the Council into disrepute.

The Council Solicitor stated that the Committee should consider whether it wanted to condone sharp practice.

The Planning Manager advised that as there was no planning permission for two houses, they were unlawful, however an argument could be made in relation to conversion and on merits a building of the current size had been permitted. The Planning Manager advised that if this application went to planning appeal he did not know what its outcome would be.

Councillor Bateson felt that the Planning Committee could not be held accountable for the sharp practice of the architect.

Councillor Cuthbertson stated that if the committee refused the application the applicant still had other options available to them.

Councillor Bell stated he did not think the applicant had initially went out to seek two dwellings.

Councillor Bateson did not feel the overall impact of two dwellings would be adverse.

The Council Solicitor advised that whilst general ambiguity is in favour of development as this application was being looked at under PPS21 there should not be development unless requirements for PPS21 are met.

The Planning Manager advised that the application fails the policy test and legal advice is of the same opinion. The Planning Manager stated that he had not heard any reasoned argument why an exception should be made with this application.

Councillor Bell stated that on those grounds he would withdraw his proposal to approve the application and would now propose that the application be deferred for an office meeting.

Councillor Reid seconded Councillor Bell's proposal.

Resolved That planning application LA09/2016/1034/F be deferred for an office meeting.

LA09/2016/1097/O Site for infill dwelling and garage at 30m E of 30 Leitrim Road, Castledawson for Cherith Rea

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor McPeake and

Resolved That planning application LA09/2016/1097/O be approved subject to conditions as per the officer's report.

LA09/2016/1187/F Two storey rear extension to create ground floor kitchen and first floor bathroom and bedroom at 66 Main Street, Castledawson for Mr J McCullagh

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/1187/F be approved subject to conditions as per the officer's report.

LA09/2016/1258/F Erection of garage for storage of vintage cars at 11 Sandholes Road, Cookstown for Mr Raymond McElhone

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Mallaghan
Seconded by Councillor McAleer and

Resolved That planning application LA09/2016/1258/F be approved subject to conditions as per the officer's report.

LA09/2016/1266/F Redevelopment of existing yard to a public car park, extension to existing footpath and the introduction of passing bays along the existing access/laneway at Pomeroy Forest, Pomeroy for Mid Ulster District Council

Councillors Bateson, Bell, Clarke, Cuthbertson, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid and Robinson declared an interest in this application.

Councillor Mallaghan also declared a further local interest in this application.

Proposed by Councillor McAleer
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/1266/F be approved subject to conditions as per the officer's report.

LA09/2016/1271/O Site for dwelling on a farm approx. 60m SW of 7 Ballymoughan Lane, Magherafelt for Mr Robert Alexander Brown

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/1271/O be approved subject to conditions as per the officer's report.

LA09/2016/1375/O Site for farm dwelling and double garage at approx. 35m NE of 23B Carrydarragh Road, Moneymore for Darren and Gail Wylie

It was advised that this application had been withdrawn by the applicant.

LA09/2016/1480/F Change of use from shop to fast food outlet, 40 Irish Street, Dungannon for Observer Newspapers NI Ltd

Councillor Mullen declared an interest in this application.

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/1480/F be approved subject to conditions as per the officer's report.

LA09/2016/1502/F Change of use from construction offices and warehouse to day nursery at 1 School Lane, Gulladuff, Magherafelt for Moyagall Nursery

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McPeake
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/1502/F be approved subject to conditions as per the officer's report.

*Meeting recessed at 10.14 pm and recommenced at 10.32 pm.
Councillor Mallaghan did not return to the meeting.*

LA09/2016/1583/O Dwelling under policy CTY2A at approx. 20m E of 50 Oaklea Road, Ballyronan, Magherafelt for Pat Young

Councillor Bateson declared an interest in this application.

Ms Doyle (SPO) presented a report on planning application LA09/2016/1583/O advising that it is recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy advised that it was recognised this application did not meet planning policy before it was submitted however advice from the planning department stated that the application was within the spirit of the policy. Mr Cassidy stated that the neighbouring area looked like a cluster which included a focal point and did not feel given the nature of the cluster that this application would cause any harm.

Councillor McPeake felt that the Gospel Hall should carry more weight in respect of this application.

The Planning Manager stated that the arguments presented by Mr Cassidy were valid in this case. He advised that weight could be attached to the Gospel Hall and

the cross roads in terms of providing a focal point had been met. Although there was not four dwellings as required by policy an exception could be made because the site was bound on two sides and lined with other development to provide a cluster. The Planning Manager did not feel that approval of this application would change rural character.

Councillor Reid proposed that the planning application be approved.

Councillor McPeake seconded this proposal.

The Planning Manager stated that conditions in relation to height should be attached and that roads service conditions are to be met.

Resolved That planning application LA09/2016/1583/O be approved with conditions in relation to height of dwelling and roads service conditions being met to be attached.

LA09/2016/1599/O Dwelling and garage approx. 20m SW of 21 Drumconnor Road, Drumconnor, Cookstown for Oliver Donaghy

Ms McCullagh (SPO) presented a report on planning application LA09/2016/1599/O advising that it is recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Cassidy to address the committee.

Mr Cassidy requested a deferral for this application based on previous planning appeal decisions. Mr Cassidy also had maps to show the layout of the area surrounding the site.

Proposed by Councillor McKinney
Seconded by Councillor McAleer and

Resolved That planning application LA09/2016/1599/O be deferred for an office meeting.

Councillors Bell and Mullen left the meeting at 10.44 pm

LA09/2016/1719/A 1 Vertical free standing sign, 2 flat panel signs and 2 flag poles at 26 Charlemont Street, Moy for Moy Autos

Mr Marrion (SPO) presented a report on planning application LA09/2016/1719/A advising that it is recommended for refusal.

Councillor Reid asked if there was any way this application could be accommodated.

The Planning Manager expressed the need for consistency in relation to signage and referred to an application for signage at a nearby location which was dismissed at appeal.

In response to Councillor Reid's comments Mr Marrion advised there was a proliferation of signage in the area.

In response to Councillor Cuthbertson's query Mr Marrion advised that there was an enforcement case on this site.

Councillor McKinney proposed that the application be deferred for an office meeting and commented that he would have liked to have had the additional photographs shown within the planning papers.

Councillor Reid seconded Councillor McKinney's proposal.

Resolved That planning application LA09/2016/1719/A be deferred for an office meeting.

LA09/2016/1739/A 2 shop signs relocated from existing positions to that proposed to accommodate new bypass road layout at 40m W and 145m E of 55 Aughrim Road, Magherafelt for Bradley Furniture

Ms Doyle (SPO) presented a report on planning application LA09/2016/1739/A advising that it is recommended for refusal.

Mr McPeake felt this was a lawful business in the countryside and did not understand why they could not have signage the same way businesses in towns and settlements can. Councillor McPeake did not feel the signage was out of character.

The Planning Manager agreed that a business should be able to identify itself and would be happy to meet to discuss what reasonable signage is.

Mr Cassidy, agent for the application advised that photos show that the signage had been in place since 2003 and had the right to remain, Mr Cassidy further commented that the business had suffered during the roadworks to create Magherafelt bypass.

Councillor Bateson stated that the signage had been in place for at least 20 years and felt that the realignment of the road had caused the difficulty with this application.

Proposed by Councillor Reid
Seconded by Councillor Bateson and

Resolved That planning application LA09/2016/1739/A be deferred for an office meeting.

Councillor McEldowney left the meeting at 11.02 pm

LA09/2015/1170/F Agricultural shed for storage of farm machinery 180m SSE of 1 Tullybrae Manor, Aughnacloy for Samuel Patterson

Mr Marrion (SPO) presented a report on planning application LA09/2015/1170/F advising that it is recommended for refusal.

Councillor Reid asked if there was any alternative site available to the applicant.

Mr Marrion advised that the proposal could be located beside existing sheds however the applicant has chosen not to do this.

Councillor Robinson advised that the applicant had sold his farm at another location and needed storage for the additional machinery. The Councillor asked if there was any way of facilitating the proposal.

The Planning Manager advised that he had met with the applicant in the past and that the applicant was aware of what he needed to do to get approval for a shed. The Planning Manager advised that the applicant had not offered any other location for the shed.

Councillor Cuthbertson advised he was aware that the applicant was only out of hospital and that this may have a bearing on why there was no representation present tonight.

The Planning Manager advised that when this application was initially brought before committee in May representation had been made at that time and that an office meeting had also been held with the applicant. The Planning Manager urged Members to make a decision of the application.

Proposed by Councillor Kearney
Seconded by Councillor Bateson and

Resolved That planning application LA09/2015/1170/F be refused on grounds stated in the officer's report.

Councillor Cuthbertson left the meeting at 11.12 pm

LA09/2016/0999/O Dwelling approx. 80m SW of 39 Mountjoy Road, Dungannon for Martha Dunlop

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/0999/O be approved subject to conditions as per the officer's report.

P019/17 Consultation Response on Draft Environmental Impact Assessment Regulations (NI) 2017

The Head of Development Plan and Enforcement presented previously circulated report which provided Council response to the Department for Infrastructure consultation regarding the EIA Amendment Directive and the transposition of it to The Planning (Environmental Impact Assessment) Regulations (NI) 2017.

Resolved That Council submit response to the Department for Infrastructure consultation in line with the content of the paper circulated.

Matters for Information

P020/17 Appeal Decision

The Head of Development Management presented previously circulated report advising Members of recent decision made by Planning Appeals Commission.

CONFIDENTIAL BUSINESS

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That items P021/17 to P025/17 be taken as confidential business.

P026/17 Duration of Meeting

The meeting was called for 7.00pm and ended at 11.40 pm.

Chair _____

Date _____

B



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0370/F	Target Date:
Proposal: Timber drying area and store (amended details)	Location: Lands at approx. 19m SE of 3A Glenarny Road Drum Cookstown
Referral Route: Objections received	
Recommendation:	Refusal
Applicant Name and Address: Mr Michael Bell 3A Glenarny Road Cookstown BT80 9DX	Agent Name and Address: Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

They raised a number of issues including;
Inappropriate in terms of scale and character;
Impact on visual integration into the local landscape.
Visibility Splays outside applicant's ownership.

Justification for location away from main holding.
Lack of info regarding regeneration of site.

Characteristics of the Site and Area

The site comprises a rectangular portion of a larger agricultural field situated along the Glenarny Road, Drum, Cookstown. The site is located directly opposite too and east of No 4 Glenarny Road. The site is covered in dense forestry with a mature thick tree line roadside boundary along 90 of the site frontage. In the Southern corner of the site a recent access has been cleared, with a new post and wire fence allowing visibility into and out of the site. There is also a set of agricultural gates preventing access to a small cleared area of recent construction which has been lain in gravel.

The site lies within the open countryside a short distance to the West of Cookstown. The site lies on the eastern outskirts of Drum forest, it is surrounded by forestry on the south and west, with a large residential plot to the North and a row of three dwellings to the east.

Description of Proposal

The proposals seeks planning permission for timber drying and storage shed.

Planning Assessment of Policy and Other Material Considerations

The Strategic Planning Policy Statement for Northern Ireland
PPS 3 - Access, Movement and Parking
PPS 21 - Sustainable Development in the Countryside.
Cookstown Area Plan 2010

Consultations - In the consideration of this proposal the following advisory bodies were asked to comment:

- DAERA - they responded IN May 2016 requesting further information, upon re-consultation they responded seeking further information regarding how the land is to be regenerated after harvesting. In light of the recommendation to refuse the application I have not sought this further information.
- Shared Environmental Services responded with no objections.
- Environmental Health - they responded with no objections subject to conditions.
- Historic Environment Division - they responded with no objections
- Transportni - they responded with no objections subject to conditions.

3 representations were made from the residents of neighbouring properties no.2, 4 and 6 Glenarny Road.

They raised a number of issues including;
Inappropriate in terms of scale and character;
Impact on visual integration into the local landscape.
Visibility Splays outside applicant's ownership.
Justification for location away from main holding.
Lack of info regarding regeneration of site.

PPS21 –

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non-agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling, dwellings within existing clusters or if the site could be considered a small gap site within a substantial and built up frontage. It also states 'other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential at that location and could not be located within a settlement.

In this instance the agent has not provided any site specific overriding reasons why development is essential at this particular location and could not be accommodated within the settlement limits and therefore must be considered against all of the above.

CTY 12 - Agricultural and Forestry Development.

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

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;

From site inspection and submitted maps it is clear the applicant has 0.7 ha of trees for harvesting, therefore a small yard, and shed may be necessary for storage and drying. In this case however, the applicant has proposed the shed away from the main farm holding and located it in isolation.

- (b) in terms of character and scale it is appropriate to its location;

It is my opinion that the size and scale of the proposal (25 metres x 18 metres x 9 metres) is too large and overbearing for its intended purpose and would not be appropriate in terms of the character of the area.

- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;

I believe the proposed shed with a ridge height of 9 metres, including a large cleared area for the yards and access arrangement will struggle to integrate satisfactorily into the landscape at this location. Also it is not sited within the existing compound and would stand in isolation. Even with retaining the existing trees along the roadside (which are required for visibility splays) and with the aid of additional planting it will fail to integrate.

- (d) The proposal will not have an adverse impact on the natural or built heritage.

There are no concerns over impact on the natural or built heritage. HED were consulted and had no concerns.

and

- (e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

No process is proposed here, the shed is for storage and drying purposes only. The applicant has submitted a noise report and Environmental Health are satisfied with its content. However, this was discussed at group and it was the opinion of the group that if approved there would be a

significant adverse impact on the amenity of neighbouring residents. The size, scale and location of the site means there will be a visual impact, also the nuisance of delivery lorries entering and leaving the site will also have a negative impact on amenity.

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- there are no suitable existing buildings on the holding or enterprise that can be used; From site inspection and from viewing the ortho photography it appears there are no buildings on the holding which could be used, I can appreciate the need for storage onsite.

- the design and materials to be used are sympathetic to the locality and adjacent buildings; The materials to be used are typical for this type of building in the countryside however, the design due to its scale is not appropriate in isolation in this location.

and

- The proposal is sited beside existing farm or forestry buildings.

The proposal is sited in isolation over 150 metres away from the existing holding and would be read on its own.

The proposal fails to comply with relevant policy and I recommend refusal.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal fails to comply with PPS21 - Cty 1 and Cty 12 and I recommend refusal.

Refusal Reasons

1. The proposal is contrary to policy CTY1 and CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm (or forestry) buildings.
2. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it is not appropriate to this location due to the unacceptable character and scale of the development, and if permitted, would not visually integrate into the local landscape without the provision of additional landscaping.

Signature(s)

Date:

ANNEX	
Date Valid	18th March 2016
Date First Advertised	31st March 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) P & Una Rogers 2 Glenarny Road,Drum,Cookstown,Tyrone,BT80 9DX, Peter & Una Rogers 2, Glenarny Road, Cookstown, Tyrone, Northern Ireland, BT80 9DX The Owner/Occupier, 3 Glenarny Road Oaklands Cookstown The Owner/Occupier, 3A Glenarny Road Oaklands Cookstown The Owner/Occupier, 4 Glenarny Road, Cookstown, Co Tyrone, BT80 9DX W Erskine 4 Glenarny Road,Drum,Cookstown,Tyrone,BT80 9DZ, Willoughby Erskine 4, Glenarny Road, Cookstown, Tyrone, Northern Ireland, BT80 9DZ A Badger 6 Glenarny Road,Drum,Cookstown,Tyrone,BT80 9DZ, Alan & Helen Badger 6, Glenarny Road, Cookstown, Tyrone, Northern Ireland, BT80 9DZ The Owner/Occupier, Brookvale Lodge,Glenarny Road,Oaklands,Cookstown,Tyrone,BT80 9DX, The Owner/Occupier, Drum Gate Lodge,1 Glenarny Road,Oaklands,Cookstown,Tyrone,BT80 9DX, The Owner/Occupier, Drum Gate Lodge,1 Glenarny Road,Oaklands,Cookstown,Tyrone,BT80 9DX,	
Date of Last Neighbour Notification	18th November 2016
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: I/1981/0305

Proposal: TEMPORARY YOUTH RECREATION CENTRE

Address: OAKLANDS, DRUM MANOR, COOKSTOWN, CO TYRONE

Decision:

Decision Date:

Ref ID: I/2002/0332/F

Proposal: Proposed dwelling and garages

Address: Adjacent to 3 Glenarny Road, Cookstown

Decision:

Decision Date: 16.09.2002

Ref ID: LA09/2016/0370/F

Proposal: Timber drying area and store

Address: Lands at approx. 19m SE of 3A Glenarny Road, Drum, Cookstown,

Decision:

Decision Date:

Summary of Consultee Responses

- DAERA - they responded IN May 2016 requesting further information, upon re-consultation they responded seeking further information regarding how the land is to be regenerated after harvesting. In light of the recommendation to refuse the application I have not sought this further information.
- Shared Environmental Services responded with no objections.
- Environmental Health - they responded with no objections subject to conditions.
- Historic Environment Division - they responded with no objections
- Transportni - they responded with no objections subject to conditions.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 04A

Type: Site Layout or Block Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0471/F	Target Date:
Proposal: Vary of Condition No 3 of Planning Approval H/2005/1225/F (Proposed raised table (speed control measure) to be implemented when the development is completed).	Location: Phase 4 Of Existing Castle Oak Development Castledawson
Referral Route: Objection received	
Recommendation:	Approval
Applicant Name and Address: F P McCann Ltd 3 Drumard Road Knockloughrim Magherafelt BT45 8QA	Agent Name and Address: Rachelle Law Architect 12 Longfield Lane Desertmartin Magherafelt BT45 5NW
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response

Representations:

Letters of Support	None Received
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues – The location of the proposed raised bed, noise, traffic disturbance and anti-social behaviour taking place at the existing roundabout

Characteristics of the Site and Area

The site is located within the development limits of Castledawson within the Castle Oak development opposite No's 1-9 Castle Meadows. The site is currently fenced off and work has commenced to complete the residential development approved under H/2005/1225/F. A 2 storey

dwelling and garage that was approved under H/2005/1225/F has been completed in the north western portion of the site.

Description of Proposal

The application proposes to vary Condition No 3 of Planning Approval H/2005/1225/F (Proposed raised table (speed control measure) to be implemented when the development is completed

Planning Assessment of Policy and Other Material Considerations

Relevant Planning History

LA09/2015/0031/CA - An enforcement case for unauthorised development in association with expired planning approval H/2005/1225/F is ongoing. Further action will depend on the outcome of subject planning application LA09/2016/0471/F.

H/2005/1225/F - 2 no. Proposed 1 No. Semi-Detached 2 No. detached and 9 No. Townhouse Dwellings. Approved 10th August 2008 Condition No. 3 reads;

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No part of the development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 33 bearing the date stamp 28th May 2008. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

Representations:

14 neighbour's notification letters were sent to the occupier of Nos 1, 3, 5, 6, 7, & 8 Oak Grove, Nos 1, 3, 5, 7 & 9 Castle Meadows and Nos 37 & 53.

1 letter of representation has been received from Bronagh & Liam O'Neill who resides at No 1 Oak Grove the property located immediately northwest of proposed raised table issues raised:

Mr & Mrs O'Neill state that they are not against a raised table as a traffic calming measure, however they have concerns relating to noise, traffic disturbance and anti-social behaviour taking place at the existing roundabout. Mr & Mrs O'Neill also have concerns regarding the position of the raised table as the information submitted with the proposal lack clarity. In an attempt to clarify the situation I uploaded the approved PSD drawing on 16th August 2016 highlighting the removal of the existing roundabout (which has been implemented) and the replacement speed control device (raised bed). All neighbours were re-notified and no further objections have been received. The provision for the speed control measures has already been determined under H/2005/1225/F and therefore cannot be reversed. This application relates solely to the timing for the completion of the raised bed and the issues raised by the objectors have been fully considered.

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherfelt Area Plan 2015: The site is located within the development limits. The is also within a designated Housing Policy Area - CN03/4

Consideration

The reason for condition No 3 was to ensure that the works necessary for the improvement of the public road where carried out prior to commencement of the residential development. Under

this application it proposes to vary the condition so that the improvements can be carried out after the development is completed. Transport NI have been consulted and are content with the condition suggested by the Council which will allow the improvements to public road to be carried out within 18 months form the date the decision is issued, therefore approval can be recommended.

Neighbour Notification Checked

Yes

Summary of Recommendation: That planning permission be approved subject to the following conditions.

Conditions

1. The works necessary for the improvement of the public road shall be completed to the satisfaction of Mid Ulster District Council in accordance with the details outlined blue on drawing No 33 which was received on 28th May 2008 within 18 months from the date of this decision.

Reason: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the development are carried out.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

Signature(s)

Date:

ANNEX	
Date Valid	7th April 2016
Date First Advertised	21st April 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Castle Meadows,Annaghmore,Castledawson,Londonderry,BT45 8JX, Bronagh & Liam O'Neill 1 Oak Grove,Annaghmore,Castledawson,Londonderry,BT45 8RY, Bronagh & Liam O'Neill 1, Oak Grove, Castledawson, Londonderry, Northern Ireland, BT45 8RY The Owner/Occupier, 3 Castle Meadows,Annaghmore,Castledawson,Londonderry,BT45 8JX, The Owner/Occupier, 3 Oak Grove,Annaghmore,Castledawson,Londonderry,BT45 8RY, The Owner/Occupier, 35 Castle Oak,Tamnadeese,Castledawson,Londonderry,BT45 8RX, The Owner/Occupier, 37 Castle Oak,Tamnadeese,Castledawson,Londonderry,BT45 8RX, The Owner/Occupier, 5 Castle Meadows,Annaghmore,Castledawson,Londonderry,BT45 8JX, The Owner/Occupier, 5 Oak Grove,Annaghmore,Castledawson,Londonderry,BT45 8RY, The Owner/Occupier, 53 Castle Oak,Tamnadeese,Castledawson,Londonderry,BT45 8RX, The Owner/Occupier, 6 Oak Grove,Annaghmore,Castledawson,Londonderry,BT45 8RY, The Owner/Occupier, 7 Castle Meadows,Annaghmore,Castledawson,Londonderry,BT45 8JX, The Owner/Occupier, 7 Oak Grove,Annaghmore,Castledawson,Londonderry,BT45 8RY, The Owner/Occupier, 8 Oak Grove,Annaghmore,Castledawson,Londonderry,BT45 8RY, The Owner/Occupier, 9 Castle Meadows,Annaghmore,Castledawson,Londonderry,BT45 8JX,	
Date of Last Neighbour Notification	24th August 2016
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: LA09/2016/0471/F

Proposal: Vary of Condition No 3 of Planning Approval H/2005/1225/F

Address: Phase 4 Of Existing Castle Oak Development, Castledawson,

Decision:

Decision Date:

Ref ID: H/2010/0570/F

Proposal: Construction of compact grade separated junction (fly over), facilitating access from A6 to Castledawson via new link road to rear of Bells Manor, Bells Court and Castle Oak to both Bellshill Road and Annaghmore Road and connecting to both Bellshill Road and Annaghmore Road, south of the existing bypass

Address: Townlands of Annaghmore, Shanemullagh, Tamnadeese, at Castledawson, Co. Londonderry,

Decision: WITHDR

Decision Date: 24.02.2015

Ref ID: H/1999/0139

Proposal: CHANGE OF HOUSE TYPE

Address: SITES 310,311 & 338-PHASE 3 CASTLE OAK DEVELOPMENTS
ANNAGHMORE ROAD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1998/0014

Proposal: HOUSING DEVELOPMENT

Address: PHASE 2 ADJACENT TO CASTLE OAK ANNAGHMORE ROAD
CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1998/0502

Proposal: HOUSING DEVELOPMENT

Address: CASTLE OAK HOUSING DEVELOPMENT ANNAGHMORE ROAD
CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1998/0659

Proposal: CHANGE OF HOUSE TYPE

Address: SITES 303,336 & 337 PHASE 3 CASTLE OAK DEV. ANNAGHMORE ROAD
CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/2004/1447/F

Proposal: Change of house type from house type 92 to house type 90 at site No. 401.

Address: Phase 4, Castle Oak, Annaghmore Road, Castledawson.

Decision:

Decision Date: 05.07.2005

Ref ID: H/2001/0970/F

Proposal: 12 No. Dwellings and Garages

Address: Phase 4, Castle Oak, Annaghmore Road, Castledawson

Decision:

Decision Date: 09.01.2004

Ref ID: H/2010/0267/F

Proposal: Proposed 2 storey extension to dwelling to provide 1st floor bedroom, ground floor sun lounge, utility and office.

Address: 6 Oak Grove, Castledawson

Decision:

Decision Date: 01.10.2010

Ref ID: H/2005/1225/F

Proposal: Proposed 1 No. Semi-Detached 2 No. detached and 9 No. Townhouse Dwellings

Address: Phase 4 Of Existing Castle Oak Development. Castledawson

Decision:

Decision Date: 12.09.2008

Ref ID: H/1995/0454

Proposal: ROADS LAYOUT FOR HOUSING DEVELOPMENT WITH 2 HOUSES AND GARAGES

Address: SITES 8+10 CASTLE OAKS, ANNAGHMORE ROAD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/2003/1289/O

Proposal: Site of housing development.

Address: Site at Bellshill Road to rear of Bells Court and Bells Manor, Oak Grove and Castle Oak, Castle Crescent and Meadowfield Place, Castledawson.

Decision:

Decision Date: 15.12.2004

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type:

Status: Submitted

Drawing No. 02

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7/2/17	Item Number:
Application ID: LA09/2016/0579/O	Target Date: 5/8/16
Proposal: Proposed dwelling and domestic garage	Location: 50 m south west of 107 Whitebridge Road Ballygawley
Referral Route: Refusal being recommended	
Recommendation: Refuse	
Applicant Name and Address: Ronan McRory 105A Whitebridge Road Ballygawley BT70 2JF	Agent Name and Address: McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
Executive Summary: Proposal fails to comply with CTY 1 and 10 of PPS 21	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	TNI	No Objection
Statutory	NIEA	No Objection
Non Statutory	Loughs Agency	No Objection
Non Statutory	DAERA	No Objection
Non Statutory	Rivers	No Objection
Non Statutory	SES	No Objection

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Loughs Agency have been consulted as the site falls within a Loughs Agency consultation zone. They have no objection in principle to the proposed development.

Transport NI have no objections to the proposal subject to a 1:500 plan being submitted as part of a Reserved Matters Application. Splays of 2.4m x 70m are required.

DAERA were consulted with the farm details of Thomas James Turbitt. Mr Turbitt takes the applicants land in con-acre. DAERA have confirmed that Mr Turbitts business ID was issued on the 15th May 2015 as a result of the merger of two existing businesses. Both of these previous

business numbers had been in existence for more than 6 years and both businesses submitted Single Farm Payment Claims. Both Businesses are now closed.

Rivers Agency were consulted as there is a small undesignated watercourse flowing through the site. Rivers Agency requested clarification as to where on the site the dwelling would be located if approved. The applicant subsequently submitted an amended site location indicating that the preferred location would be to the West of the Watercourse. This would require a small culvert for the purposes of access. The applicant has also submitted a Schedule 6 Consent for this culvert.

NIEA were consulted and requested the submission of a biodiversity checklist as it was their opinion that there may be natural heritage issues associated with this proposal. This has been submitted and concludes that there is no significant likelihood of biodiversity impacts.

Shared Environment Service were consulted as the site has potential hydrological links to designated sites. They have concluded that the proposed development will not have any conceivable effect on the selection features, conservation objectives or status of any European site.

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers and adjoining landowners were consulted by letter. No representations have been received.

Characteristics of the Site and Area

The application site is a 0.4 hectare roadside parcel of land located 50m South West of 107 Whitebridge Road, Ballygawley. It is outside the development limits of any settlement defined in the Dungannon and South Tyrone Area Plan 2010. The site falls gently from the level of the Whitebridge Road towards a small watercourse which traverses the site in a North South direction then rises again in a Western direction at the opposite side of the stream. The Northern and Western site boundaries are undefined on the ground. The Southern boundary is partially defined by thick gorse hedgerow and the roadside boundary is defined by a wooden fence and thick hedgerow. A single phase overhead line also runs along the roadside boundary.

This area is very rural in character and has an undulating topography. It has a dispersed settlement pattern and there are several coniferous plantations in the locality. There is a two storey dwelling and associated outbuildings located opposite the site and to the East is a Bungalow.

Description of Proposal

Outline approval is sought for a dwelling on a farm. Access will be directly off the Whitebridge Road. There are no relevant planning histories on or adjacent the site to be considered.

Planning Assessment of Policy and Other Material Considerations

The relevant policy considerations are CTY 1 (Development in the Countryside) and CTY 10 (Farm Dwellings) of Planning Policy Statement 21. The recently adopted Strategic Planning Policy Statement (SPPS) also contains Regional Strategic Policy for Residential Development in the Countryside which includes provision for Farm Dwellings. This SPPS policy does not introduce any change in policy direction with regards to Farm Dwellings therefore existing policy will apply. The site is outside any settlement and area of constraint defined in the Dungannon and South Tyrone Area Plan 2015 (DSTAP 2015).

Planning Policy Statement 21

CTY 10 states that planning permission will be granted for a dwelling on a farm where certain criteria are met;

The farm business is currently active and established for at least 6 years.

The applicant, Ronan McRory has failed to demonstrate that he has an active and established farm business for the required 6 year period.

DAERA were however consulted with the farm details of Thomas James Turbitt. The applicant's father Ciaran McRory has his own Business ID but Mr Turbitt takes the McRory's land in con-acre and is willing to for-go his one in ten year entitlement for a farm dwelling to Ronan McRory (applicant).

DAERA have confirmed that Mr Turbitts business ID was issued on the 15th May 2015 as a result of the merger of two existing businesses (his and his sons). Both of these previous business numbers had been in existence for more than 6 years and both businesses submitted Single Farm Payment Claims. Both Businesses are now closed. The applicant has provided information relating to why these two business numbers merged. It would appear that DAERA have insisted on a new single number being issued because they don't permit both farmers to share the same fields, yard, byers, cattle houses etc as it would have the potential to generate infection between two separate stocks of animals. Winter housing feeding and the testing of animals owned by the two separate farmers was also considered a problem by DAERA. For these reasons DAERA insisted on the merger.

For the purpose of this assessment I am therefore satisfied that the farm business of Thomas James Turbitt is currently active and has been established for the required 6 year period albeit it now is a different number resulting from the merger.

No dwellings/development opportunities have been sold off the holding within 10 years of the date of application.

I have carried out a planning history search of Thomas James Turbitts holding and it would appear that he permitted his old business number to be used to get a farm dwelling approved for an Imelda McAteer under M/2012/0505/O and M/2014/0508/RM. As explained above, Thomas has now merged his old business number with his sons to create a new business number. No farm dwelling was ever granted for a dwelling under his son's old number or this new merged number. I have carried out a Land Registry check of the land subject to the approvals referred to and it has confirmed that this land has been owned by Hugh Turbitt since 2005. I have also carried out a check on the business number of Ciaran McRory and it would appear that it has not been used to obtain approval for a farm dwelling. I am therefore satisfied that there have been no development opportunities sold off the Turbitt or the McRory holdings since the 25th November 2008.

The new building is visually linked or sited to cluster with an established group of buildings on the farm.

The applicant is showing on his site location plan that he owns the dwelling and outbuildings at number 107 Whitebridge Road and the dwelling at 105a Whitebridge Road. Whilst the proposed site is visually linked to 107 Whitebridge Road, it is not visually linked to Thomas Turbitts Farm at 57 Todds Leap Road, which in my opinion is the "farm" for the purposes of this assessment. If the applicant was applying for a dwelling on the basis of his own/fathers business number, then the proposed site could be considered as being visually linked.

Policy CTY 10 clearly states that planning permission under this particular policy will only be forthcoming one in every ten years. This part of the policy is relevant in this case as Thomas Turbitt has already obtained approval for a dwelling based on his old business number. This proposal therefore fails to comply with this part of policy CTY 10.

Policy CTY 13 – Design and Integration

A small single storey dwelling on this roadside site will not be a prominent feature in this rural landscape given its back drop of rising land and surrounding vegetation. Design and ancillary works are matters reserved.

Policy CTY 14 – Rural Character

I am also of the opinion that a dwelling on this site will not create or add to ribbon development or build up and will be in keeping with the dispersed settlement pattern in the immediate area. As such, there will be no negative impact on rural character.

Planning Policy Statement 15 – Planning and Flood Risk

Policy FLD 4 deals with the artificial modification of watercourses. The proposed development involves the culverting of a small 4m stretch of undesignated watercourse running through the site for the provision of access. This can be deemed as an exception under FLD 4. Rivers Agency have granted the applicant consent to do this under Schedule 6 of the Drainage Order.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal will involve direct access onto the Whitebridge Road. Transport NI have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 70m splays

Members are advised that the applicant owns land outside of the application site which may meet the policy requirements of CTY 8 in terms of infill within an existing ribbon.

Neighbour Notification Checked**Yes****Summary of Recommendation:**

Refuse – Proposal fails to comply with CTY 10 in that a dwelling has already been approved for Mr Thomas Turbitt, part owner of the farm business being used to apply for this farm dwelling.

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

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that planning permission has already been granted for a dwelling for the farm business identified in the application.

Signature(s)**Date:**

ANNEX	
Date Valid	22nd April 2016
Date First Advertised	5th May 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 105A Whitebridge Road Tirnaskea Sixmilecross The Owner/Occupier, 107 Whitebridge Road Tirnaskea Sixmilecross	
Date of Last Neighbour Notification	6th May 2016
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: M/1979/0539 Proposal: BUNGALOW Address: KNOCKONNEY, BALLYGAWLEY Decision: Decision Date: Ref ID: LA09/2016/0579/O Proposal: Proposed dwelling and domestic garage Address: 50 m south west of 107 Whitebridge Road, Ballygawley, Decision: Decision Date:	
Summary of Consultee Responses Loughs Agency have been consulted as the site falls within a Loughs Agency consultation zone. They have no objection in principle to the proposed development. Transport NI have no objections to the proposal subject to a 1:500 plan being submitted as part of a Reserved Matters Application. Splays of 2.4m x 70m are required. DAERA were consulted with the farm details of Thomas James Turbitt. Mr Turbitt takes the applicants land in con-acre. DAERA have confirmed that Mr Turbitts business ID was issued on the 15 th May 2015 as a result of the merger of two existing businesses. Both of these previous	

business numbers had been in existence for more than 6 years and both businesses submitted Single Farm Payment Claims. Both Businesses are now closed.

Rivers Agency were consulted as there is a small undesignated watercourse flowing through the site. Rivers Agency requested clarification as to where on the site the dwelling would be located if approved. The applicant subsequently submitted an amended site location indicating that the preferred location would be to the West of the Watercourse. This would require a small culvert for the purposes of access. The applicant has also submitted a Schedule 6 Consent for this culvert.

NIEA were consulted and requested the submission of a biodiversity checklist as it was their opinion that there may be natural heritage issues associated with this proposal. This has been submitted and concludes that there is no significant likelihood of biodiversity impacts.

Shared Environment Service were consulted as the site has potential hydrological links to designated sites. They have concluded that the proposed development will not have any conceivable effect on the selection features, conservation objectives or status of any European site.

Drawing Numbers and Title
Drawing No. 01 Revision 1 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant)
Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0797/F	Target Date:
Proposal: Retrospective change of use to car sales yard (including front garden changing to hardstanding car display area) and tyre / alloy wheels sales	Location: 53 and 53a Ballyronan Road Magherafelt
Referral Route: This application is being presented to Committee as one objection has been received in respect of the proposal.	
Recommendation:	APPROVE
Applicant Name and Address: Top Gear NI 53a Ballyronan Road Magherafelt BT45 6EW	Agent Name and Address: Taggart Design 133a Coolreaghs Road Cookstown BT80 9QD
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Infrastructure	Amendments requested
Statutory	Infrastructure	Amendments requested
Non Statutory	Environmental Health	Informatives suggested
Statutory	Infrastructure	Conditions suggested

Representations:

Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

One representations were received in relation to this application and raised the following issue:-

- The provision of additional artificial lighting which would cause a nuisance. This is due to dwellings backing onto the site and which have bedrooms that overlook the site.

Environmental Health have considered the issue above and advised that 'Lighting can if poorly designed, directed, operated and maintained result in loss of amenity to occupiers of neighbouring sensitive properties caused by excessive levels of illuminance and glare which is inappropriate to its needs. Appropriate informatives were suggested to advise the applicant of the issue.

Description of proposal

This planning application is for full planning permission for the 'Retrospective change of use to car sales yard (including front garden changing to hardstanding car display area) and tyre / alloy wheels sales'.

The existing dwelling already has planning approval to change to offices which the applicant advised has already been implemented. The front garden which extends from the dwelling to the Ballyronan Road is to be changed to provide a hard standing area for the display of cars for sale. A low wall is proposed around this area. There is no proposed changes to the access.

The existing site contains a large 6 bay industrial building to the rear of the dwelling which was the tyre depot. This is subdivided into three units with a small portacabin office to the side. The three units have separate roller doors. At present units 1 and 2, as identified on the submitted drawing no.03 dated 28th September 2016, is being used in connection with the car sales business. Unit 3 is still retained in connection with the tyre depot.

Characteristics of the site and area

The site is located within the settlement development limits of Magherafelt and is located within a mixed use area between the private housing development at Ronan Drive, a small dwelling at No. 51 and Meadowbank Sports Arena. Mid Ulster District Council offices are located almost directly opposite the site with the entrance to Acheson & Glovers concrete plant less than 100m to the south of the site.

Planning Assessment of Policy and Other Material Considerations

Shaping Our Future: Regional Development Strategy for Northern Ireland 2035.
Strategic Planning Policy Statement for Northern Ireland (SPPS) Planning for Sustainable Development
Magherafelt Area Plan 2015: The site is located within Magherafelt Settlement Limit.
Planning Strategy for Rural NI – Policy DES 2: Townscape
PPS 3 – Access, Moving and Parking
PPS 4 – Planning and Economic Development
PED 1: Economic Development in Settlements.
PPS 15 – Planning and Flood Risk
DCAN 15 - Vehicular Access Standards.

Planning History

H/1980/0219 – replacement domestic store – Approved 11.07.1980
H/1982/0207 – Change of use of domestic store to building for equipment store (Garage)
H/1991/0308 – Change of use of tyre stores to retail tyre outlet
Refused 26.02.1992 and Appeal dismissed 29.01.1993
H/2005/0460/O - Site of Housing Development – Refused 23.02.2009
H/2010/0093/F - Extension to existing Wholesale Tyre Depot for tyre storage
Approved 03.08.2011

H/2010/0109/F - Change of use from domestic bungalow to office accommodation & parking area – Approved 20.09.2010

The proposal is in keeping with the Magherafelt Area Plan 2015 as it is located within an urban area and within the Magherafelt settlement development limit. The site is located on whiteland with direct access onto the Ballyronan road.

The main issue in assessing this application is whether the proposed development is acceptable in this urban location. The policy context is provided by the Strategic Planning Policy Statement for NI (2015) which has cancelled PPS 5 Retailing and town centres.

The proposal relates to a car sales business with associated office and workshop within an urban setting.

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.

Town Centres and Retailing

The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS. Whilst this is not a town centre location, it is within the settlement development limit.

Consultee Responses

TransportNI – No objection

Environmental Health – No objection

The site is located within Magherafelt settlement limit. There is an existing commercial business operating from the site which has the benefit of planning approval, granted under H/1982/0207 – Change of use of domestic store to building for equipment store (Garage) with a further approval granted under H/2010/0093/F for Extension to existing Wholesale Tyre Depot for tyre storage – Approved 03.08.2011

The proposed change of use is from an existing industrial store, tyre wholesales business to a car sales business. Although in general it would be preferable to have retailing located within the town centre in the first instance, this type of retailing 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 edge of town site with an existing approved commercial use, which it is proposed to continue within one of the units. The proposal should also result in the removal of the unauthorised prefabricated office building located at the western side of the industrial units.

Policy DES 2 – Townscape

Requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area in terms of design, scale and use of materials.

This policy requires an initial assessment as to whether the proposed development is suitable for the site. The assessment should establish the main use in the surrounding area, the appropriateness of a diversity of uses and the desirability of introducing a use which may alter the balance of uses.

In this case the existing uses include established tyre depot, Meadowbank sports arena, a precast concrete plant and Mid Ulster District Council's offices and associated yard, a school, petrol filling station, a small timber saw mills, a golf course in addition to residential dwellings. Given the diverse mix of existing uses, it is my opinion that the proposed car sales business will not introduce an unacceptable use into the area.

In terms of the impact on amenity, the proposal should provide reasonable standards of amenity in terms of the environment which it creates and the effect it has on neighbouring properties. The only potential impact the development will have on nearby properties is in relation to noise and light intrusion on the rear of dwellings in Ronan Drive. Whilst Environmental Health have not raised any issues regarding either noise or light pollution, they have advised that lighting can if poorly designed, directed, operated and maintained, result in loss of amenity due to neighbouring properties. However, advice was provided for the applicant to ensure that the siting and use of lighting does not give rise to nuisance conditions. Furthermore, the use of external noise generating plant or equipment should be carefully selected and located to avoid adverse impact on neighbouring residences. In this respect, the proposed development should not have a detrimental impact on nearby properties or adversely affect amenity.

In terms of impact of residential amenity, I do not feel that there will be an unacceptable impact on the dwellings on Ronan Drive. The area to the front of the site is to be used for the display of vehicles for sale with the area to the rear to have a similar use. As car sales is normally a day-time activity, an approval can be subject to a condition limiting hours of operation to avoid late evening/night time activities. The area to the rear will also be used for deliveries by car transporters which is similar to the deliveries to and from the tyre depot. As detailed above, any potential for light pollution and or noise nuisance can also be dealt with via informatives as advised by Environmental Health.

On balance, it is my opinion that the proposed change of use will not result in any detrimental impact on either visual or residential amenity and should therefore be approved subject to the following conditions.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Approve subject to conditions listed below.

Conditions

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. The use hereby permitted shall not be open to customers and no deliveries shall take place to or from the site, outside the following times, 8:00am to 6:00pm Monday to Saturday and at no time on a Sunday.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

3. The vehicular access, including visibility splays of 2.4m x 45m in both directions, shall be provided in accordance with Drawing No. 02 revision 2 bearing the date stamp 21/11/16, 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.

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, car transporter, 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.

5. No retailing or other 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 revision 2 bearing date stamp 21/11/2016 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 display of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

Signature(s)

Date:

ANNEX	
Date Valid	3rd June 2016
Date First Advertised	16th June 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Ronan Drive Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 3 Ronan Drive Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 5 Ronan Drive Town Parks Of Magherafelt Magherafelt Gary Campbell 5, Ronan Drive, Magherafelt, Londonderry, Northern Ireland, BT45 6HD The Owner/Occupier, 51 Ballyronan Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 52 Ballyronan Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 54 Ballyronan Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 56 Ballyronan Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 7 Ronan Drive Town Parks Of Magherafelt Magherafelt The Owner/Occupier, Mid Ulster Sports Arena, Ballyronan Road, Magherafelt,Londonderry,BT45 6HD,	
Date of Last Neighbour Notification	22nd June 2016
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2016/0797/F Proposal: Change of use from tyre depot to car sales yard Address: 53 and 53a Ballyronan Road, Magherafelt, Decision: Decision Date: Ref ID: H/1994/0310 Proposal: SITE OF DWELLING Address: SITE 2 ADJ TO 61 BALLYRONAN ROAD MAGHERAFELT Decision: Decision Date: Ref ID: H/2010/0093/F	

Proposal: Extension to existing Wholesale Tyre Depot for tyre storage (Further amended plans received)

Address: 53 Ballyronan Road, Magherafelt- amended plans

Decision:

Decision Date: 05.08.2011

Ref ID: H/1996/0514

Proposal: TYRE STORE(RETROSPECTIVE APPLICATION)

Address: ADJ TO 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1998/0549

Proposal: OFFICE AND TYRE STORE

Address: ADJACENT TO 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0465

Proposal: TYRE STORE(RETROSPECTIVE APPLICATION)

Address: ADJACENT TO 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2010/0109/F

Proposal: Change of use from domestic bungalow to office accommodation & parking area (no increase in floor area)

Address: 53 Ballyronan Road, Magherafelt (amended address)

Decision:

Decision Date: 22.09.2010

Ref ID: H/1989/0501

Proposal: SITE OF REPLACEMENT DWELLING

Address: 51A BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2005/0460/O

Proposal: Site of Housing Development

Address: Lands At 53 Ballyronan Road, Magherafelt

Decision:

Decision Date: 24.02.2009

Ref ID: H/2004/0301/F

Proposal: Demolition of existing buildings and erection of 12no. residential units

Address: 51 Ballyronan Road, Magherafelt.

Decision:

Decision Date: 22.03.2007

Ref ID: H/1991/0308

Proposal: CHANGE OF USE OF TYRE STORES TO RETAIL TYRE OUTLET

Address: TO THE REAR OF 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1982/0039

Proposal: CHANGE OF USE OF AGRICULTURE STORE TO GARAGE EQUIPMENT SALES

Address: 53, BALLYRONAN ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1980/0219

Proposal: REPLACEMENT DOMESTIC STORE

Address: BALLYRONAN ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1982/0207

Proposal: CHANGE OF USE OF DOMESTIC STORE TO BUILDING FOR EQUIPMENT STORE (GARAGE

Address: 53 BALLYRONAN ROAD, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1999/0123

Proposal: DWELLING WITH GARAGE

Address: 9 RONAN DRIVE MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1992/6102

Proposal: FILLING STATION AND SUPERMARKET BALLYRONAN RD MAGHERAFELT

Address: BALLYRONAN RD

Decision:

Decision Date:

Ref ID: H/1997/0102

Proposal: HOUSING DEVELOPMENT

Address: ADJ TO 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0433

Proposal: CHANGE OF HOUSE TYPE FOR SITE NO.4 AND ERECTION OF GARAGE

Address: SITE NO.4 HOUSING DEVELOPMENT ADJ. TO 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1987/0341

Proposal: SITE OF HOUSING DEVELOPMENT

Address: BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0509

Proposal: CHANGE OF HOUSE TYPE FOR SITE 3, PLUS ERERCTION OF GARAGE

Address: HOUSING DEVELOPMENT ADJ TO 53 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2001/0025/F

Proposal: Dwelling

Address: Site 3, Ronan Drive, Magherafelt

Decision:

Decision Date: 23.03.2001

Ref ID: H/1994/0309

Proposal: SITE OF DWELLING

Address: SITE 1 ADJ 61 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2002/1141/F

Proposal: Dwelling

Address: 1 Ronan Drive, Magherafelt.

Decision:

Decision Date: 13.03.2003

Ref ID: H/1978/0295

Proposal: SITE OF PRIVATE HOUSING DEVELOPMENT

Address: KILLYFADDY, LECKAGH AND TOWNPARKS, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1990/0557

Proposal: SITE OF HOUSING DEVELOPMENT

Address: ADJ TO 61 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1994/0604

Proposal: HOUSING DEVELOPMENT

Address: BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1991/0583

Proposal: SYNTHETIC SURFACE TRAINING TRACK
Address: MEADOWBANK RECREATION CENTRE BALLYRONAN ROAD
MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2004/0037/F
Proposal: Two dwellings with detached garages.
Address: Adj. to No 10 Ronan Drive, Ballyronan Road, Magherafelt.
Decision:
Decision Date: 07.12.2004

Ref ID: H/1998/0356
Proposal: EXTENSION TO HOUSING DEVELOPMENT
Address: SITE ADJ TO HOUSING DEVELOPMENT BESIDE 61 BALLYRONAN ROAD
MAGHERA
Decision:
Decision Date:

Ref ID: H/2007/0716/F
Proposal: Development of 6 No. 2 storey semi-detached dwellings.
Address: Lands adjacent to 7 Ronan Drive, Ballyronan Road, Magherafelt
Decision:
Decision Date: 22.01.2010

Ref ID: H/2005/0759/F
Proposal: Improvement of existing sports grounds with new facilities including a new athletics track, synthetic playing pitch within a new re-located building and other general site infrastructure re-arrangement.
Address: Meadowbank Playing Fields, 45 Ballyronan Road, Magherafelt
Decision:
Decision Date: 27.03.2006

Ref ID: H/2008/0526/F
Proposal: Proposed third generation Gaelic, Rugby and Soccer pitch to include flood lighting and boundary fence and ballstop fence.
Address: Meadowbank Sports Grounds, Ballyronan Road, Magherafelt.
Decision:
Decision Date: 23.12.2008

Ref ID: H/1974/0486
Proposal: SITE OF PLAYING FIELDS
Address: BALLYRONAN ROAD, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1990/6089
Proposal: SITE OF HOUSING DEVELOPMENT BALLYRONAN ROAD MAGHERAFELT
Address: BALLYRONAN ROAD
Decision:
Decision Date:

Ref ID: H/2014/0138/F

Proposal: Retrospective permission for change of use from wholesale tyre depot to general purpose farm buildings

Address: 53 Ballyronan Road, Magherafelt, BT45 6EW,

Decision: WITHDR

Decision Date: 14.11.2014

Summary of Consultee Responses

TransportNI - advised that the proposal was acceptable subject to conditions relating to the following:-

Access arrangements;

Provision of waiting area outside entrance gates;

Provision of parking/display areas.

Environmental Health Department - advised that the proposal would be acceptable subject to informatives relating to the following;

Appropriate use of lighting so that it does not become a nuisance;

The selection and use of external noise generating plant/equipment to avoid creating noise disturbance.

Drawing Numbers and Title

Drawing No. 03

Type: Floor Plans

Status: Submitted

Drawing No. 02/1

Type: Site Layout or Block Plan

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 04

Type: Roads Details

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0889/F	Target Date:
Proposal: Proposed conversion of a redundant building to form one dwelling	Location: 40m South West of 38 Lisnamuck Road Tobermore Magherafelt
Referral Route: Refusal recommended – contrary to CTY 4 of PPS21 Objections received	
Recommendation: Refusal	
Applicant Name and Address: Ian Hopper 31 Draperstown Road Tobermore Magherafelt	Agent Name and Address: CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response

Representations:		
Letters of Support	None Received	
Letters of Objection	5	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
<p>Characteristics of the Site and Area</p> <p>The site is located along an existing lane which also serves two existing dwellings and agricultural land. There are several relatively new detached properties within close proximity of the site. The building to be converted is single storey. A previous approval was granted under H/2009/0710/O whereby the conversion of the building to a residential use was accepted.</p>		
<p>Description of Proposal</p> <p>Full application for 'proposed conversion of a redundant building to form one dwelling'.</p>		
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>I have assessed this proposal under the following:</p> <p>SPSS Magherafelt Area Plan 2015 Planning Policy Statement 1 - General Principles Planning Policy Statement 21 - Sustainable development in the countryside CTY 4, CTY 13, CTY14 Planning Policy Statement 3 - Access, Movement and Parking</p> <p>Site History - H/2009/0710/O - approval granted 23rd May 2016 for 'Proposed conversion of existing building to dwelling house with associated extension and alterations'. The applicant has submitted a full application as they are outside the date for the submission of a reserved matters application but still within the 5 years for the submission of a full. No design conditions were placed on this previous approval.</p> <p>Land ownership challenge submitted from Mr Pat Fullerton of 42 Lisnamuck Road. Clarification was sought from the applicant on the 9th November 2016, no response has been received. Notice was served to Mr Pat Fullerton on 21.06.2016 and certificate C was signed regarding land ownership, thus the issue regarding land ownership would be a civil matter.</p> <p>Neighbours notified - the owners/occupiers of Nos 36, 38 _ 34B were notified of this proposal on 10th November 2016. Several objections have been received, these are detailed below.</p> <p>In line with legislation the proposal was advertised in several local press publications during July 2016.</p>		

Consultees: Transportni were asked to comment and responded on 05.10.2016 offering no objections subject to conditions, they were reconsulted following this to ask their views on the submitted objections, they responded on 23.11.2016 stating they remain of the same opinion as previous.

Environmental Health were asked to comment and responded on 6.07.2016 offering no objections to the proposal subject to advice.

NI Water were asked to comment and responded on 04.07.2016 offering no objections to the proposal subject to advice.

Objections: - several objections have been received regarding this proposal

1. Barry _ Donna Henderson of 36 Lisnamuck Road have submitted several objections. The main points raised are:

- unsafe access proposed
- possible destruction of objectors existing visibility splays
- possibility of more than one dwelling on site
- query as to accuracy of submitted plans with regards existing buildings
- loss of privacy
- proposal too close to existing development.

2. Mr Pat Fullerton of 42 Lisnamuck Road submitted objections, these were received 19.07.2016. The main points raised are:

- alteration and destruction of existing visibility splays and laneway
- land ownership challenge- clarification of this matter has been sought from the applicant/agent, to date no further comment has been received from the agent/applicant.
- road safety issues

Consultees: - Transportni were asked to comment and responded on 05.10.2016 with no objections. A further consultee was issued regarding the submitted objections and transportni responded on 23.11.2016 stating that they are still of the same opinion that the visibility splays can only be achieved by removing all/part of the hedges. However a negative condition relating to the visibility splays

- Environmental Health were asked to comment and responded on 6.07.2016 with no objections to the proposal.

- NI Water were asked to comment and responded on 04.07.2016 with no objections to the proposal.

In line with legislation this proposal was advertised in several local press publications during July 2016.

The principle of development and more specifically the conversion of a redundant building to form one dwelling has been established on this site on the previous application H/2009/0710/O. Although no design was agreed at this outline stage a preferred design was indicated. The design that has been presented under this current proposal is similar to that indicated at outline stage however does propose the loss of approx. one third of the existing building.

Under CTY 4 of PPS 21 it states that planning permission will be granted to proposals for the sympathetic conversion, with adaption if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. Seven criteria under this policy are also required to be complied with, these are:

a) the building is of a permanent construction - the existing building is of a permanent construction, this was also considered at outline stage.

b) the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the

character or appearance of the locality; - as previously mentioned the proposed design would result in the loss of approx. one third of the existing building, the existing building measures 15metres along the front elevation, while this current proposal shows the front elevation to be 11metres, this I feel is a fundamental issue and in actual fact results in the proposal not adhering to this particular criteria as the form of the existing building would not be maintained nor would it be enhanced. Following discussions with senior planners this point was raised with the applicant/agent and an amended design was requested however the agent advised that the applicant does not want to change the design and wants the design considered as submitted. It is imperative that the character of the existing building is not lost to the overall scheme of development.

c) any new extension are sympathetic to the scale, massing and architectural style and finishes of the existing building - the new extension proposed to the rear is acceptable in its scale, massing, style and finishes.

d) the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings - the conversion of this building and its impact on neighbouring land and properties has been assessed under the previously approved outline H/2009/0710/O.

e) the nature and scale of any proposed non-residential use is appropriate to a countryside location - the proposed use is residential

f) all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality - the proposal can comply with this part of the criteria

g) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic - Transportni were asked for comment and raised no road safety issues with this proposal.

In conclusion I regret to recommend this as a refusal because I feel with careful and sympathetic treatment an acceptable design could be achieved, however the applicant has been unwilling to offer changes to the design.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal recommended: Contrary to CTY 4 of PPS21

Reasons for Refusal:

1. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse or conversion would not maintain or enhance the form, character and architectural features, design and setting of the existing building and would have an adverse effect on the character or appearance of the locality

Signature(s)

Date:

ANNEX	
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Date Valid	22nd June 2016
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Date First Advertised	7th July 2016
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Date Last Advertised	
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Details of Neighbour Notification (all addresses) The Owner/Occupier, 34B Lisnamuck Road Drumcrow Maghera Barry & Donna Henderson 36 Lisnamuck Road, Maghera, Londonderry, Northern Ireland, BT45 5QF Barry and Donna Henderson 36 Lisnamuck Road, Maghera, Londonderry, Northern Ireland, BT45 5QF Barry & Donna Henderson 36, Lisnamuck Road, Maghera, Londonderry, Northern Ireland, BT45 5QF Barry & Donna Henderson 36, Lisnamuck Road, Maghera, Londonderry, Northern Ireland, BT45 5QF The Owner/Occupier, 38 Lisnamuck Road Drumcrow Maghera Patrick Fullerton 42 Lisnamuck Road, Maghera, Londonderry, Northern Ireland, BT46 5LD

Date of Last Neighbour Notification	10th November 2016
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Date of EIA Determination	
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ES Requested	No
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Planning History Ref ID: LA09/2016/0889/F Proposal: Proposed conversion of a redundant building to form one dwelling Address: 40m South West of 38 Lisnamuck Road, Tobermore, Magherafelt, Decision: Decision Date: Ref ID: H/1974/0349 Proposal: 11KV AND MV O/H LINES C.5416 Address: DRUMCROM AND MONEYSHANERE, MAGHERAFELT Decision: Decision Date:
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Ref ID: H/2009/0710/O

Proposal: Proposed conversion of existing building to dwelling house with associated extension and alterations.

Address: 40m South West of 30 Lisnamuck Road, Tobermore, Magherafelt

Decision: PG

Decision Date: 24.05.2013

Ref ID: H/2006/0916/O

Proposal: Site of proposed dwelling and garage

Address: Lands 80m South West of No.38 Lisnamuck Road, Tobermore

Decision:

Decision Date:

Ref ID: H/2010/0275/LDE

Proposal: Attic conversion to dwelling

Address: 30 Lisnamuck Road, Maghera

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0928/O	Target Date:
Proposal: Single storey dwelling on a farm	Location: Land to West of 17 Ballynahone Road Ballynahone More Maghera
Referral Route: Contrary to PPS 21 CTY	
Recommendation: Refusal	
Applicant Name and Address: Mr Lloyd Porter 2 Tirruadh Road Draperstown Magherafelt	Agent Name and Address: Ward Design The Gravel 10 Main Street Castledawson BT45 8AB
Executive Summary: Planning application recommended for refusal	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response

Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues: No Issues.	
Characteristics of the Site and Area <p>The site is located 1 mile northeast of Tobermore in open countryside in accordance with the Magherafelt Area Plan. The site is located 50m west of No 17 Ballynahone Road and is cut portion of large agricultural field identified as field No 3 on the farm maps submitted with the application. The site setback is 50m from the edge of the public road and access is obtained from an existing paired laneway. The south-eastern and south-western boundaries are defined by hawthorn hedge and there are some mature trees along the south-western boundary.</p>	
Description of Proposal <p>The application seeks outline planning permission for a single storey dwelling on the farm</p>	
Planning Assessment of Policy and Other Material Considerations <p>Relevant Site History: H/2003/0065/F - Dwelling. Approved 7th May 2003 (Applicant Mr Lloyd Porter)</p> <p>Representations: 4 neighbour's notification letters were sent to the occupiers of Nos 15, 17, 19 & 19A Ballynahone Road, Maghera No letter of representation have been received</p> <p>Development Plan and Key Policy Consideration: Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.</p> <p><u>Magherafelt Area Plan 2010:</u> The site itself is located in the open countryside. There are no other designations on the site.</p> <p>SPPS – Strategic Planning Policy Statement for Northern Ireland: 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 interests of acknowledged importance.</p> <p>Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.</p> <p><u>PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006):</u> sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.</p> <p>PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.</p>	

Policy CTY 1 of PPS 21 allows for a single dwelling on a farm subject to the policy tests laid down in policy CTY 10 and states that planning permission will be granted for a dwelling on a farm where three criteria are met.

Criterion (a) requires the farm business to be currently active and established for at least 6 years. The applicant has submitted a farm business ID number which DARD has confirmed is currently active and has been established more than 6 years and that the farm business has claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. I am satisfied the proposal complies with criterion (a)

Under criterion (b) which requires no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. A planning history search reveals a full application for a dwelling was approved under ref No H/2003/0065/F on 7th May 2003 at No 19A Ballynahone Road for the applicant, Mr Lloyd Porter. However the applicant's address on the P1 & PC1 forms states that he resides at No 2 Tirruadh Road Draperstown. I queried who lives at No 19A and the applicant advised that due to personal circumstances the dwelling at No 19A was sold on 4th April 2016. Paragraph 5.40 of the Justification and Amplification makes it clear that planning permission will not be granted for a dwelling under this policy where a rural business has recently sold off a development opportunity from the farm, therefore the proposal fails to comply with criterion (b) of policy CTY 10.

Under criterion (c) of the policy which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The proposal site is a cut out portion of a large agricultural field identified on the farm map as field No 3. The established grouping is located a short distance south east of the site and consists of a number of agricultural sheds and farm dwelling. Access will be obtained from an existing laneway. I am satisfied the proposal complies with criterion (c) and criterion (g) of CTY13.

Other Material Consideration.

I am satisfied the proposed single storey can visually integrated into the surrounding landscape without offending any of the criteria listed under policy CTY 13 Integration. With regard to CTY 14 Rural Character, a new dwelling will not have a detrimental impact on rural character and will respect the traditional pattern of settlement exhibited in the area.

I am satisfied that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

Neighbour Notification Checked	Yes
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Summary of Recommendation: I recommend refusal on the bases that a development opportunity has been sold off.

Refusal Reasons

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that a development opportunity has not been sold off from the farm holding within 10 years of the date of the application.

Signature(s) Sean Diamond

Date:

ANNEX	
Date Valid	1st July 2016
Date First Advertised	14th July 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 15 Ballynahone Road,Ballynahone Beg,Maghera,Londonderry,BT46 5DL, The Owner/Occupier, 17 Ballynahone Road Ballynahone Beg Maghera The Owner/Occupier, 19 Ballynahone Road Ballynahone Beg Maghera The Owner/Occupier, 19A Ballynahone Road,Ballynahone Beg,Maghera,Londonderry,BT46 5DL,	
Date of Last Neighbour Notification	25th July 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/0928/O Proposal: Single storey dwelling on a farm Address: Land to West of 17 Ballynahone Road, Ballynahone More, Maghera, Decision: Decision Date: Ref ID: H/2005/1285/F Proposal: 11kv Supply Address: Opposite 21 Ballynahone Road, Maghera Decision: Decision Date: 11.05.2006 Ref ID: H/2003/0065/F Proposal: Dwelling. Address: Approx 100m South West of no.17 Ballynahone Road, Maghera. Decision: Decision Date: 09.05.2003 Ref ID: H/2007/0189/RM Proposal: Dwelling & garage. Address: Adjacent to No. 11 Ballynahone Road, Magherafelt Decision: Decision Date: 25.09.2007	

Ref ID: H/2003/0796/O

Proposal: Site of dwelling and garage.

Address: Site adjacent to No.11 Ballynahone Road, Magherafelt.

Decision:

Decision Date: 05.03.2004

Ref ID: H/1986/0224

Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW

Address: 19 BALLYNAHONE ROAD, MAGHERA

Decision:

Decision Date:

Ref ID: H/2004/0775/F

Proposal: Dwelling & Garage

Address: Site Adjacent To 21 Ballinahone Road, Maghera.

Decision:

Decision Date: 30.01.2006

Ref ID: H/1999/0450

Proposal: SITE OF DWELLING ADJACENT TO 17 BALLINAHONE ROAD MAGHERA

Address: ADJACENT TO 17 BALLINAHONE ROAD MAGHERA

Decision:

Decision Date: 18.12.1999

Ref ID: H/2000/0712/RM

Proposal: Dwelling and garage

Address: Adjacent to No 17 Ballynahone Road, Maghera

Decision:

Decision Date: 12.12.2000

Ref ID: H/2004/0485/O

Proposal: Site of dwelling and garage.

Address: Site 50m E of 11 Ballinahone Road, Maghera.

Decision:

Decision Date: 30.01.2006

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type:

Status: Submitted

Drawing No. 01 Revision 1

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Farm Boundary Map

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1247/F	Target Date:
Proposal: Construction of car parking adjoining existing car parking at sports centre currently under construction	Location: Rainey Endowed Grammar School 79 Rainey Street Magherafelt
Referral Route: Conflict with Transport NI consultation	
Recommendation: Approval	
Applicant Name and Address: Board of Governors of Rainey Endowed School 79 Rainey Street Magherafelt BT45 5DB	Agent Name and Address: Keys & Monaghan Architects 12 Main Street Irvinestown BT94 1GJ
Executive Summary: Planning application recommended for approval.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received

Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues – No Issues	
<p>Characteristics of the Site and Area</p> <p>The site is located within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The proposal site forms part of Rainey Endowed Grammar School complex and the site is currently under construction as per the permission granted under H/2014/0345/F. Immediate to the west is a pair of semi-detached dwellings which are located within an Area of Townscape Character. The proposal site and the semi-detached are separated by a green powder coated paladin fence with scattered trees. The area is defined by a mix of uses including educational, residential, open space and retail.</p>	
<p>Description of Proposal</p> <p>The application seeks full permission for the construction of 17 car parking spaces in conjunction with the previous permission granted under H/2014/0345/F.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Relevant History</p> <p>H/2012/0299/F - Modular Construction Hygiene Room placed in inner court yard of school. Approved 3rd December 2012.</p> <p>H/2013/0361/F - Three separate sections of 3m high Powder Coated Steel Mesh Ballstop fence to be erected against the site boundary at the ends of existing hockey pitches. Total 124m long. Approved 22nd January 2014.</p> <p>H/2013/0473/F - 4 no extensions to provide disability access including lifts. Approved 27th February 2014.</p> <p>H/2014/0157/F - Removal of 3no modular buildings and construction of 7no modular portable buildings and associated landscaping. Approved 14th August 2014.</p> <p>H/2014/0345/F - Erection of Sports Hall and Changing Facilities. Approved 23rd March 2015.</p> <p>Representations:</p> <p>3 neighbour's notification letters were sent to the occupiers Nos 4 & 9 Tobermore Road and No 1 Mount Royal, Tobermore Road, Magherafelt.</p> <p>No letter of representation have been received</p> <p>Development Plan, Legislation and Key Policy Consideration</p> <p>The site is located within the development limit of Magherafelt as defined by the Magherafelt Area Plan 2010. A small portion of the site falls within an area of Open Space and the site also abuts an Area of Townscape Character along the western the boundary.</p> <p>Magherafelt Area Plan 2010 Strategic Planning Policy Statement (SPPS) PPS 3 Access, Movement and Parking PPS 4 Planning and Economic Development</p> <p>The key policy for determining a car park is AMP 9 of PPS 3 which refers to 'design of car parking' and states that planning permission will only be granted for a proposal where it respects the character of the local landscape and it will not adversely affect visual amenity.</p> <p>The application proposes 17 no car parking spaces in addition to the 34 car parking spaces approved under H/2014/0345/F. The additional spaces will be located between the new sport hall and the public road and additional landscaping measures have been included to help screen</p>	

the proposal from the public road. I am satisfied that the proposal is adequately sited to avoid a significant adverse impact on residential amenity or road safety. Transport NI have no objection to the revised car parking layout, however they have requested revisions to the approved access to include a footway returning round the radii at the entrance and a pedestrian crossing point. The applicant has indicated that it is not feasible to provide the amendments because of existing trees at the entrances and work has commenced on site in accordance with the previously approved access.

Consultation

Transport NI have been consulted in regards to the car parking and access arrangements and have raised no concerns regarding the proposed car park, however they have requested amendments to the proposed access. It should be noted that the proposed access is identical to the access approved under H/2014/0345/F. I consider Transport NI request for amendments to an already approved access which is also under construction an unreasonable one and will consider application without Transport NI consultation.

Neighbour Notification Checked – Yes

Summary of Recommendation: That planning permission be approved subject to the following condition

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. The vehicular access, including visibility splays of 2.4m x 70, in both directions, shall be in accordance with drawing No 03 which was received on 5th September 2016, within 3 months from the date of this decision.

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

3. 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 within 3 months from the date of the decision 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)

Date:

ANNEX	
Date Valid	5th September 2016
Date First Advertised	22nd September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Mount Royal, Tobermore Road, Magherafelt, Co Derry The Owner/Occupier, 4 Tobermore Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 9 Tobermore Road Town Parks Of Magherafelt Magherafelt	
Date of Last Neighbour Notification	27th September 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1247/F Proposal: Construction of car parking adjoining existing car parking at sports centre currently under construction Address: Rainey Endowed Grammar School, 79 Rainey Street, Magherafelt, Decision: Decision Date: Ref ID: H/2005/0375/F Proposal: Proposed New Staircase to Science Block Address: 79 Rainey Street, Magherafelt Decision: Decision Date: 27.07.2005 Ref ID: H/2007/0552/F Proposal: Provision of perimeter fencing Address: 79 Rainey Street, Magherafelt Decision: Decision Date: 22.11.2007 Ref ID: H/1999/0248 Proposal: EXTENSION TO GRAMMAR SCHOOL Address: RAINEY STREET MAGHERAFELT Decision: Decision Date:	

Ref ID: H/2000/0878/F

Proposal: Proposed Fencing

Address: Rainey Endowed School, 79 Rainey Street, Magherafelt

Decision:

Decision Date: 01.02.2001

Ref ID: H/2005/0609/O

Proposal: Site of new grammar school and associated grounds

Address: Rainey Endowed School, 79 Rainey Street, Magherafelt, BT45 5DB

Decision:

Decision Date: 17.11.2005

Ref ID: H/1995/0213

Proposal: 2 MOBILE CLASSROOMS

Address: RAINEY ENDOWED SCHOOL RAINEY STREET MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2014/0157/F

Proposal: Removal of 3no modular buildings and construction of 7no modular portable buildings and associated landscaping

Address: Rainey Endowed Grammar School, 79 Rainey Street, Magherafelt,

Decision: PG

Decision Date: 21.08.2014

Ref ID: H/2013/0473/F

Proposal: 4 no extensions to provide disability access including lifts

Address: Rainey Endowed School, 79 Rainey Street, Magherafelt,

Decision: PG

Decision Date: 28.02.2014

Ref ID: H/2014/0345/F

Proposal: Erection of Sports Hall and Changing Facilities.

Address: Rainey Endowed Grammar School, 79 Rainey Street, Magherafelt.,

Decision: PG

Decision Date: 24.03.2015

Ref ID: H/2013/0361/F

Proposal: Three separate sections of 3m high Powder Coated Steel Mesh Ballstop fence to be erected against the site boundary at the ends of existing hockey pitches. Total 124m long.

Address: Rainey Endowed School, 79 Rainey Street, Magherafelt, BT45 5DB,

Decision: PG

Decision Date: 23.01.2014

Ref ID: H/2012/0299/F

Proposal: Modular Construction Hygiene Room placed in inner court yard of school

Address: Rainey Endowed Grammar School 79 Rainey Street, Magherafelt, BT45 5DB,

Decision: PG

Decision Date: 08.10.2012

Summary of Consultee Responses – Transport NI have requested amendments to the access.

Drawing Numbers and Title

Drawing No. 02
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Drawing No. 03
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 01
Type: Site Layout or Block Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1279/F	Target Date:
Proposal: Pair of 2 No. Semi-detached Dwellings (Amended Description)	Location: 89 Moneysallin Road Kilrea
Referral Route: Recommended for refusal	
Recommendation: REFUSAL	
Applicant Name and Address: Mr David Gordon 46 Kilrea Road Portglenone BT44 8JB	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary: No representations. Proposal does not satisfy policy tests of PPS 21.	
Signature(s): N. Hasson	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI	No objection

Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

No representations received.

Characteristics of the Site and Area

The application site is situated at 89 Moneysallin Road, Kilrea within the open countryside as defined by the Magherafelt Area Plan 2015. The site is defined by a 2 storey building situated at the roadside at the junction of Moneysallin Road and Fallahogy Road. The site is quite open to the public road and does not benefit from a significant degree of natural screening, although there are a few trees along the site boundaries. The boundaries are defined by post and rail

fencing along the southern and eastern boundaries, whilst the northern boundary is defined by a timber fence.

The existing building has been divided into two separate residential units with two separate front doors and numbers (89 & 89a); two separate gardens divided by walls/fencing; 2 separate accesses onto the Fallahogy Road and Moneysallin Road which are unauthorised; separate oil tanks and oil burners; separate electricity meter boxes; and separate satellite dishes.

The surrounding area is characterised by a mixture of residential development and agricultural development.

Description of Proposal

The proposal is for a 'Pair of 2 No. Semi-detached Dwellings (Amended Description)'.

Planning Assessment of Policy and Other Material Considerations

Site History:

Planning permission was granted for 'Proposed replacement dwelling and garage to include integral granny flat for residential purposes' under planning reference LA09/2016/1279/F. This planning application was approved on 29/09/10.

Planning permission for 'Change of use from existing dwelling to house in multiple occupancy' was refused under planning reference H/2012/0024/F on 15/06/12.

Planning permission for 'Proposed internal alterations (provision of stair case and internal doors) to dwelling and linked granny flat as approved under H/2010/0248' was refused under planning reference H/2013/0288/F on 12/02/14.

Representations:

No representations have been received for this proposed development.

Development Plan and Key Policy Considerations:

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21 Sustainable Development in the Countryside

As discussed in the site history section, planning permission has previously been approved for one dwelling on the site.

The proposal is for a 'Pair of 2 No. Semi-detached Dwellings (Amended Description)'. Originally, the proposal description related to 'the sub-division of one existing dwelling and granny flat into 2 no. dwellings'. However, checks with Department of Finance Land and Property Service confirmed that the applicant has been paying rates on two separate dwellings (No. 89 and 89A) since July 2011. It would appear that the property had been subdivided into two dwellings at that stage and thus, the original proposal description was inaccurate.

It should also be noted that Mid Ulster District Council currently has an enforcement case relating to the unauthorised use of the building as two separate dwellings. An enforcement notice has been served and the case is currently in court. Court proceedings were recently adjourned pending the outcome of this planning application.

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development in the countryside is controlled under the provisions of the SPPS and PPS 21 Sustainable Development in the countryside.

The 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. Section 6.73 of the SPPS relates to residential development that is acceptable in the countryside:

- New dwellings in existing clusters
- Replacement dwellings
- Dwellings on farms
- Dwellings for non-agricultural business enterprises
- Infill/ribbon development
- The conversion and re-use of existing buildings for residential use
- A dwelling where there are personal and domestic circumstances
- A temporary caravan
- Social and affordable housing development

Under policy CTY 1 of PPS 21, there are a range of types of development which in principle are considered to be acceptable in the countryside. Planning permission will be granted for residential development in the countryside in the following cases:

- Dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- Replacement dwelling in accordance with Policy CTY 3;
- Dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;
- Dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;
- Development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or
- Dwelling on a farm in accordance with Policy CTY 10.

Planning permission will also be granted in the countryside for:

- Small group of houses in a designated Dispersed Rural Community in accordance with Policy CTY 2;
- Conversion of a non-residential building to a dwelling(s) in accordance with Policy CTY 4;
- Provision of social and affordable housing in accordance with Policy CTY 5;
- Residential caravan or mobile home in accordance with Policy CTY 9;
- Conversion of a listed building to residential accommodation in accordance with the policies of PPS 6;
- Extension to a dwelling house where this is in accordance with the Addendum to PPS 7; or
- Travellers Accommodation where this is in accordance with Policy HS 3 of PPS 12.

In accordance with the SPPS and policy CTY 1 of PPS 21, the proposal for a 'Pair of 2 No. Semi-detached Dwellings' would not be considered acceptable in principle in this countryside location. Currently, there is planning permission for one dwelling on the site. No case has been made by the applicant or agent to explain why an additional dwelling is essential in this location.

Transport NI were consulted on the proposed development and have no objection.

Neighbour Notification Checked

Yes

Summary of Recommendation:

It is my opinion that this planning application should be refused in accordance with policy CTY 1 of PPS 21, as it creates an additional residential unit in the countryside and there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Reasons for Refusal:

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it creates an additional residential unit in the countryside and there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

Signature(s) N. Hasson

Date: 23/02/17

ANNEX	
Date Valid	14th September 2016
Date First Advertised	29th September 2016
Date Last Advertised	26th January 2017
Details of Neighbour Notification (all addresses) The Owner/Occupier, 87A Moneysallin Road Fallahogy Kilrea The Owner/Occupier, 87B Moneysallin Road, Kilrea, Co Derry	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1279/F Proposal: Sub-division of existing dwelling and granny flat (ref: H/2010/0248/F) to form 2 no dwellings Address: 89 Moneysallin Road, Kilrea, Decision: Decision Date: Ref ID: H/2013/0288/F Proposal: Proposed internal alterations (provision of stair case and internal doors) to dwelling and linked granny flat as approved under H/2010/0248 Address: 89 Moneysallin Road, Kilrea, Decision: PR Decision Date: 13.02.2014 Ref ID: H/2005/0568/F Proposal: Change of use from private dwelling to house of multiple occupancy Address: 87 Moneysallin Road, Kilrea (Access on the Fallahogy Road) Decision: Decision Date: 19.10.2005 Ref ID: H/2001/0737/O Proposal: Site for Dwelling Address: Adjacent to 89 Moneysallin Road, Kilrea	

Decision:
Decision Date: 12.10.2001

Ref ID: H/2002/0110/RM
Proposal: Dwelling
Address: Fallahogy Road, Kilrea (Adjacent to 89 Moneysallin Road, Kilrea)
Decision:
Decision Date: 12.04.2002

Ref ID: H/2010/0248/F
Proposal: Proposed replacement dwelling and garage to include integral granny flat for residential purposes.
Address: 89 Moneysallin Road, Kilrea
Decision:
Decision Date: 06.01.2011

Ref ID: H/2012/0024/F
Proposal: Change of use from existing dwelling to house in multiple occupancy
Address: 89 Moneysallin Road, Kilrea,
Decision:
Decision Date: 19.06.2012

Summary of Consultee Responses

Transport NI have no objections to the proposal.

Drawing Numbers and Title

Drawing No. 03
Type: Proposed Plans
Status: Submitted

Drawing No. 01
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 02
Type: Site Layout or Block Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1292/F	Target Date:
Proposal: Residential development for 3 no detached dwellings to include associated access, entrance road, driveways, garages and landscaping	Location: 21 Bush Road Dungannon
Referral Route: Petition of objections received.	
Recommendation:	APPROVE
Applicant Name and Address: GP Developments 86 Killyman Road Dungannon BT71 6DQ	Agent Name and Address: Studiorogers Architects Ltd The Egg Store 1 Mountsandel Road Coleraine BT52 1JB
Executive Summary: The original proposal for 4 no. dwelling has been revised and reduced to a total of 3 no. dwellings. The revised proposal alleviates concerns in relation to density and overlooking. The proposal is located within the settlement limits in a residential area. In my opinion it satisfies the requirements of PPS 7 and will not unduly impact on neighbouring residential amenity. The visibility splays of 2.4m x 90m are provided as required by Transport NI. Subject to verification from Transport NI of an autotrack drawing depicting a large delivery vehicle capable of turning in the private roads arrangement proposed, I recommend permission is granted with conditions.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	TNI	See below
Non-Statutory	NIWater	See below

Representations:

Letters of Support	4
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

5 representations were received. It is notable that 4 letters, 3 of support and one petition of objection with 7 signatures were received initially in response to the first neighbour notification and original proposal of 4 dwellings. The scheme was subsequently revised following

recommendation to amend the proposal to 3 no. dwellings. Neighbours and all persons who had submitted representations were re-notified and one further letter of support was subsequently received.

Support

The letters of support were received by the occupiers of 1, 2 and 3 Lisnaclin View, Dunagannon - three of four dwellings which share a boundary with the site. Their comments welcome the design which is described as pleasing, particularly with new planting which will minimise overlooking. They state that there will be no loss of light and the proposal, - an attractive development with new planting will improve their view compared with the existing waste ground. Other representatives describe the site in its current state as an eyesore and claim that the proposal is an improvement and will not impinge on their view.

Following the submission of an amended proposal with three dwellings a further letter of support from the residents of 1 Lisnaclin View was received. It highlight their continued support for the proposal and agreed the amended even more attractive and requested that an approval should proceed speedily in order that the unsightly waste ground be improved.

Objection

A petition of objection was received. It was signed by the occupiers of 15, 17, 18, 21A, 23 Bush Road and 1 & 2 Bushvale, Dungannon. The main points of concern are:

The original single residence and garage on the site was demolished. All but one mature tree and all shrubs were cut down and removed. The site was subdivided and three dwellings and garages were built on the lower part. They claim the current proposal (refers to original proposal for 4 dwellings) does not consider the restrictions imposed by previous applications with regards to the extent and location of the development in relation to the footprint of the original dwelling.

They claim the proposal would create over-development, intensification and the form and character of the proposed house types are not in harmony with adjacent housing and would detract and erode environmental quality, residential amenity and the established character of the wider area.

It claims the proposed development does not respect the surrounding context in relation to layout, scale, proportion and topography and would create conflict in relation due to differences in level and have an adverse effect on the existing properties in terms of overlooking, loss of privacy, loss of light, overshadowing, noise and disturbance. They objectors claim there is insufficient space between the proposed houses, within the site and along the boundaries for the provision of landscaping and planting of trees required to mitigate the visual impact of the proposal and assist with integration with the surrounding area. It is also claimed the design and layout of the proposal does not provide the necessary space for access, movement, turning and parking of vehicles to an appropriate level.

Characteristics of the Site and Area

The application site is located on the Bush Road, Dungannon on a vacant plot of land adjacent to Lisnaclin View. The area is largely characterised by residential development consisting of two storey detached dwellings. The site is a roadside plot which rises from west to east. Ground levels are situated at a higher level than adjacent development at Lisnaclin View and Bush Road. At the time of inspection the site was in a poor state and overgrown with vegetation. Site boundaries to the north along the roadside, to the east and south are defined by hedgerows. The western boundary between the site and Lisnaclin View is marked by a closed board fence.

History

M/2007/1010/F - 1 number 6 unit apartment block - 21 Bush Road, Dungannon – Permission Granted 16.06.2010

M/2008/0479/F - 3No new build dwellings with integral garages, accessing onto Bushvale - 21 Bush Road, Dungannon, BT71 6QE – Permission Granted - 14.08.2008

Description of Proposal

The proposal is for a housing development of three houses at 21 Bush Road, Dungannon. The proposal includes 3 no. two storey 4 bedroom houses with associated gardens, in curtilage parking and a private drive.

Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- The Strategic Planning Policy Statement (SPPS)
- PPS 3: Access, Movement and Parking
- PPS 7: Quality Residential Environments
- PPS 7 (Addendum): Safeguarding the Character of Established Residential Areas

The Dungannon and South Tyrone Area Plan identifies the site within the settlement limits of Dungannon which gives favourable consideration to development subject to plan policies. There are no other designations on the application site. In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers and occupied premises on neighbouring land were consulted by letter. The original proposal was for 4 no. dwellings, however following recommendation was revised to 3 no. dwellings. Relevant neighbours and objectors were re-notified.

PPS 7: Quality Residential Environments

Policy QD 1 Quality in New Residential Development states 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 area is characterised by residential development which includes detached two storey dwellings serviced by adopted roads. Housing developments in the immediate vicinity are generally of medium density. An original proposal for 4 dwellings on the application site was considered. While the scale, proportion and massing of the dwellings proposed were similar to existing development, the density was considered to be an intensification and not respectful of the character of the immediate area. The topography of the land also rises in a westerly direction and ground levels are higher than that at Lisnaclin View and Bush Road. Concern was expressed in relation to the density of the development proposed and a revised scheme was received with the number of dwellings reduced from four to three houses. The density is in my view appropriate within the surrounding context. The amended scheme also provides more space between dwelling houses and affords a larger separation distance of 8m between the dwelling no.3 (proposed) and the site of 21A Bush Road. A landscaping scheme includes the retention of an existing hedgerow along the southern site boundary (between the site and no.21A Bush Road) along with the provision of new hedgerows and trees to external and internal site boundaries. Individual plots are to be marked by pillars and iron railings at their entrance and a closed board fence behind the building line. A retaining wall is proposed to the western site boundary. Boundaries proposed are similar to adjacent development on Bush road, Bushvale and Lisnaclin View and will in my view complement 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;

There are no archaeological and built heritage features in proximity of the site. However there are existing hedgerow boundaries to the south, along the roadside and partially to the western boundary. The southern hedgerow is to be retained and augmented by trees. The roadside boundary is being replaced with new hedgerows behind the visibility splays along with a 1.8m boundary wall set back over 2m from the public road. New hedgerows and trees are also proposed to the western and eastern site boundaries. While it is acknowledged that some landscaping is being removed, they are being replaced with new hedgerows and trees which will aid the integration of the development. This is considered a reasonable response, given the landscaping being removed is to facilitate visibility splays and the provision of a retaining wall. I recommend the landscaping proposed is conditioned in the event permission is granted.

(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 proposal includes the provision of private amenity space to the rear of the properties and public areas to the front with shared private drive. Hedgerows are proposed along all site boundaries with additional trees along external boundaries which soften the visual impact of the proposal and assist with integration. Landscaping also provide screening between the development and adjacent dwellings.

(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 is for 3 no. houses adjacent to existing residential development. Considering the size of the proposal, new neighbourhood facilities are not considered necessary.

(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 includes the provision of a private drive and a public footpath along the entire site frontage facilitating a movement pattern which meets the needs of people.

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

Parking provision is also considered under PPS 3. 2 no. assigned car parking spaces are provided within the curtilage of each dwelling thus satisfying the requirements set out in Creating Places.

(g) The design of the development draws upon the best local traditions of form, materials and detailing;

Dwellings proposed are two storey with hipped roofs and large chimneys. Materials finishes include red brick to the ground floor and smooth render to the first floor, concrete tiles to the roof, UPVC windows, aluminium rainwater goods and hardwood painted doors. Each dwelling is to be marked by pillars at the entrance and defined by iron railing to their front boundaries. The design of the dwellings are similar in appearance and in keeping with other dwellings in the vicinity.

(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 design and layout is in keeping with adjacent residential land uses.

The finished floor level of dwellings are the same as that previously approved under M/2007/1010/F – an apartment block of 6 units granted permission on 16.06.2010. The ridge height of the proposed dwelling is 8.5m from finished floor level and 0.7m lower than the previously approved development.

It is notable that dwellings 1,2,3 Lisnaclyn drive which share the western site boundary welcome the development. However objections has been received from the occupier of 21A Bush Road. The separation distance between dwelling no. 3 proposed and the closest development - 21A Bush Road has been increased from 5m under the initial proposal to 8m under the revised proposal. Ground level of the site is higher than that adjacent land to the west and south, however the development is set back to rear of existing residential development. A hedgerow along the south is to be retained to provide screening. Additional landscaping will also help screen the proposal and aid integration. In relation to overlooking, on dwelling no.3 proposed there are no window openings on the southern elevation at ground level and those at first floor serve only a landing and stairwell. In relation to overshadowing it is considered that the proposal is sufficiently separated so as not to cause over shadowing or loss of light. In relation to noise, the proposal is in an existing area of residential development and is in keeping with the character of the area. This proposal for 3 no. dwelling will not in my view cause unacceptable adverse impact on residential amenity due to noise or other disturbance.

(i) the development is designed to deter crime and promote personal safety. There are no concerns in relation to crime associated with the proposal.

PPS 3:

Policy AMP 2 Access to Public Roads states:

“Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.”

Transport NI were consulted and returned a response with a request for the driveway proposed to be brought in line with the requirements of Creating Places. It is however important to note that the proposed driveway to serve three dwellings is to remain private and will not adopted. The most recent Transport NI response states:

The Council should note that the proposed road design does not comply with Creating Places and consider road safety implications relating to substandard visibility splays from individual internal access points.

Transport NI recommend:

- Length of turning head should be increased to 15.5m.
- Width of the access road to be increased to 6m for the first 10m
- Plot centre line spot 10m into proposed private drive.
- Survey of Bush road to be extended to show tying in of 90m ‘y’ distance splays.

In relation to the road safety the required visibility splays of 2.4m x 90m are provided albeit they are depicted in detail at scale 1:500 on the proposed site plan. On review I am content that the proposal is not required to meet with the standards outlined in Creating Places given only 3 dwellings are proposed. However, given the turning head provided is less than that set out in Creating Places, confirmation that a large delivery vehicle is capable of turning in the private roads arrangement proposed has been sought. An autotrack drawing from Sheehy Consulting depicting a large refuse / delivery vehicle turning in the private road proposed has been received. This has been issued to Transport NI for verification.

<p>As previously discussed in this report, car parking arrangements provided are satisfactory.</p> <p>Other Considerations NI Water were consulted and have returned a response with no objections.</p>	
Neighbour Notification Checked	Yes
<p>Summary of Recommendation: In conclusion it is recommended that permission is granted with conditions subject to verification of the autotrack drawing submitted to Transport NI.</p>	
<p>Conditions</p> <ol style="list-style-type: none"> 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. 2. <p>Reason: Time limit</p> <ol style="list-style-type: none"> 3. The vehicular access, including visibility splays of 2.4m x 90m in both directions, and any forward sight distance shall be provided in accordance with drawing No. 03rev2 bearing the date stamp 22nd December 2016, prior to the commencement of any other works or other development hereby permitted. 4. <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>4. All proposed landscaping as detailed on drawing number 03rev2 bearing the date stamp 22nd December 2016 shall be carried out prior to occupation of the development hereby approved. 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.</p> <p>Reason: To ensure the development integrates into the surrounding area and to ensure the maintenance of screening to the site.</p> <p>5. The retaining wall depicted in drawing 03 rev2 bearing the date stamp 22nd December shall be no higher than 1.4m from ground level.</p> <p>Reason: To protect visual amenity and character of the area.</p>	
<p>Signature(s)</p>	
<p>Date:</p>	

ANNEX	
Date Valid	16th September 2016
Date First Advertised	29th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) David Miller 1 Bushvale, Dungannon The Owner/Occupier, 1 Lisnaclin View, Bush Road, Dungannon Maureen Crawford 1 Lisnaclin View, Bush Road, Dungannon, BT71 6FX Maureen Crawford 1, Lisnaclin View, Dungannon, Tyrone, Northern Ireland, BT71 6QE David Wilson 15 Bush Road, Dungannon, Co Tyrone The Owner/Occupier, 18 Bush Road, Drumharriff, Dungannon, Tyrone BT71 6QE Kenneth Armstrong 2 Bushvale, Dungannon The Owner/Occupier, 2 Lisnaclin View, Bush Road, Dungannon Philip and Ann Marie Slater 2, Lisnaclin View, Dungannon, Tyrone, Northern Ireland, BT71 6QE The Owner/Occupier, 21A Bush Road, Dungannon The Owner/Occupier, 23 Bush Road Lisnaclin Dungannon The Owner/Occupier, 3 Lisnaclin View, Bush Road, Dungannon Jeremy and Lisa Quinn 3, Lisnaclin View, Dungannon, Tyrone, Northern Ireland, BT71 6QE	
Date of Last Neighbour Notification	18th January 2017
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1292/F Proposal: Residential development for 4 no detached dwellings to include associated access, entrance road, driveways, garages and landscaping Address: 21 Bush Road, Dungannon, Decision: Decision Date:	

Ref ID: M/1976/0374
Proposal: PRIVATE HOUSING DEVELOPMENT
Address: LISNACLIN, BUSH, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1977/0771
Proposal: HOUSING DEVELOPMENT
Address: LISNACLIN, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1978/0342
Proposal: RESIDENTIAL DEVELOPMENT
Address: LISNACLIN, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1981/0086
Proposal: PRIVATE HOUSING DEVELOPMENT
Address: LISNACLIN, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1984/0298
Proposal: HOUSING DEVELOPMENT
Address: BUSH ROAD (LISNACLIN), DUNGANNON
Decision:
Decision Date:

Ref ID: M/1984/029801
Proposal: HOUSING DEVELOPMENT
Address: BUSH ROAD (LISNACLIN), DUNGANNON
Decision:
Decision Date:

Ref ID: M/1987/0101
Proposal: DWELLING
Address: BUSH ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1998/0862
Proposal: Proposed Housing Development 22 No. Houses in total
Address: LAND BETWEEN NO. 21 AND 35 BUSH ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/2002/0071/O
Proposal: Site for dwelling and domestic garage.
Address: Land 40m NE of 9 Bush Road, Dungannon.
Decision:
Decision Date: 19.03.2002

Ref ID: M/2003/1198/F
Proposal: Proposed New Dwelling and Garage
Address: Approx 50m South of 18 Bush Road Dungannon
Decision:
Decision Date: 02.04.2004

Ref ID: M/2005/0915/O
Proposal: Dwelling house
Address: Adjacent to & South West of 21 Bush Road, Dungannon
Decision:
Decision Date: 09.12.2005

Ref ID: M/2005/0916/O
Proposal: Proposed dwelling house
Address: Adjacent to & North West of 21 Bush Road, Dungannon
Decision:
Decision Date: 21.07.2005

Ref ID: M/2006/1579/F
Proposal: 3 Number new dwellings and garages
Address: 21 Bush Road, Dungannon
Decision:
Decision Date: 09.07.2007

Ref ID: M/2006/2110/F
Proposal: Proposed vehicular entrance and right turning lane to facilitate a future housing development
Address: On lands adjacent to 33 Bush Road, Dungannon
Decision:
Decision Date: 16.10.2007

Ref ID: M/2007/0903/F
Proposal: Proposed housing development consisting of 86 no. units including the following - 3 & 4 bedroom - 2, 2 1/2 & 3 1/2 storey terraced and semi-detached dwellings also 1 & 2 Bedroom - 2 & 3 1/2 storey apartments.
Address: Lands adjacent to 33 Bush Road, Dungannon
Decision:
Decision Date: 12.06.2009

Ref ID: M/2007/1010/F
Proposal: 1 number 6 unit apartment block

Address: 21 Bush Road, Dungannon
 Decision:
 Decision Date: 16.06.2010

Ref ID: M/2008/0479/F
 Proposal: 3No new build dwellings with integral garages, accessing onto Bushvale
 Address: 21 Bush Road, Dungannon, BT71 6QE
 Decision:
 Decision Date: 14.08.2008

Summary of Consultee Responses

NIWater – no objection
 Transport NI – additional information requested. This request is considered unnecessary given the proposal is for 3 no. dwellings and not required to meet the Standards outlined in supplementary guidance - Creating Places. Awaiting verification of auto-track drawing provided from Transport NI.

Drawing Numbers and Title

Drawing No. 01
Type: Site Location Plan
Status: Submitted

Drawing No. 06
Type: Road Access Plan
Status: Submitted

Drawing No. 05
Type: Photograph
Status: Submitted

Drawing No. 02
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 04
Type: Block/Site Survey Plans
Status: Submitted

Drawing No. 03
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 07
Type: Proposed Plans
Status: Submitted

Drawing No. 08
Type: Proposed Elevations
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1343/O	Target Date:
Proposal: One and a half storey dwelling and domestic garage	Location: Lands adjacent to 30 Annaginny Road Newmills Dungannon
Referral Route: Contrary to Policy	
Recommendation:	Refusal
Applicant Name and Address: Mr Robert Williamson 28A Annaginny Road Newmills Dungannon	Agent Name and Address: McKeown Shields 1 Annagher Road Coalisland BT71 4NE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

none

Characteristics of the Site and Area

The site comprises a small square plot of land situated to the east of and directly adjacent to no.30 Annaginny Road. The site is small and flat with a 2 metre high row of evergreen trees along the rear (north) and side (west) boundary. The road side boundary consists of a native species hedgerow with a small agricultural gate allowing access to the field. The western boundary is a thick belt of mature trees which provides the site with a good deal of enclosure.

The site lies within the open countryside to the west of the settlement limit of Cookstown and nestled in between Donaghmore and Newmills. The site is surrounded by agricultural fields on three sides with a row of 4 dwellings located to the west.

Description of Proposal

The proposal seeks outline planning permission for a site for a dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

Policy CTY1- Development in the Countryside;
 Policy CT2A - Clusters
 Policy CTY 3 - Replacement Dwellings
 Policy CTY 6 - Personal and Domestic circumstances
 Policy CTY8 - Ribbon Development
 Policy CTY10 - Dwellings on Farms;
 Policy CTY13- Integration and Design of Buildings in the Countryside; and
 Policy CTY14 - Rural Character.

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling, dwellings within existing clusters or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the agent has not provided any site specific overriding reasons why development is essential at this particular location and could not be accommodated within the settlement limits and therefore must be considered against all of the above.

With regards CTY2A - The proposal would fail to meet the criteria set out in that it is not associated with a focal point such as a social / community building/facility, nor is located at a cross-roads.

With regards CTY3 - There is no dwelling to be replaced.

With regards CTY6 - No personal domestic evidence has been submitted.

With regards CTY8 - The proposal could not be considered as an infill site and would if permitted create a ribbon of development.

With Regards CTY 10 - No evidence has been submitted.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling would be able to blend in successfully with its immediate surroundings without the aid of a landscaping plan as the site does benefit from any decent boundaries to provide a suitable degree of enclosure, it is my opinion that the site does have the capacity to absorb a dwelling.

In terms of policy CTY14 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 surrounding environs are not suitable for absorbing a dwelling in that it would result in a suburban style build-up of development when viewed with the existing dwellings.

The application was advertised on 06.10.2016 and Neighbour Notifications were issued on 05.10.2016 however no representations were received in respect to this application.

Recommendation Refusal.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The applicant has not provided any site specific overriding reasons why development is essential at this particular location and could not be accommodated within the settlement limits. The site and its surrounding environs are not suitable for absorbing a dwelling in that it would result in a suburban style build-up of development when viewed with the existing dwellings.

Refusal Reasons

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.

2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling 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 to the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	23rd September 2016
Date First Advertised	6th October 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 26 Annaginny Road Annaginny Dungannon The Owner/Occupier, 28 Annaginny Road Annaginny Dungannon The Owner/Occupier, 28A Annaginny Road, Newmills, Dungannon, Co Tyrone The Owner/Occupier, 30 Annaginny Road Annaginny Dungannon The Owner/Occupier, 33 Annaginny Road, Annaginny, Dungannon, Tyrone, BT71 4DZ,	
Date of Last Neighbour Notification	5th October 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1343/O Proposal: One and a half storey dwelling and domestic garage Address: Lands adjacent to 30 Annaginny Road, Newmills, Dungannon, Decision: Decision Date:	
Summary of Consultee Responses TNI , Environmental Health and HED have been consulted and responded with no objections.	
Drawing Numbers and Title	
Drawing No. 01 Type: Site Location Plan Status: Submitted	

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1384/F	Target Date:
Proposal: Change of use from General Purpose Store / Building to Meat Processing Facility, under Farm Diversification. (ground floor only) (Receipt of further information)	Location: 7 Cloane Road Draperstown
Referral Route: Objections received	
Recommendation: Approval	
Applicant Name and Address: Francis McElDowney 7 Cloane Road Draperstown BT45 7LW	Agent Name and Address: 37C Claggan Road Cookstown BT80 9XL
Executive Summary: 2 objections received. Proposal complies with tests of policy CTY 11 of PPS 21.	
Signature(s): N. Hasson	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Stat	MUDC EHO	No objection

Representations:

Letters of Support	None Received
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

3 representations have been received: 2 objections and 1 non-committal letter.

The objections raised the following issues:

- Potential impacts on site drainage and run off to neighbouring lands.
- The impact of slaughtering animals on site. There are concerns that livestock not owned by the applicant will also be slaughtered on site.
- Enquiries as to how the waste generated by the development will be disposed of.
- Potential impacts on noise. The objectors enquire if a noise impact assessment should be carried out.
- Potential odour nuisance arising from the development.

- Vermin may be attracted to the site given the nature of the proposed use.
- Impact on property values.
- Potential impact on traffic along the existing narrow lane. This lane will not be suitable for HGVs. One objection queries the applicant's figures in relation to trips to the premises.

The non-committal letter requested clarification on a number of issues such as animal slaughter, odour, vermin and traffic. This letter also raised the appearance of the proposed development as a retail unit and sought further clarification.

On publication of the 3 letters, the applicant Mr McEldowney wrote to the Council in an attempt to provide clarification on several issues. This letter raised the following points:

- The proposed development is small in scale and will not have any detrimental amenity impact.
- No cattle will be slaughtered on the farm, nor cleaning out of carcasses.
- There will be no offal, blood or hides therefore nothing to generate smell or attract vermin.
- No additional noise will be created.
- No customers will be visiting the premises. The applicant will arrange all deliveries by approximately 1 courier van per week.
- No changes are intended to be carried out to the surfaced yard area and there will not be any more surface run off than currently exists.
- Water used will be through normal kitchen sinks connected to the existing foul drainage system.
- No more than 3 cows per month will be processed.

On receipt of the applicant's letter, the Council re-consulted the 3 neighbours who had previously expressed an interest in the application. No further correspondence was received.

Characteristics of the Site and Area

The site is located approximately 1 km north west of Draperstown in the open countryside, as defined by the Magherafelt Area Plan 2015. The site is accessed via a private laneway, that is also used by several other dwellings. Within the site, there is an existing dwelling, two garages and agricultural sheds. The proposal specifically relates to a detached double garage, approximately 16 metres from the dwelling. The site is located at the end of the laneway, therefore there is no passing traffic and there are minimal public views into the site. The immediate locality is defined by a mix of residential and agricultural land uses. The laneway is well built up with dwellings and several agricultural outbuildings in situ.

Description of Proposal

The proposal is for a change of use of the ground floor from general purpose store / building to a meat processing facility. The proposal includes the replacement of one of the garage doors with double doors and windows.

Planning Assessment of Policy and Other Material Considerations

Site History:

No relevant site history.

Development Plan and Key Policy Considerations:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)
PPS 21 Sustainable Development in the countryside

The application is for change of use of the ground floor from general purpose store / building to a meat processing facility. The building appears to be used at present for domestic purposes and the proposal involves a change to Use Class B2: Light Industrial, as defined by the Planning (Use Classes) Order (NI) 2015.

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development in the countryside is controlled under the provisions of the SPPS and PPS 21 Sustainable Development in the countryside.

The 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. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes a farm diversification proposal such as this. 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'.

Policy CTY 1 of PPS 21 allows for a farm diversification proposal subject to the policy tests laid down in policy CTY 11. Policy CTY 11 of PPS 21 allows for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm and satisfies the other policy tests as laid down in CTY 11.

The policy requires the applicant to provide evidence of an active farm business, established for at least 6 years. The applicant has provided a DAERA Business number. Consultation with DAERA has confirmed that the farm business is currently active and is established for over 6 years.

The application relates to a change of use of an existing small outbuilding. All meat processing will take place inside the building. External changes to the building are minor. I am therefore persuaded that the proposed development is appropriate to this location, in terms of character and scale. Furthermore, the development will not have an adverse impact on natural or built heritage.

Following on from the applicant's comments, the proposed development appears to be a small scale meat processing facility. No slaughter of animals will take place on site, there should be no noise or odour nuisance, no customers will visit the site and only 1 vehicle trip per week will be generated. I have consulted with Mid Ulster District Council Environmental Health (EHO) who have no objection to the proposal. EHO stated that the development must satisfy the requirements of the Food Hygiene Regulations (NI) 2006 and the Health and Safety at work (NI) Order 1978. This legislation will provide additional controls on the development from an environmental health perspective. I am persuaded that the proposed development will not result in a detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

8 neighbours were notified of the development, with one of the letters hand delivered on the site visit.

Neighbour Notification Checked **Yes**

Summary of Recommendation:

The proposed development conforms to the SPPS and satisfies the tests of policy CTY 11 of PPS 21 for a farm diversification scheme therefore I recommend approval.

Conditions

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.

2. The premises shall be used only for the purposes described in this planning application and for no other purpose in Use Class B2 of the Schedule to the Planning (Use Classes) Order (NI) 2015.

REASON: To prohibit a change to an unacceptable use within this Use Class.

3. The meat processing facility granted as part of this permission shall be used as ancillary to the existing farm and shall not operate independently of this use, unless otherwise agreed by Mid Ulster District Council.

Reason: To safeguard the character of the area and to safeguard existing residential amenity.

Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

3. The proposed development must satisfy the requirements of the Food Hygiene Regulations (Northern Ireland) 2006.

The proposed development must satisfy the requirements of the Health and safety at Work (NI) Order 1978 and the Regulations made thereunder.

The applicant is advised to contact the Environmental Health Department of Mid Ulster District Council (Magherafelt Office) at an early stage to discuss aspects concerning food hygiene, etc.

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

Signature(s) N. Hasson

Date: 23/02/17

ANNEX	
Date Valid	3rd October 2016
Date First Advertised	20th October 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) John Joe & Mary T McKenna .9 Cloane Road, Draperstown, Co. Derry, BT45 7LW The Owner/Occupier, 11 Cloane Road Derrynoyd Draperstown The Owner/Occupier, 13B Cloane Road,Derrynoyd,Draperstown,Londonderry,BT45 7LW, Frank Conville 13B Cloane Road,Draperstown,BT45 7LW The Owner/Occupier, 3 Cloane Road Derrynoyd Draperstown The Owner/Occupier, 5 Cloane Road Derrynoyd Draperstown Michael McGurk 5 Cloane Road, Draperstown, Northern Ireland, BT45 7LW The Owner/Occupier, 5A Cloane Road Derrynoyd Draperstown The Owner/Occupier, 6 Cloane Road Derrynoyd Draperstown The Owner/Occupier, 9 Cloane Road Derrynoyd Draperstown	
Date of Last Neighbour Notification	1st November 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1384/F Proposal: Change of use from General Purpose Store / Building to Meat Processing Facility, under Farm Diversification. (ground floor only) Address: 7 Cloane Road, Draperstown, Decision: Decision Date: Ref ID: H/2013/0077/O Proposal: Proposed farm dwelling and garage	

Address: 50m north west of Braeside View, 5 Cloane Road, Draperstown,
Decision: PG
Decision Date: 16.10.2013

Ref ID: H/1990/0180
Proposal: SITE OF REPLACEMENT DWELLING
Address: MULNAVOO ROAD DERRYNOYD DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1990/0423
Proposal: BUNGALOW
Address: MULNAVOO ROAD DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1986/0177
Proposal: HV O/H LINE BM7857
Address: MULNAVOO, MOYHEELAND, MOYKEERAN,-MAGHERFELT
Decision:
Decision Date:

Ref ID: H/1991/0051
Proposal: ALTERNATIVE MEANS OF ACCESS TO APPROVED DWELLING
Address: CLOANE ROAD DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/1997/4010
Proposal: CONSERVATORY
Address: NO.3 CLOANE ROAD DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/2006/0732/F
Proposal: Replacement dwelling & double garage
Address: 5 Cloane Road, Draperstown
Decision:
Decision Date: 22.02.2007

Ref ID: H/1999/0258
Proposal: SITE OF DWELLING AND GARAGE
Address: ADJ TO 9 CLOANE ROAD DRAPERSTOWN
Decision:

Decision Date:

Ref ID: H/1999/0690/RO

Proposal: Dwelling and garage

Address: Adjacent to 9 Cloane Road, Draperstown

Decision:

Decision Date: 24.01.2000

Ref ID: H/1988/0050

Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW

Address: 5 CLOANE ROAD DERRYNOID DRAPERSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

MUDC EHO were consulted on this proposed development. The proposed development must satisfy the requirements of the Food Hygiene Regulations (Northern Ireland) 2006 and the Health and safety at Work (NI) Order 1978.

Drawing Numbers and Title

Drawing No. 03

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1487/O	Target Date:
Proposal: Proposed dwelling and garage	Location: Site 100m South East of 97a Derryloughan Road Dungannon
Referral Route:	
Recommendation:	Refuse
Applicant Name and Address: Patrick McCann 97a Derryloughan Road Coalisland Dungannon BT71 4QS	Agent Name and Address: Michael Herron Architects Corner House 2nd Floor 64 - 66a Main Street Coalisland BT71 4NB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations

Consultation Type	Consultee	Response
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

Summary of Issues

none

Characteristics of the Site and Area

The site comprises an irregular shaped field located to the rear and side of number 97a and 97 Derryloughan Road. The site lies at the end of a lane which serves the 4 dwellings at numbers 97, 97a, 95 and 93 Derryloughan Road. The entrance to the site is taken via the existing lane for number 97a and runs parallel to the front of number 97. The field itself falls slightly from the existing dwellings at the north to the tributary at the south. It is bounded by a very low cropped native species hedgerow to the east and west, to the north the site bounds the existing dwelling and is separated by a D-rail timber fence, and to the south the site has a scattering of small trees and a significant portion of the boundary is open. Due to the nature of the boundaries the site is quite open.

The site lies within the open countryside a short distance to the south west of the shores of Lough Neagh. The site is bounded by agricultural fields on the south east and west with a tributary to the lough beyond that. The remaining boundary to the North consists of a dwelling and detached garage.

Description of Proposal

The proposal seeks outline planning permission for a site for a dwelling and garage.

Planning Assessment of Policy and Other Material Considerations

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

- Policy CTY1- Development in the Countryside;
- Policy CTY8 - infill dwellings;
- Policy CTY10 - Dwellings on Farms;
- Policy CTY13- Integration and Design of Buildings in the Countryside; and
- Policy CTY14 - Rural Character.

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non-agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is accompanied by a P1C form and farm maps and therefore must be considered against Policy CTY10 of PPS21, in addition during a meeting with the applicant and local councillor Francie Molloy, it was suggested that there was the possibility of a potential infill site, therefore the application must also be considered under Policy CTY 8 of PPS21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm

With respect to (a) it is considered that this policy criteria is not met. The applicant has not provided an Agricultural Business Identification number and has acknowledged that they do not have one. Dard have been consulted and have also confirmed that they do not claim single farm payments, the applicant did however provide a herd number, which Dard have confirmed is non operational, has been so for over 10 years, and there has been no stock within their ownership. The applicant has submitted photographs showing the land having been cut for hay as well as receipts and invoices as evidence of hedge cutting, round baling and clearing drains. I have discussed this evidence at length in group discussions with the senior planners and we feel that the evidence submitted fails to prove that the business is active which is necessary in this case as they do not have a Business ID.

With respect to (b) there are no records indicating that any dwellings or development opportunities outwith settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With respect to (c) it is noted that there is no farm holding as such, however, the application site is located adjacent to and would be visually linked with the existing group of dwellings to the north.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

It is considered that although this site lacks mature boundary vegetation with the site being very open and exposed, however, due to the back drop of the river and the position of the site and the end of a laneway lends itself to the case. It is my opinion that in the case of approval with a siting condition imposed and with the aid of a landscaping plan the site would have the capacity to absorb a dwelling of a modest size or scale.

In terms of policy CTY14 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. Given that the site will not cause harm from any critical views in the locality. I am content that given it reads with the existing buildings it will not harm or change the rural area.

At a meeting with the applicants, the agent Michael Herron and councillor Francie Molloy, it was also suggested by the applicants that there may be an infill opportunity and therefore it must be considered under PPS8.

PPS8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. In this instance the site does not lie within a continuously built up frontage and would not respect the existing development pattern. Therefore, the proposal is also contrary to this policy.

The application was advertised on 03.11.2016 and Neighbour Notifications were issued on 28.10.2016 however no representations were received in respect to this application.

Recommendation Refusal.

Neighbour Notification Checked	Yes
Summary of Recommendation: Contrary to PPS 21 – CTY1, CTY8, CTY10	
Refusal Reasons 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. 2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.	
Signature(s) Date:	

ANNEX	
Date Valid	19th October 2016
Date First Advertised	3rd November 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 91 Derryloughan Road Derryloughan Coalisland The Owner/Occupier, 93 Derryloughan Road Derryloughan Coalisland The Owner/Occupier, 95 Derryloughan Road Derryloughan Coalisland The Owner/Occupier, 97 Derryloughan Road Derryloughan Coalisland The Owner/Occupier, 97A Derryloughan Road,Derryloughan,Coalisland,Tyrone,BT71 4QS,	
Date of Last Neighbour Notification	28th October 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1267/PAD Proposal: Dwelling on a Farm Address: 97a Derryloughan Road, Coalisland, Decision: Decision Date: Ref ID: LA09/2016/1487/O Proposal: Proposed dwelling and garage Address: Site 100m South East of 97a Derryloughan Road, Dungannon, Decision: Decision Date: Ref ID: M/2012/0014/PREAPP Proposal: Infill site Address: Derryloughan Road,Derryalla,Dungannon, Decision: Decision Date:	

Ref ID: M/2004/1785/O

Proposal: Proposed site for 2 storey dwelling

Address: Adjacent to 97 Derryloughan Road, Derryloughan, Coalisland

Decision:

Decision Date: 30.03.2005

Ref ID: M/2005/1496/F

Proposal: Proposed 2 storey dwelling & domestic garage

Address: Adjacent to 97 Derryloughan Road, Coalisland

Decision:

Decision Date: 29.12.2005

Ref ID: M/1975/0481

Proposal: IMPROVEMENTS TO A DWELLING

Address: DERRYALLA, DERRYLAUGHAN, CAOLISLAND

Decision:

Decision Date:

Summary of Consultee Responses

TNI requested amends which have been received.

DAERA have stated that the applicant has no Bus id, and the farm is not active.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1654/A	Target Date:
Proposal: The sign will consist of a flat screen fixed to gable wall with brackets. It shall display moving images and static images for advertising	Location: 53 Main Street Maghera (Walsh's Hotel) Sign to be displayed on the Coleraine Rd side of the building
Referral Route: Recommended for refusal	
Recommendation: Refusal	
Applicant Name and Address: Mr Kieran Bradley Walsh's Hotel 53 Main Street Maghera BT46 5BN	Agent Name and Address: Mr Sean McKenna 4 Glen Cree Glen Road Maghera BT46 5JB
Executive Summary: Proposal in conflict with policy AD1 of PPS 17	
Signature(s): N. Hasson	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response

Representations:

Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

One objection has been received to the proposed advertising consent application. The objection relates to the following issues:

- The sign is very bright and blinding.
- The sign is a distraction for road users.

Characteristics of the Site and Area

The site is located within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015. The site is located at Walsh's Hotel, on the junction of Main Street and Coleraine Road, both designated as protected routes. There is currently an LCD screen measuring 5m x 3m attached to the northern gable end of the hotel. The screen is visible when viewed from the

North by both drivers and pedestrians on Coleraine road. The site is located within Maghera town centre and an area of archaeological potential. The surrounding area is characterised mainly by retail land uses, with a row of shops opposite the site and a filling station and fast food restaurant immediately adjacent to the site.

Description of Proposal

An application has been made for consent to display an advertisement. The proposal is for the retention of the LCD screen. The sign consists of a flat screen fixed to the gable wall with brackets. The screen will be illuminated internally and will display both static and intermittent images. The screen measures 5 m x 3 m.

Planning Assessment of Policy and Other Material Considerations

Site History:

H/2006/0898/A relates to an application for a 'screen for projecting images on to'. This application was previously refused on 23rd May 2008. This application related to the same wall as the current application.

Development Plan and Key Policy Considerations:

The site is located on white land within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015 and is located adjacent to the A29, a protected route. There is no specific policy within the local development plan material to this application.

The primary policy context is provided by policy AD1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality, and it does not prejudice public safety.

The proposal relates to a 'Poster Panel Display'. Further guidance on this specific advertisement type is found in Annex A of PPS 17. Para 8 relates to predominantly commercial areas and states that the scale of advertisement displays should respect the scale of adjacent buildings and the wider area. Para 12 relates to gable mounted advertising displays and acknowledges that they may offer benefits, such as screening an untidy gable. The guidance states that the form, design, size, proportions and siting of a wall mounted poster panel should be sympathetic to the host building. The panel should be symmetrical and placed above ground level and windows or interesting features of the host building should not be adversely affected. I have concerns that the size and proportions of the advertisement are not sympathetic to the host building or the wider area and the advertisement is dominant and obtrusive in the street scene. I also have concerns that the levels of illumination of the advertisement has the potential for light pollution, especially when viewed at night. Furthermore, this section of the Coleraine Road is straight therefore the screen is visible over long distance views from the north. On balance, it is my opinion that the advertisement does not respect amenity, when assessed in the context of the general characteristics of the locality for the reasons outlined above.

This road is generally very busy and the sign is highly visible when approaching in a southerly direction. Transport NI have concerns that the LED sign creates a traffic hazard which causes a distraction to drivers and may lead to shunting type collisions on the approach to the junction. TNI also have concerns regarding the protected route and the description stating that the LED sign will display moving images. Para 4.11 of PPS 17 states a number of scenarios whereby an advertisement is likely to pose a threat to public safety. These scenarios include (but are not limited to):

• Illuminated signs which because of their size or brightness could result in glare or dazzle, or otherwise distract road users.

• Signs which incorporate moving elements in their display.

• Signs sited or designed primarily to be visible from a motorway or other special road, in this case, the A29 protected route.

The 3 scenarios outlined above are material to this consideration and consequently, it is my opinion that the advertisement does prejudice public safety.

Neighbour Notification Checked

N/a

Summary of Recommendation:

It is my opinion that the proposal is contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual amenity of the locality and will prejudice public safety.

Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign does not respect amenity, when assessed in the context of the general characteristics of the locality.
2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that it would, if permitted, prejudice the safety and convenience of road users since the erection of this proposal in close proximity to a road junction, would distract the attention of motorists from road traffic signals, thereby creating a traffic hazard.
3. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this Protected Traffic Route.

Signature(s) N. Hasson

Date: 23/02/17

ANNEX	
Date Valid	23rd November 2016
Date First Advertised	n/a
Date Last Advertised	
Details of Neighbour Notification (all addresses) N/a	
Date of Last Neighbour Notification	n/a
Date of EIA Determination	n/a
ES Requested	No
Planning History <p>Ref ID: LA09/2016/1654/A Proposal: The sign will consist of a flat screen fixed to gable wall with brackets. It shall display moving images and static images for advertising Address: 53 Main Street, Maghera (Walsh's Hotel) Sign to be displayed on the Coleraine Rd side of the building, Decision: Decision Date:</p> <p>Ref ID: H/1987/0547 Proposal: GARAGE EXTENSION TO BAKERY Address: 21 COLERAINE ROAD MAGHERA Decision: Decision Date:</p> <p>Ref ID: H/1985/0139 Proposal: CHANGE OF USE FROM HEALTH STUDIO TO GAMES ROOM Address: 41 MAIN STREET, MAGHERA Decision: Decision Date:</p> <p>Ref ID: H/1998/0518 Proposal: NEW SOLICITORS OFFICE Address: 43-49 MAIN STREET MAGHERA</p>	

Decision:
Decision Date:

Ref ID: H/1997/0585
Proposal: SOLICITORS OFFICE
Address: 43-49 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/2001/0865/F
Proposal: Office And Kitchen Extension to Walsh's Hotel.
Address: 53 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 14.12.2001

Ref ID: H/2003/0513/F
Proposal: Demolition of 2no. retail units and 1no. dwelling to be replaced with 3no. retail units.
Address: 17 - 19 Coleraine Road, Maghera.
Decision:
Decision Date: 20.02.2004

Ref ID: H/1984/0150
Proposal: CHANGE OF USE OF VACANT SHOP TO HOT FOOD TAKE-AWAY
Address: COLERAINE ROAD, MAGHERA
Decision:
Decision Date:

Ref ID: H/1997/0128
Proposal: CHANGE OF USE FROM OUTLET FOR PRE-SCHOOL SUPPLIES TO AMUSEMENT ARCADE
Address: 17 COLERAINE ROAD MAGHERA
Decision:
Decision Date:

Ref ID: H/1999/0271
Proposal: HOTEL
Address: 53 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1998/0496
Proposal: EXTENSION AND REINSTATEMENT OF HOTEL WITH ADDITION OF 3 NO.RETAIL SHOPS AND 4 NO.APARTMENTS

Address: 53 MAIN STREET/JUNCTION OF COLERAINE ROAD MAGHERA

Decision:

Decision Date:

Ref ID: H/2002/0710/F

Proposal: Extension to Restaurant

Address: 51 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA

Decision:

Decision Date: 14.11.2002

Ref ID: H/2000/0640/F

Proposal: Re - Instatement of existing hotel

Address: 53 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA

Decision:

Decision Date: 27.11.2000

Ref ID: H/1997/6034

Proposal: EXTENSION TO HOTEL WALSH'S HOTEL 55 MAIN STREET MAGHERA

Address: WALSH'S HOTEL

Decision:

Decision Date:

Ref ID: H/1981/0377

Proposal: ALTERATIONS AND ADDITIONS TO HOTEL

Address: WALSH'S HOTEL, 53 MAIN STREET, MAGHERA

Decision:

Decision Date:

Ref ID: H/1974/0124

Proposal: SITE OF EXTENSION

Address: WALSH'S HOTEL, MAIN STREET, MAGHERA

Decision:

Decision Date:

Ref ID: H/1992/6066

Proposal: (a)RESTRUCTURING + EXTENSION OF HOTEL (b)CONSTRUCTION OF THREE SHOP UNITS 53 MAIN ST MAGHERA

Address: 53 MAIN ST

Decision:

Decision Date:

Ref ID: H/1987/0250

Proposal: SHOP UNITS AND FUNCTION ROOM EXTENSION

Address: WALSHES HOTEL 53 MAIN STREET MAGHERA

Decision:
Decision Date:

Ref ID: H/2001/0540/F
Proposal: Change of use from basement to extension of public bar
Address: 53 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 14.11.2001

Ref ID: H/1987/0157
Proposal: NEW SHOP FRONT WINDOWS
Address: 51 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1973/0123
Proposal: SITE OF FUNCTION ROOM
Address: MAIN STREET, MAGHERA
Decision:
Decision Date:

Ref ID: H/1999/0016
Proposal: REPLACEMENT SHOP AND 2 NO OFFICES
Address: 51 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/2001/0010/F
Proposal: Change Of Use From Ground Floor Retail Unit To Faciltate Extension To
Public Bar At Walshs Hotel, Maghera
Address: 51 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 16.03.2001

Ref ID: H/2001/0623/F
Proposal: Change of use from first floor office to facilitate extension to
conference/meeting room
Address: 51 Main Street, Tamnymullan, Maghera, Northern Ireland, BT46 5AA
Decision:
Decision Date: 11.10.2001

Ref ID: H/2006/0898/A
Proposal: Screen for projecting images on to.
Address: Walsh's Hotel, 53 Main Street, Maghera

Decision:
Decision Date: 23.05.2008

Ref ID: H/1987/0294
Proposal: MEAT PACKING & STORAGE FIRST FLOOR EXTENSION TO SHOP
Address: 43/49 MAIN STREET MAGHERA
Decision:
Decision Date:

Ref ID: H/1987/0523
Proposal: EXTENSION TO SAUSAGE FACTORY
Address: 43-49 MAIN STREET MAGHERA
Decision:
Decision Date:

Summary of Consultee Responses

Transport NI have concerns that the LED sign creates a traffic hazard which causes a distraction to drivers and may lead to shunting type collisions on the approach to the junction. TNI also have concerns regarding the protected route and the description stating that the LED sign will display moving images. TNI have therefore recommended refusal.

Drawing Numbers and Title

Drawing No. 05
Type: Proposed Sign Elevations
Status: Submitted

Drawing No. 03
Type: Proposed Sign Elevations
Status: Submitted

Drawing No. 02
Type: Existing Sign Elevations
Status: Submitted

Drawing No. 01
Type: Site Location Plan
Status: Submitted

Drawing No. 04
Type: Proposed Sign Elevations
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 March 2017	Item Number:
Application ID: LA09/2016/1816/F	Target Date:
Proposal: Extension of an existing vehicular lane to provide access to the approved Dale Farm Solar Farm (LA09/2015/0885/F)	Location: Dale Farm, Moneymore Road Cookstown
Referral Route: Objection received and exception to policy.	
Recommendation: Approval	
Applicant Name and Address: Solar Farm DFD Ltd 7 Glenmore Manor Lisburn	Agent Name and Address: Strategic Planning 1 Pavilions Office Park Kinnegar Drive Holywood BT18 9JQ
Executive Summary: Approve as exception to Policy PPS3, due to existing use of access and VS being in place, there is no significant intensification.	
Signature(s): <div style="height: 40px; border: 1px solid black;"></div>	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
TNI		Conditions
Rivers		Statutory
Representations:		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
The proposal is for an amended access to an approval solar farm, using a Protected route - A29.		
Characteristics of the Site and Area		
<p>The site is in a rural location, located approx 350m south of the Dale Farm complex on Moneymore Road, Cookstown. The access leads to a site that has approval for a solar farm under LA09/16/0885/F.</p> <p>The previously approved access is accessed from Lis money Road. Existing Visibility splays are shown in this proposal of 4.5 m x 295m.</p>		
Description of Proposal		
Extension of an existing vehicular lane to provide access to the approved Dale farm Solar Farm (LA09/2015/0885/F)		
Planning Assessment of Policy and Other Material Considerations		
<p>Part of the application lies within the settlement limits of Dunman and part is in the countryside. The proposal falls under the assessment of the following policies; Cookstown Area Plan 2010, SPPS, PPS3, PPS18 & PPS21</p> <p>The application is for an extension to an existing vehicular lane to provide access to the approved solar farm. The original approval for the solar farm under LA09/16/0885/F had a condition relating to visibility splays 2.4 x 45m to be place before development commences. However there is currently an application in for LA09/2016/1811/F for the removal of this condition. This application is proposing to use an existing access which has VS already in place.</p> <p>Transport NI on their consultation response of 24/01/17 had no objections subject to the following condition and informatives:</p> <p>A detailed programme of works and an associated traffic management plan shall be submitted to and agreed by DfI Transport NI, prior to the commencement of any element of road works. The</p>		

plan shall be submitted to Traffic Section (Mid Ulster Council Area), Co. Hall, Drumragh Avenue, Omagh, BT79 7AF.

Reason: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety.

Objection letters were received in relation to the proposal. It states the land for the VS is available but applicant has not sought the legal rights to put these in place, and the applicant has not put forward any reasons why the visibility should not be put in place. The agent advises this is due to landowners using the original access as a ransom strip makes the scheme unviable.

The objectors state the application seeks to extend the existing lane thereby creating a different access to the approved solar farm, taken off the dual carriageway - A29 and that PPS3 states permission will only be granted to protected routes in exceptional circumstances or where the proposal is of regional significance.

TNI were re-consulted with the objection letter. They point out Annex 1 of PPS21 in part (d) states that approval of access to protected routes may be justified in particular cases if the applicant cannot reasonably gain access to the minor Road. In this case, the application states they are unable to access Lis money Road due to land ownership issues, and so the applicant feels the policy would therefore allow use of an existing access onto the protected route. PPS3, AMP2 in paragraph 5.15 states that it is expected the applicants should have control over the land required to provide the VS and ensure they are retained free of any obstruction. In the previous approval LA09/15/0885/F the applicant did show they controlled the land, however there appears to be a dispute over landownership.

PPS3 – Clarification of Policy AMP3, provides a map which shows the A29 is noted as ‘dual carriageways, ring roads, through-passes and by-passes.

Policy AMP3 exists to restrict the number of new accesses and control the level of use of existing access onto Protected Routes. Using Policy AMP3 - Protected routes designed to an appropriate standard as dual carriageways- states permission will only be granted to protected routes in exceptional circumstances or where the proposal is of regional significance. Neither of which are the case here.

However, in this case the application proposes an existing access, with existing VS's in place, which serves an existing Creamery (Dale Farm) which has a large volume of traffic, including lorries, coming to and from it. The solar farm operation would not generate a significant amount of traffic, therefore it would not be classed as intensification. It would be less than 5%, so no intensification of use relative to the current high volumes of traffic using the Dale Farm access. It would be regarded as an exception to this policy for these reasons.

In terms of CTY13 - integration and design of buildings in the countryside, ancillary works should integrate with their surroundings. There is not a new, but existing access, proposed to access the solar farm, so it will be less visually intrusive than what was approved.

Paragraph 5.72 states wherever possible access should be taken from an existing laneway. This proposal is therefore in line with this policy.

The objector also raised the issue of the proposal involving the culverting of a watercourse and stated the field has been subject to flooding. Rivers agency were consulted on this matter, with the objection letter and updated Flood Risk Assessment. They state they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective, as it is deemed an exception to FLD1.

Approval is recommended	
Neighbour Notification Checked	Yes
<u>Conditions</u> 1. Access to the solar farm shall be via the access point that joins Moneymore Road as per stamped approved plan 01 dated 23 December 2016. Reason: In the interests of visual amenity. 2. A detailed programme of works and an associated traffic management plan shall be submitted to and agreed by DFI Transport NI, prior to the commencement of any element of road works. The plan shall be submitted to Traffic Section (Mid Ulster Council Area), Co. Hall, Drumragh Avenue, Omagh, BT79 7AF. Reason: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety.	
Signature(s) Date:	

ANNEX	
Date Valid	23rd December 2016
Date First Advertised	12th January 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 26 Lismoney Road,Lismoney,Cookstown,Londonderry,BT80 8RH, Les Ross ,Ross Planning,Head Office,9a Clare Lane,Cookstown,BT80 8RJ The Owner/Occupier, 103 Moneymore Road Ballymenagh Cookstown The Owner/Occupier, 12 Lismoney Road,Lismoney,Cookstown,Londonderry,BT80 8RH,_ The Owner/Occupier, 137 Moneymore Road Dunman Cookstown The Owner/Occupier, 17 Riverside, Moneymore Road, Cookstown The Owner/Occupier, 21 Lismoney Road,Lismoney,Cookstown,Londonderry,BT80 8RH, The Owner/Occupier, 30 Lismoney Road,Lismoney,Cookstown,Londonderry,BT80 8RH, The Owner/Occupier, 35 Lismoney Road,Lismoney,Cookstown,Londonderry,BT80 8RH, The Owner/Occupier, Westmount Construction Ltd 15 Limekilm Lane Cookstown	
Date of Last Neighbour Notification	13th January 2017
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1811/F Proposal: Removal of condition no 3 of planning permission LA09/2015/0885/F Address: Approx. 350m south of the Dale Farm complex, 139 Moneymore Road, Cookstown, Decision: Decision Date: Ref ID: LA09/2016/1816/F	

Proposal: Extension of an existing vehicular lane to provide access to the approved Dale Solar Farm (LA09/2015/0885/F)

Address: Dale Farm, Moneymore Road, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2016/0758/PAD

Proposal: Extension to existing dairy and factory to provide; an extension to production lines for cheese processing; additional cold storage warehousing; reconfiguration of dispatch bay; and relocation of powder store (approved under I/2013/0124/F)

Address: Dale Farm Ltd, Dunman Bridge, 139 Moneymore Road, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2016/1009/PAN

Proposal: Proposed extension to existing dairy and factory to provide an extension to production lines for cheese processing ,additional cold storage warehousing, reconfiguration of dispatch bay and relocation of powder store (approved under I/2013/0124/F)

Address: 138 Moneymore Road, Dunman Bridge, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2016/1650/F

Proposal: Extension of the existing Dale Farm dairy and factory facility at Dunman Bridge, Moneymore Road to provide; additional cold storage warehousing; reconfiguration of dispatch bay; new palletising line; and relocation of powder store (Approved under I/2013/0124/F)

Address: Lands at 139 Moneymore Road, Dunman Bridge, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2016/1737/F

Proposal: Existing lawn area converted to car park. Extension to existing car park

Address: 139 Moneymore Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/2013/0362/F

Proposal: Proposed extension to existing factory including ground floor hygiene facilities and first floor office

Address: 139 Moneymore Road, Dunman, Cookstown,

Decision: PG

Decision Date: 25.03.2014

Ref ID: I/2014/0334/F

Proposal: Proposed replacement of existing chain boundary fence with new acoustic fence

Address: Dunman Factory, 139, Moneymore Road, Dunman, Cookstown,

Decision: PG

Decision Date: 04.06.2015

Ref ID: I/2012/0439/F

Proposal: Proposed storage tanks serving existing milk processing factory

Address: 139, Moneymore Road, Dunman, Cookstown,

Decision: PG

Decision Date: 21.01.2013

Ref ID: LA09/2015/1252/F

Proposal: Proposed disabled facilities (single storey extension to rear of existing dwelling)

Address: 8 Riverside, Dunman, Cookstown,

Decision: PG

Decision Date: 11.02.2016

Ref ID: LA09/2015/0885/F

Proposal: Installation and operation of a 4.9MWp solar farm and associated infrastructure including photovoltaic panels, mounting frames, 3 no. control rooms, fencing pole mounted security cameras, underground and over ground electricity cables.

Address: Approx. 350m south of the Dale Farm complex, 139 Moneymore Road, Cookstown,

Decision: PG

Decision Date: 25.01.2016

Ref ID: LA09/2015/0676/PAD

Proposal: Solar Farm

Address: Dale Farm Factory, Moneymore Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/2013/0200/F

Proposal: Proposed alterations to milk reception site including 6 no. new tanks, new water treatment/chilled water building and new switch room building. Proposed chemical compound to the rear of the existing main factory. Proposed 9 no. tanks to the rear of the existing main factory (adjacent to the existing CIP tanks). Retention of 5 no. tanks to the front of the main factory

Address: 139 Moneymore Road, Dunman, Cookstown,

Decision: PG

Decision Date: 12.06.2014

Ref ID: I/1993/6027

Proposal: Industrial Sites Cloghog Road Cookstown

Address: Cloghog Road Cookstown

Decision:

Decision Date:

Ref ID: I/2013/0124/F

Proposal: Proposed extension and alterations to existing powder store and dispatch at existing factory

Address: 139 Moneymore Road, Dunman, Cookstown BT80 9UU,

Decision: PG

Decision Date: 11.09.2013

Ref ID: I/2012/0449/F

Proposal: Proposed upgrade of existing drying facilities within existing cheese processing factory

Address: 139 Moneymore Road, Dunman, Cookstown BT80 9UU,

Decision: PG

Decision Date: 21.01.2013

Ref ID: I/2012/0376/A

Proposal: 1 no. wall mounted illuminated company logo in substitution of previously approved planning application I/2011/0399/A

Address: Dale Farm Ltd, 139, Moneymore Road, Dunman, Cookstown,

Decision: CR

Decision Date: 19.04.2013

Ref ID: I/2011/0399/A

Proposal: 1 no wall mounted non illuminated company logo

Address: Dale Farm Ltd, 139 Moneymore Road, Dunman, Cookstown,

Decision:

Decision Date: 06.04.2012

Ref ID: I/1976/0290

Proposal: ERECTION OF BRICK STORE FOR OIL, ACID AND DETERGENT

Address: MILK PRODUCTS FACTORY, DUNMAN BRIDGE, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1977/0406

Proposal: PUMPHOUSE AND FILTER ROOMS

Address: DUNMAN BRIDGE, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2012/0068/F

Proposal: Proposed 2 storey extension to existing factory

Address: 139 Moneymore Road, Dunaman, Cookstown,

Decision:

Decision Date: 08.06.2012

Ref ID: I/2006/0054/Q

Proposal: Feasibility Study on Wind Generation

Address: Dale Farm Cookstown factory

Decision:

Decision Date:

Ref ID: I/1974/0201

Proposal: 11KV O/H LINE

Address: DUNMAN, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2007/0102/F

Proposal: Instalation of 4 new stainless steel tanks.

Address: 139 Moneymore Road, Cookstown, Co.Tyrone.

Decision:

Decision Date: 18.06.2007

Ref ID: I/1981/0210

Proposal: EXTENSION TO DAIRY EFFLUENT PLANT COMPRISING ONE CIRCULAR STEEL TANK ON

Address: 137 MONEYMORE ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1974/0001

Proposal: ERECTION OF SEWAGE WORKS TO TREAT FACTORY EFFLUENT

Address: DUNMANBRIDGE, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1975/0054

Proposal: TEMPORARY CHANGE OF USE FROM DWELLING TO OFFICE

Address: 137 MONEYMORE ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2004/1004/LDP

Proposal: refurbishment of powder bagging area (existing) to include new floors ceilings, partition walls & insulated panels to segregate existing area into two different hygiene areas - include for repositioned & new equipment

Address: Dunman Factory, 139 Moneymore Road, Cookstown

Decision:

Decision Date:

Ref ID: I/2006/1037/LDP

Proposal: Installation of additional items of chees processing equipment and the upgrade of associated process control system. 2No additional cats. 2No additional block foiming machines & conveyor extension. Control system for the above upgraded equipment

Address: Dunman Factory, 139 Moneymore Road, Cookstown

Decision:

Decision Date:

Ref ID: I/1987/0033

Proposal: REPLACEMENT MILK EVAPORATING PLANT

Address: DUNMAN MILK MARKETING BOARD FACTORY, 139 MONEYMORE ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1989/0461

Proposal: Replacement Steel Chimney

Address: DUNMANBRIDGE FACTORY 139 MONEYMORE ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1974/0087

Proposal: ERECTION OF AMENITIES BUILDING

Address: MILK PRODUCTS FACTORY, DUNMENBRIDGE, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1999/0020

Proposal: Construction of electrical transformer room

Address: 139 MONEYMORE ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1998/0154

Proposal: Extension to factory to provide evaporator plant

Address: DROMONA QUALITY FOODS LTD DUNMAN FACTORY 139 MONEYMORE ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1993/0400

Proposal: Storage extension to cheese factory to include loading facilities

Address: DUNMAN FACTORY, 139 MONEYMORE ROAD, COOKSTOWN.

Decision:

Decision Date:

Ref ID: I/1998/0296

Proposal: Wet Scrubber and Flue

Address: DUNMAN FACTORY 139 MONEYMORE ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1998/4052

Proposal: Proposed Electrical Switch Room

Address: 139 MONEYMORE ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2002/0402/F

Proposal: Proposed masonry wall to replace chainlink fence

Address: DunmanBridge Factory, 139 Moneymore Road, Cookstown

Decision:

Decision Date: 12.09.2002

Ref ID: I/1987/0359

Proposal: STEEL STRUCTURE FOR STORAGE

Address: MONEYMORE ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2009/0559/F

Proposal: Roof alteration to main factory building.

Address: 139 Moneymore Road, Cookstown, Co Tyrone, BT80 944

Decision:

Decision Date: 27.11.2009

Ref ID: I/2009/0186/F

Proposal: Roof alteration to main factory to accommodate installation of modern production equipment and the installation of 2 no additional storage tanks
Address: 139 Moneymore Road, Cookstown, Co Tyrone, BT80 944
Decision:
Decision Date: 10.07.2009

Ref ID: I/1973/0070
Proposal: CONSTRUCTION OF SEWAGE PUMPING STATION
Address: DUNMAN, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1999/0377
Proposal: 11KV Interconnector
Address: LOCATED IN THE TOWNLANDS OF DRUMGARRELL, LISMONEY IN THE DISTRICT OF COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1991/4003
Proposal: Improvements to Dwelling
Address: 1 RIVERSIDE STREET DUNMAN COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1998/0507
Proposal: 33/11KV Alterations
Address: DUNMAN COOKSTOWN
Decision:
Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 01
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 02
Type: Site Location Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

C



Deferred Consideration Report

Summary	
Case Officer: Karen Doyle	
Application ID: LA09/2015/0084/O	Target Date:
Proposal: Dwelling and garage	Location: 18m South West of 40 Fallagloon Road Bracaghreilly Maghera BT456 5JS
Applicant Name and Address: Kevin Glass 21 Fallagloon Road Bracaghreilly Maghera	Agent name and Address: CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
Summary of Issues: Not sited to cluster with an established group of buildings on the farm.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The proposal site is roadside enveloping around a detached single storey dwelling. The land is agricultural in nature with animals using it currently for grazing. The roadside boundary consists of a post and wire fence and a scattering of hedging, the western and southern boundaries are mature in nature and the eastern boundary consists of mature trees and hedging. The land within the site is undulating in nature and the surrounding landscape continues this thread, thus views of the site are not critical in nature and would be when immediately passing the site. The pattern of development within the locality appears to be detached single storey roadside properties. There are two agricultural buildings within the site and are relatively small in size though appear to be in use. The principal farm dwelling is located at No 21 Fallagloon Road along with the principal farm buildings.	
Description of Proposal Outline application for farm dwelling and garage. The proposal site is within the rural remainder as defined by the Magherafelt Area Plan 2015.	

Deferred Consideration:

This application was presented before the Planning Committee on 1 March 2016 with a recommendation to refuse with the following reason:

“The proposal is contrary to Policies CTY 1 and CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm”.

The Planning committee at that time agreed to defer the consideration of the application for further consideration.

The main issue of concern was that the proposed site is not visually linked or sited to cluster with an established group of buildings on the farm holding. The applicant lives and has a group of farm buildings at number 21 Fallagloon Road but is relying on his brother's dwelling and shed (with a lean to extension) at number 40 Fallagloon Road. The applicant's brother is not listed as being a member of the farm business ID number and the case officer requested proof of land ownership from the agent in light of this. The agent then submitted Land Registry details together with a map which shows that the applicant's brother owns the lands identified in red on the planning application. The agent also submitted a covering letter stating that whilst the brothers had an informal agreement in excess of 20 years there is now a formal land agreement that has been put in place since 2015 giving the applicant an unexpired tenancy of at least 40 years and the P1 form was amended accordingly. Although this has not been registered with Land Registry the applicant's brother has written in stating that he is fully aware of the proposed dwelling and the applicant has always farmed the two fields and has claimed single farm payment since 2005. He also confirmed that the applicant uses the sheds to the rear of the property in conjunction with his farming operations and has done so for many years.

Whilst it doesn't comprise a group of buildings consideration has been given to the applicant's existing farm and the difficulties he would face should he try and access a new dwelling through his existing farm yard. It is clear this is undesirable and there are undoubtedly health and safety consequences. On balance it is considered in this particular case that an exception to PPS 21, Policy CTY 10 can be made and an approval is therefore recommended subject to the listed conditions below.

Conditions:

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.
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.

3. The proposed dwelling shall have a ridge height of less than 5.7 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

4. The proposed dwelling shall be sited in the area shaded yellow on the approved plan date stamped 14 April 2015.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

5. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

Signature(s):

Date





Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Deferred Consideration Report

Summary	
Case Officer:	
Melvin Bowman	
Application ID: LA09/2015/0549/F	
Proposal: Proposed shed extension to supersede previously approved unit ref H/2012/0168/F	Location: 23 Ballymacombs Road Portglenone
Applicant Name and Address: Peter Donnelly 23 Ballymacombs Road Portglenone	Agent name and Address: CMI Planners Ltd 80 / 82 Rainey Street Magherafelt BT45 5AG
Summary of Issues:	
No representations have been received in relation to this application.	



Characteristics of the Site and Area:

The proposal, which is by now retrospective as the building has largely been completed, is for the erection of a large industrial unit measuring 32.6m x 23.6m and having a ridge height of 10.3m with a wall plate height of 7.8m above ground level. The proposed shed will utilise the existing access. The proposed building is described as 'proposed shed extension to supersede previously approved unit Ref: H/2012/0168/F. However, the original drawings referred to 'Farm shed adjacent to previously approved...'. These have now been amended to 'Proposed extension to Industrial Units'. The shed is to be sited at the extreme south western end of the existing complex with the associated car parking and extended yard area to the south west of the proposed building. This boundary is to be landscaped with a buffer strip of planting to provide a visual screen of the site.

Characteristics of the site and area

The site is set to the western side of an existing storage and distribution centre which has a number of large units all fronting onto the Ballymacombs Road and enclosed by security fencing. At present there are ten units which are all adjacent to each other and all are accessed via a large gated entrance leading to a concrete yard which provides for parking, turning, loading and off-loading. There is a laneway leading along the side of the most westerly unit but this is outside the confines of the existing industrial complex. A second fence runs along the other side of the laneway. The unit previously approved under H/2012/0168/F was to be constructed over the existing laneway and on the same site as this current proposal. This will extend the curtilage of the existing site in a south-westerly direction. The proposed site has been substantially infilled, bringing it up to the same ground level as the existing units.

Deferred Consideration:

This application was previously deferred by the Planning Committee to facilitate a site visit.

The visit was arranged but due to an insufficient number of members attending it was decided not to proceed with the visit. Below is a summary of the previous recommendation by the case officer.

Planning Assessment of Policy and other Material Considerations

At present the existing buildings are occupied by non agricultural uses. Unit 1 being the most south westerly and Unit 10 being the most north easterly units. The units are occupied by the following:-

Units 1-2 Doherty Woodshavings
 Unit 3 – 4 Kindercraft
 Unit 5 McAtamneys Butchers
 Unit 6 McAleese Fruit & Veg store
 Unit 7 McAtamneys Food Factory
 Unit 8 – 10 Donnelly's Potato store with office at front
 Unit 11 – Approved but not yet constructed

The previously approved shed ref: H/2012/0168/F has not been constructed. The original units on the site may have been agricultural, however, planning approval was granted under application H/1989/0155 for the change of use from agricultural sheds to stores on 6.6.89. Subsequent applications were submitted under;

H/2003/0038/F - 3 No. Industrial Units (retrospective) – approved 28.09.2003;

H/2006/0458/F - Proposed extension to existing industrial yard to provide 2No industrial units with associated car parking and turning – Appeal upheld 28.07.2010;

H/2008/0494/F - Retention of hardcore area used for turning area, parking and storage area to existing industrial units – approved 26.05.2009; and

H/2010/0426/F - Proposed extension to existing industrial yard to provide 2no additional units with parking and turning area – appeal dismissed 05.01.2012.

H/2012/0168/F - One additional unit for storage purposes, extension to existing car parking and new landscaped boundary treatments – Approved 22.10.2012

These applications all serve to indicate that the existing uses of these premises are industrial and not agricultural. Furthermore, a check of the Land & Property Services Valuation Lists shows that the units are paying commercial rates which are not applicable to agricultural premises.

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 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 recognises that facilitating development in appropriate locations is considered necessary to ensure proposals are integrated appropriately within rural settlements or in the case of countryside locations, within the rural landscape. The SPPS goes on to advise that 'All development in the countryside must integrate into its setting, respect rural character, and be appropriately designed' and in addition to the 'other types of development in the countryside apart from those set out above should be considered as part of the development plan process in line with the other policies set out within the SPPS'. It further reinforces this by stating that 'In all circumstances 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 criteria'. It further advises that the supplementary planning guidance contained within 'Building on Tradition': A sustainable

Design Guide for NI Countryside' must be taken into account in assessing all development proposals in the countryside.

PPS 21 advises that approval will be granted for industry and business proposals in the countryside in accordance with PPS 4. Therefore the overarching criteria for considering industrial development in the countryside is PPS 4 Policy PED 2 – Economic Development in the Countryside which states that approval will be granted for an expansion of an established economic development in accordance with PED 3.

Policy PED 3 – Expansion of an Established Economic Development Use in the Countryside advises that such a proposal will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area. While new buildings may be approved provided they are in proportion to the existing buildings and will integrate as part of the overall development, in all cases measures to aid integration into the landscape will be required for both the extension and the existing site.

In considering the proposal it is critical to consider the planning history of this site. The most relevant of the above history applications are H/2010/0426/F and H/2012/0168/F. H/2010/0426/F proposed to extend the existing site to the south west with two additional units running side by side and adjacent to the existing sheds and measuring approximately 34m x 14.5m each, with ridge heights of 11m. These units extended the built form by 29m to the south west. In addition to the two units, the proposal included a large increase in area of the yard by extending the south western boundary by an additional 27m to create an additional parking and turning area. This proposal was found to be unacceptable and was refused as the proposal was contrary to Policies PED 3 of PPS 4, CTY 1, 13 & 14 of PPS 21. The subsequent appeal was also dismissed with the PAC upholding all three refusal reasons.

In considering that appeal, the Commissioner advised that 'in light of the size of the two units approved to the north east of the site, I consider that the proposed units would be in proportion to the existing buildings and for this reason the proposed units would integrate as part of the overall development. Furthermore, the units would respect the scale, design and materials of the original buildings. While the two additional units would extend the built form by some 29m, when the additional space proposed for parking and turning is also taken into account, the proposal would extend the confines of the existing complex by a total some 56m into an area of open countryside. The visual expression of the proposal would therefore be significant and it would enlarge the complex in a linear form along the road front to the south west. The area into which the expansion is proposed currently represents an element of relief and a significant visual break in development along Ballymacombs Road. The scale of the proposed encroachment into it would therefore erode and harm the rural character of the local area.'

The proposed unit measures 32.6m x 23.6m, has a wall plate height of 7.8m and a ridge height of 10.3m above ground level. This building is of similar size to the two units which were subject of the aforementioned appeal. The building, which has already been erected, adjoins the existing units and is in line with those. However, the proposed unit stands 2.8m above the overall height of those original units. The proposed unit extends the built form by 23.6m while the associated parking/turning area will extend the confines of the existing complex by 50m. This is only 6m less than the proposal which the PAC found to be unacceptable as it would have extended the complex in a linear fashion along the Ballymacombs Road. The footprint of the proposed building is very similar to that of the refused development and as the Commissioner found that the refused development would integrate as part of the overall development, I would not disagree with that opinion. However, in considering Policy PED 3 of PPS 4 and in particular in relation to the proposed boundary treatment entailing a 2.4m high fence and a tree lined boundary to aid integration, the Commissioner found that "while the height of the trees could be conditioned, it is unlikely that they could sufficiently integrate the proposed development as the proposed units would be around 11m in height, some 3m higher than their immediate neighbours. ...There are

direct views into the site on approach from the south west due to a combination of topography and scant vegetation cover. While the vegetation along the road front increases on approach to the site, there are still gaps and it would fail to provide a suitable degree of enclosure to integrate the proposal” (my emphasis). The proposed development is of a similar size, scale and design to the refused development with a ridge height 0.7m lower. While, the previous approval, H/2012/0168/F proposed a security fence along the south and east boundaries with a 5m wide buffer planting strip, which appears as a double row of trees, to give visual screening, the current proposal only proposes a single 3m wide buffer planting strip.

The commissioner also found that whilst job creation is a material consideration it has to be balanced against the potential for an adverse impact on the rural environment. Furthermore the Commissioner stated that “such a large expansion into the countryside would be significant and would detrimentally impact on the rural character of the area.... Alternative options for expansion could be explored by including a much reduced extension to the south west.” The Commissioner went on to state that “in the specific circumstances of this case, I find that the scale of the proposal would adversely impact on the rural character of the area and this outweighs the economic considerations. The proposal does not therefore comply with Policy PED 3.” The Commissioner also found that “the proposal would be an unduly prominent feature on approach from the south west as it would fail to satisfactorily integrate. This would detrimentally impact on the rural character of the area.” The current proposal is no different in that regard and is still considered to be contrary to PED 3 for the same reason.

A subsequent application H/2012/0168/F for ‘one additional unit for storage purposes, extension to existing car parking and new landscaped boundary treatments’ was later approved to the south west of the existing site. That proposal was for a much reduced scheme of one unit measuring 32.7m x 15.25m and having an overall ridge height of 7.5m which is the same height as the existing units. The approved scheme extended the built form by 15.25m, with the confines of the existing complex being extended by a total of 25m. This development was seen as being in keeping with the Commissioners comments on the previous appealed development in that the proposed unit was of similar size to the existing units and the extension into the countryside to the south west was to a much lesser extent.

PPS 21 – Policy CTY 13 Integration and Design of buildings in the Countryside allows for a building to be approved where it can be visually integrated into the surrounding landscape. Such a building will be unacceptable where it is a prominent feature in the landscape or it relies primarily on the use of new landscaping for integration. As detailed above, the commissioner found that the proposal would be unduly prominent as it would fail to satisfactorily integrate. In my opinion, this proposed development is no different due to its similar size, scale, the lack of long established boundaries and the reliance on proposed landscaping to aid integration and therefore it is contrary to the requirements of this policy.

PPS 21 – Policy CTY 14 Rural Character allows for a new building to be approved provided it does not have a detrimental change or further erode the rural character. The proposed development is considered to be unacceptable, as like the aforementioned appeal and as detailed in consideration of CTY 13 above, the proposal is considered to be unduly prominent on approach from the south west as it would fail to satisfactorily integrate. Furthermore, it would extend the complex in a linear fashion into an area which provides a significant visual break in development along the Ballymacombs Road. The scale of the extension of development into the visual break is such that it would harm and erode the rural character of the local area.

As discussed above, the proposal must be considered against the requirements of ‘Building on Tradition’: A Sustainable Design Guide for NI Countryside’. In doing so, it is my opinion that the proposal fails to satisfy these requirements, as being similar to the proposal subject of the aforementioned appeal and in the words of the Commissioner ‘it would be an unduly prominent feature’. The proposal is also positioned on a full frontage roadside site which lacks sufficient

defined boundary vegetation to provide any sense of enclosure and thereby fails to achieve an acceptable degree of integration.

In assessing the proposal, it is noted that the applicant has not provided, nor were they asked to provide, any justification for the proposed development. In my opinion, it would have been inappropriate to put the applicant to the additional expense of providing justification for the development when it is clearly at odds to the relevant policies. Furthermore, if the applicant has a genuine need for additional floorspace, they already have an extant approval for 'Proposed extension to existing industrial yard to provide 2No industrial units with associated car parking and turning' which was granted approval following an appeal under 2008/A0064 on 28.07.2010. That development appears to have been commenced but has not been completed. Therefore, in my opinion, if the applicant requires additional floorspace for his business, it should be located on the site of that appeal.

In its totality, the proposed development is very similar to the development subject of the appeal, in terms of the footprint, height, scale, design and overall layout. In essence, the applicant would appear to have totally ignored the PAC's decision on the aforementioned appeal and has ultimately decided to proceed with the development of the site regardless. In my opinion little has changed between the appeal situation and this proposal and in my opinion the refusal reasons which were sustained at appeal 2010/A0305 are very much relevant to this proposal and therefore the application should be refused for the following reasons.

Having being personally involved in the previous appeal on the site, and having also carried out a site visit in recent weeks to examine the detail of this application, I have no reason to take any different view from that originally recommended to the Committee and to that extent I recommend a refusal as previously for the following reasons:

Conditions/Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement for NI, Policy CTY 1 of Planning Policy Statement 21 and Policy PED3 and PED 9 of PPS 4 'Planning and Economic Development' in that the development would, if permitted, have an adverse impact on the environment by virtue of the increase in the site area of the enterprise and the significant building works and hard landscaping areas on a site located in the open Countryside and there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building and ancillary works to integrate into the landscape and relies primarily on the use of new landscaping for integration.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and the impact of ancillary works would damage rural character cumulatively resulting in further erosion of the rural character of the countryside.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2016/1291/A	Target Date:
Proposal: LED Signboard with electronic display fixed to front wall of building (amended description)	Location: 58-66 Church Street Cookstown
Applicant Name and Address: Dun Leisure Ltd 58 Church Street Cookstown BT80 8HY	Agent name and Address: APS Architects LLP Unit 4 Mid Ulster Business Park Derryloran Ind Est Sandholes Road Cookstown BT80 9LU
Location map;	



Summary of Consultee Responses:

TNI have no objections subject to conditions.

Characteristics of the Site and Area:

The site is located at to the front of no.66 Church Street, Cookstown. On site there is a two-storey public house, bookmakers and off licence complex with an area to the front for staff/customer parking and deliveries. The Dunleath Bar (no's 58-64 Church Street) front directly onto Church Street- there is marked on street parking to the fore of the address. To the SW corner of the site is a free standing electronic display sign (LED) capable of intermittently displaying various advertisements in relation to the adjacent Off-licence and events in the Public House.

The signage is situated at Church Street, to the South of the Town Centre boundary and Area of Townscape Character of Cookstown. The site is on the Eastern side of the public road-A29 protected route. The surrounding area is characterised by a mix of commercial uses- retail, office, public houses, food and residential.

Description of Proposal:

This is a Consent to display application to retain an existing electronic display sign at a public house/off licence premises within the development limits of Cookstown.

Deferred Consideration:

This proposal was originally submitted as 'proposed free standing sign with LED electronic signage' and was presented as a refusal at Committee in January 2017. The refusal reasons are as below;

1. The proposal is contrary to policy AD1 of PPS17 in that it has an adverse impact upon the visual and residential amenity of the locality.

2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this Main Traffic Route.

It was deferred by Committee members for an office meeting which was held with the Area Planning Manager on 19 Jan 2017. At this meeting Dr.Boomer suggested the sign be location lower down on the building and plans re-consulted with TNI.

Amended plans were received on 23 Jan 2017 and TNI have no objections subject to the following conditions;

1. The static display in the advertisement hereby approved shall not change at a frequency greater than once in any two minute period.

Reason: In the interests of visual amenity, road safety and convenience of road users.

2. The advertisement hereby approved shall not: comprise sequential displays; or otherwise include moving parts or features; or feature intermittent lighting in a manner designed to give the appearance of movement.

Reason: In the interests of visual amenity, road safety and convenience of road users.

This overcomes the issues with the refusal reason 2.

Refusal reason 1 deals with the adverse impact upon the visual and residential amenity of the locality.

The amended positioning of the sign on the external wall on plan 02/01 date stamped 23 Jan 17, is on a lower location and ensures its visual impact is limited coming from both approaches towards the Dunleath Bar. It will be between William Hill shop and the projecting front porch of the Bar, further reducing its visual impact.

As the LED sign will not include any moving parts, will change a maximum of once in any 2 minute period and only operate only between hours of 8am and 11pm, it will ensure less impact on the residential amenity of the properties on the opposite side of the road. Also with the existing signboard and poles being removed the amenity of the residents will be improved.

Neighbours have been re-notified and no objections have been received.

Approval with conditions is recommended.

Conditions

1. The static display in the advertisement hereby approved shall not change at a frequency greater than once in any two minute period.

Reason: In the interests of visual amenity, road safety and convenience of road users.

2. The advertisement hereby approved shall not: comprise sequential displays; or otherwise include moving parts or features; or feature intermittent lighting in a manner designed to give the appearance of movement.

Reason: In the interests of visual amenity, road safety and convenience of road users.

Signature(s):

Date

D

Subject:	Major Planning Applications
Date of Meeting:	7th March 2017
Reporting Officer:	Chris Boomer
Contact Officer:	Chris Boomer

1	Purpose of Report
1.1	To seek Members agreement to adopt a Protocol for the processing of Major planning applications

2	Background
2.1	Major applications are those which are likely to have the largest economic, social and environmental impacts and comprise of economic development proposals on sites over 1 hectare or 5000 sq. metres (1000sq metres for retail) and housing sites of over 2 hectares or 50 houses. They also include the more complex applications in relation to energy and transport infrastructure, extraction and quarrying, and waste infrastructure.
2.2	The numbers of these applications are relatively low, with only 16 live major applications under consideration (see appendix A), of which only 9 were submitted during this financial year. In the year 2015-2016 it took over 52 weeks for 50% of applications to be dealt with. This time delay is in part is due to the high number of older applications inherited by Council (legacy applications) and the complex nature of the applications. However it still fell short of the 50% with 30 week performance target.
2.3	As part of a strategy to improve performance and encourage investment the Planning Manager decided that major applications should be handled by the team leads, the more senior of the planning officers and that he would provide direct guidance by chairing group meetings to discuss the applications. As a consequence 11 major applications have been decided this financial year to date of which 5 were legacy, thus reducing the number of legacy application from 11 to 6. Whilst better management can assist in approving performance, it is necessary to work in partnership with applicants to achieve the best results.

3	Key Issues
3.1	Key to any improvement is reliant on fostering good working relations with applicants, by working in partnership to achieve positive results. This means (i) encouraging pre application discussions on major application, so that any key issues identified and where possible addressed by the applicant before the application is made.

	<ul style="list-style-type: none"> (ii) Providing advice on pre application community consultation; (iii) Early scoping of Environmental Impacts statements prior to the submission of an application (iv) Giving priority and seniority to the processing of major application (v) Both the council and the applicant taking on clearly identified responsibilities and commitments
3.2	These have been set out in “An applicant agent protocol: Best Practice Guide for the processing of Major Planning Applications in Mid Ulster” (Appendix B)

4	Resources
4.1	<u>Financial</u>
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u> N/A

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	That the Protocol be adopt and placed on the Council’s web site and made available for agents. That the Protocol be reviewed after one year.

7	List of Documents Attached
7.1	<ul style="list-style-type: none"> - Numbers of Major applications -(Appendix A) - “An applicant agent protocol: Best Practice Guide for the processing of Major Planning Applications in Mid Ulster” (Appendix B) - Flowchart for processing of Major applications (Appendix C)

Appendix A

MAJOR Applications

18 live MAJOR applications at 01/04/2016

11 of which were legacy applications

9 new MAJOR applications received during 16/17 year (to date)

11 MAJOR applications decided during 16/17 year (to date)

5 of which were legacy applications

16 current MAJOR applications

6 of which are legacy applications

APPENDIX A.

Id	DateValid	AppType	AppClassification	StatsCategory	Decision	DecisionDate	DecidedM	details
H/2013/0296/F	12-Aug-2013	F	Major	Change of Use				Creagh concrete
H/2014/0019/F	22-Jan-2014	F	Major	Industrial	Approvals	07-Dec-2016	December	
H/2014/0445/F	18-Dec-2014	F	Major	Civic				Tobermore FC
I/2014/0413/F	29-Dec-2014	F	Major	Civic				Beltonanean Windfarm
LA09/2015/0091/F	09-Apr-2015	F	Major	Industrial	Approvals	10-Jan-2017	January	
LA09/2015/0256/F	18-May-2015	F	Major	Residential	Approvals	04-Nov-2016	November	
LA09/2015/0452/F	23-Jun-2015	F	Major	Residential				65 Dwellings/Magherafelt
LA09/2015/0459/F	23-Jun-2015	F	Major	Civic				Ballynagilly windfarm
LA09/2015/0460/F	13-Oct-2015	F	Major	Civic				Murley windfarm
LA09/2015/0465/F	26-Jun-2015	F	Major	Commercial	Approvals	06-Dec-2016	December	
LA09/2015/1294/F	18-Dec-2015	F	Major	Civic	Approvals	06-Sep-2016	September	
LA09/2016/0730/F	20-May-2016	F	Major	Residential		09-Feb-2017		
LA09/2016/0866/F	17-Jun-2016	F	Major	Other				Tobermore sand & gravel
LA09/2016/0955/F	05-Jul-2016	F	Major	Commercial	Approvals	07-Dec-2016	December	
LA09/2016/1101/F	09-Aug-2016	F	Major	Civic				Gortgonis Primary School
LA09/2016/1246/F	07-Sep-2016	F	Major	Industrial				Knockaleery Rd Cookstown
LA09/2016/1307/F	16-Sep-2016	F	Major	Mixed Use		21-Nov-2016		Motor Sport track Coalisland
LA09/2016/1650/F	23-Nov-2016	F	Major	Industrial				Dale Farm
LA09/2017/0026/F	06-Jan-2017	F	Major	Civic				Kildress GAC
LA09/2017/0180/F	08-Feb-2017	F	Major	Mixed Use				Donnelly Bros Dungannon
M/2010/0830/F	02-Nov-2010	F	Major	Residential				25 Dw Church Hill Rd Caledon
M/2014/0318/F	23-Jun-2014	F	Major	Residential				Housing Dev Dungannon
M/2014/0512/O	30-Oct-2014	O	Major	Commercial	Approvals	09-Jan-2017	January	
M/2014/0524/F	10-Nov-2014	F	Major	Agricultural				Mushroom production Augher

LEGACY

DECIDED

M/2014/0572/O	10-Dec-2014	O	Major	Residential	Approvals	05-Oct-2016	October	
M/2014/0593/O	09-Jan-2015	O	Major	Residential	Approvals	13-Jun-2016	June	
M/2015/0042/F	27-Jan-2015	F	Major	Residential	Approvals	05-Apr-2016	April	

Applicant / Agent Protocol

A Best Practice Guide for the

Processing of Major Planning

applications in Mid Ulster

Purpose of the guidance.

This guidance has been established in order that Mid-Ulster District Council can provide a more streamlined and collaborative planning application system which can not only secure appropriate protection for the residents of the District but also secure investment and support economic growth by bringing jobs and prosperity for all.

The focus of the guidance is on those more significant applications defined as Major in 'The Planning (Development Management) Regulations (Northern Ireland) 2015.

Achieving this requires commitment and from all stakeholders holders to partnership working, sound project management and effective communication with the Council, developers, the community and other agencies.

This guidance sets out how best to actively manage the progress of applications through the development management system and identifies the role/ responsibilities of Council planning staff and applicants / agents at each stage of the process in order to deliver good quality planning decisions in an efficient manner and at least cost.

1. Use of Pre-application discussions (PADs)

The pre-application discussion process is not a statutory requirement and is therefore optional. However, it is widely recognised that individuals and groups have important contributions to make at key stages in the planning process and as such councils, or the Department as the case may be, should encourage and welcome pre-application discussions for all types of proposed development but particularly Major applications. Whilst such discussions are therefore a separate activity from statutory pre-application consultation with communities, they can inform the planning and scope of the statutory consultation activity required.

Benefits of Pre-Application Discussions

The benefits of pre-application discussions have already been recognised by Applicant's in the processing of planning applications. Engaging in the pre-application process can help to:

- Identify potential policy constraints and other material issues which need to be addressed at an early stage in the process;
- Facilitate discussions with key consultees (where appropriate) at an early stage, especially where an environmental statement is likely to be required;

- Identify related technical issues and allow for discussion with a view to resolving such matters;
- Ensure that engagement with appropriate stakeholders takes place at an early stage in the planning process;
- Offer an opportunity for informed amendments and improvements to be made to schemes prior to formal planning applications being submitted, thereby potentially reducing the time taken for an application to move through the planning system;
- Improve the content and quality of planning applications;
- Enhance the quality of a development scheme;
- Speed up the statutory decision making process; and
- Ensure active case management.

For more complex proposed developments it will be necessary for the prospective applicant to submit as much information as possible to enable meaningful discussions with the Council to take place.

In order to allow for effective and constructive pre-application advice to be provided/discussions held, a certain level of information should be submitted with the initial request. The following additional information would be beneficial but is by no means an exhaustive list:

- A fully completed Pre-Application Discussion Request Form
- A site plan (scale 1:1250 or 1:2500) marked with the footprint of the
 - proposed development (in red) and the limit of the land in the applicants ownership/control (in blue);
- Photographs of the existing site;
- Initial sketch drawings of the proposed development showing the nature
 - and scale of the development;
- Drawings/plans showing the potential constraints [trees, other vegetation,
 - overhead wires, listed buildings etc];
- Brief description of the nature and purpose of the development and of its
 - possible effects on the environment, and such other information as the applicant may wish to provide.
- Desirable Information
 - Results of any preliminary consultation with neighbours, other authorities or statutory undertakers (in a proportionate manner as appropriate);
 - Other supporting information such as a draft environmental statement;
 - transport assessments or ecological surveys (in a proportionate manner as appropriate); and
 - Evidence of any pre-community consultation carried out (where required)

Providing this information at the outset allows the council to consider and understand issues relevant to the proposal and to identify key stakeholders that may be able to contribute to the process in advance of any discussions taking place.

The more accurate information an applicant can provide at the outset, the more helpful and informed the council or Department's advice can be. The level of information sought by a council or Department at the outset will be tailored to the scale and complexity of the proposed development.

2. Pre-application Community Consultation (PACC)

Legislative Context

2011 Act, The Planning (Development Management) Regulations (Northern Ireland) 2015 (referred to hereafter as the Development Management Regulations) and The Planning (General Development Procedure) Order (Northern Ireland) 2015 (referred to hereafter as the GDPO).

Section 27 of the 2011 Act places a statutory duty on applicants for planning permission to consult the community in advance of submitting an application, if the development falls within the major category as prescribed in the Development Management Regulations. (A person who proposes to apply for permission for any major development which is prescribed in regulations as a development of regional significance must, before complying with Section 27, enter into consultations with the Department²).

Section 27 also requires that a prospective applicant, prior to submitting a major application must give notice, known as a 'proposal of application notice' (PAN), to the appropriate council, or as the case may be the Department, that an application for planning permission for the development is to be submitted. There must be at least 12 weeks between the applicant giving the notice and submitting any such application.

(further advice is available in the Department's Development Control Advice Note 10) www.planningni.gov.uk

3. EIA/Scoping pre submission / benefits

What are the Benefits of an early Environmental Impact Assessment scoping?

EIA allows the likely significant environmental effects of a project to be identified and to be avoided, remedied or minimised at an early stage.

EIA Screening and scoping should be encouraged for major applications at an early stage. On request the Council will give you an opinion as to the information to be provided in the ES. This is known as "scoping" and will also advise you on the procedures to be followed.

Good practice usually involves early consultation with statutory consultees and other stakeholders. This is advisable in the case of most major projects as a failure to seek a scoping opinion can lead to later problems. A scoping opinion summarises the specific advice of the competent authority concerning the required coverage and content of the ES for a particular application

Where a planning application is accompanied by an ES the Planning Service will advertise the availability of the ES and take any representations about the likely environmental effects into consideration in making its decision. By making the information on the likely significant effects available, EIA can help allay fears created by a lack of information.

If a proposal is EIA development then planning permission must be granted before the proposal can go ahead. A planning application accompanied by an ES, and the appropriate fee must be submitted to the relevant Council.

You may choose to seek independent advice or engage consultants to prepare the ES for you. Government Departments and other environmental authorities with relevant information should be consulted and will make any relevant information available to you. These bodies may make a reasonable charge for the supply of information.

It is therefore always advisable to discuss the proposal with the Council at an early stage. This should help speed up the application and avoid unnecessary problems.

4. Applicant / Agent Responsibilities:

The Applicant / Agent should always seek to undertake the following:

1. Utilise sound and appropriate professional and technical expertise and not expect Officers to provide consultancy advice.
2. Acquire and maintain awareness of relevant policy and take this into account in the formulation of proposals. Applicants / Agents should understand that there may be instances where if the proposal is contrary to policy then there may not be a positive way forward. This should not be seen as the Officers adopting a negative stance.
3. Before submitting a Planning Application, Applicants / Agents are encouraged, where it is appropriate, to engage in pre-application discussion with Planning Officers from the Council and also to engage with those communities most affected by a proposal before Planning Applications are submitted.
4. Prepare plans and provide sufficient information to inform the Officers of the content of the proposal. The Planning Officer should not be expected to provide the initial design brief or act as the Applicant's consultant.
5. Submit a complete Planning Application with all necessary information as required by the Council, including:
 - accurate plans and drawings showing all relevant details including, where appropriate, details of existing and proposed development / buildings / engineering works, floorspace figures, highway access / car parking arrangements, changes in levels and visibility splays;
 - a supporting statement setting out the relevant material planning considerations; a justification for the proposal, demonstration of how the proposal complies with relevant

planning policies, or otherwise. The Applicant / Agent should not expect Officers to act on their behalf or to make a case for the proposal.

- the required planning application fee.

6. Where a legal agreement is required, Applicants / Agents should commence discussion at an early stage to negotiate with the Department of Infrastructure (and other bodies as may be appropriate) on its content - ideally before the submission of the planning application. Dialogue should continue ahead of the planning application being determined. This should help reduce delays in the issuing of the decision notice which must await the completion of the Legal Agreement.

7. If further information is requested, then the Applicants / Agents will endeavour to provide the requested information within an appropriately agreed time period. Any further information supplied should be of appropriate quality and content, to allow progress to be made in deciding the Planning Application.

8. It should be accepted that more complicated and controversial Planning Applications will often result in these Applications taking longer to be considered.

9. Agents should ensure that their clients are fully informed throughout the planning process of any issues or matters that need to be resolved.

10. Ensuring that the client is aware of any 'prior to commencement' obligations / conditions that must be satisfied as part of the granting of a Planning Approval and ensure that they are met.

There is a host of information on the NI Planning Portal, including NIEA Standing Advice and Guidance, to assist applicant and agents in the submission of planning applications. It is also clear from the Planning Policy Statements and the Strategic Planning Policy Statement the type of information needed to assess an application.

5. The Council's responsibilities.

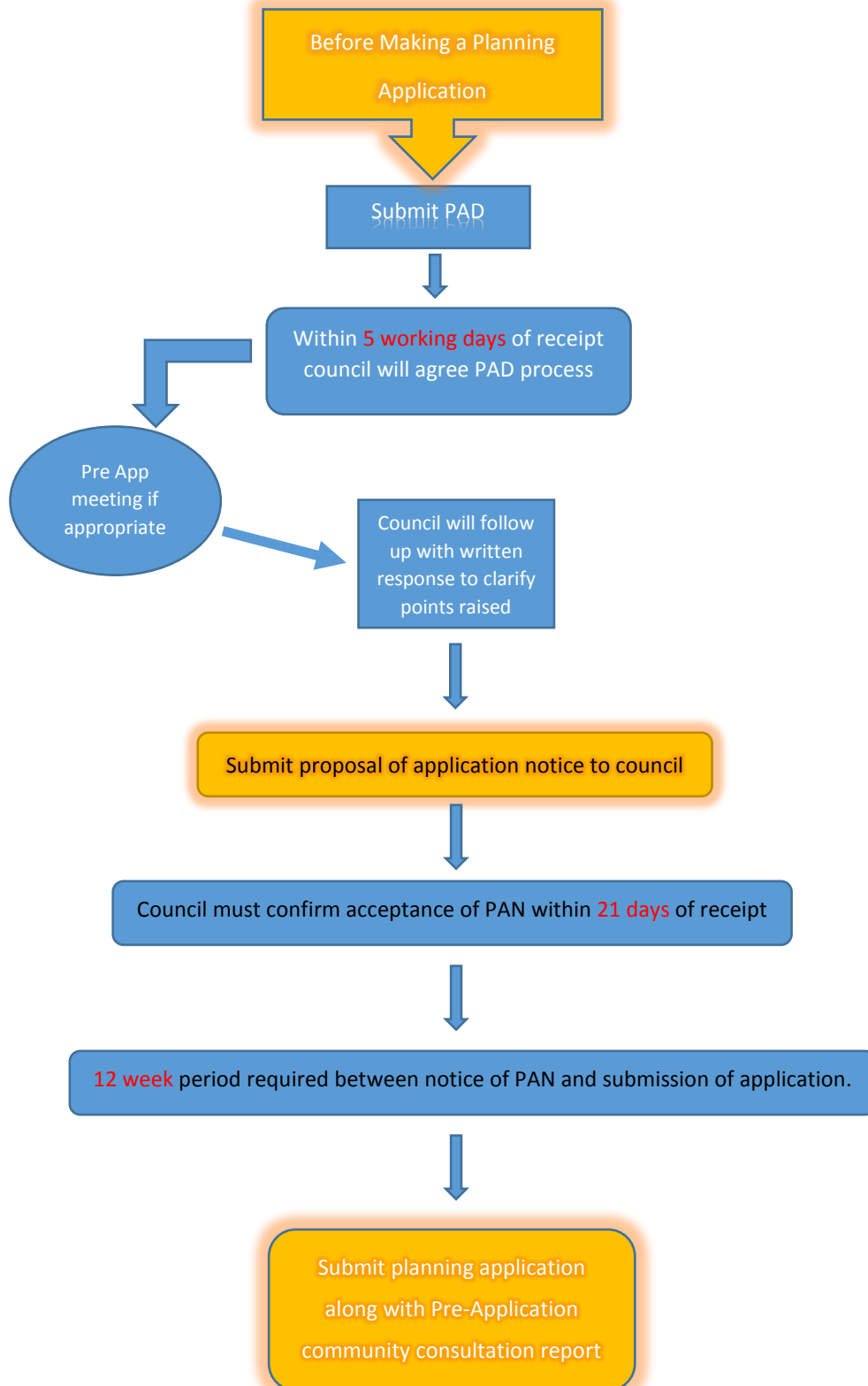
Where an applicant undertakes the above Council will:

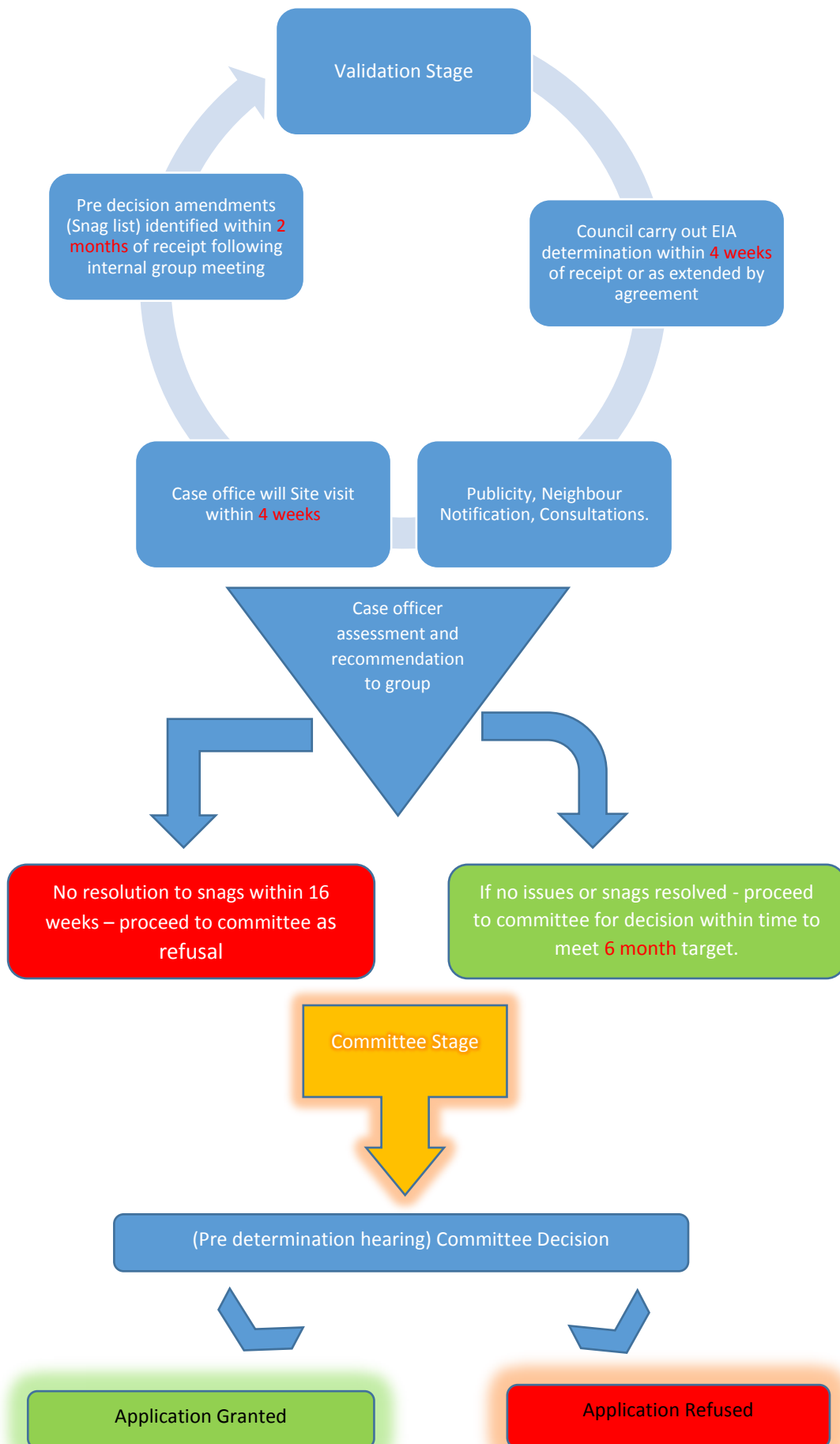
- Respond to pre-application advice for major applications in a timely manner, setting up consultations with statutory consultees where this will aid in providing sound advice.
- Provide advice on pre application consultations.
- Employ senior officials (i.e team leads) to handle major applications.
- Adopt a Project management approach giving a priority to Major applications, ensuring that all stages of the development management process are completed within acceptable timescales, to ensure that applications are processed efficiently.
- Actively manage consultations and the assessment of responses.
- Request amendments / additional information where appropriate as early as possible.
- Hold Monthly group meetings focussed only on Major applications (chaired by the Planning Manager).
- Provide an Interim report to the Planning Committee where Members views are needed to help progress the application, for example, where planning agreements may be used.

- Facilitate Pre-determination hearings in accordance with the Councils Protocol on the operation of the Planning Committee
- Issue decisions promptly.

It is important to understand that if an applicant chooses to ignore and advice given through the pre-application discussion process their application when received may take longer to process and/or result in an initial **recommendation to refuse** being presented to the Planning Committee

Major Planning Applications Process





E

Subject:	Royal Town Planning Institute (RTPI) Awards
Date of Meeting:	7th March 2017
Reporting Officer:	Chris Boomer
Contact Officer:	Chris Boomer

1	Purpose of Report
1.1	To inform members of the Council's success at being nominated for an award and seeking agreement to send delegates to the awards ceremony.

2	Background
2.1	The Planning Manager entered the Seamus Heaney Homeplace for a Royal Town Planning Institute award for Excellence in Planning for Built Heritage category.
2.2	The RTPI received an overwhelming amount of entries this year, with a 36% increase on the 2016 awards. The judges had a tough task the last couple of weeks shortlisting entries they feel meet an exceptional standard in the planning industry.
2.3	The RTPI has announced that Seamus Heaney Homeplace was one of the few that were chosen to be shortlisted. Accordingly, the entry will go through to the next round of judging where the overall winner of the category will be decided.
2.4	The winner will be announced at an awards ceremony on 15 th June 2017 at Milton Court in the City of London. This year the ceremony will be presented by Wayne Hemingway MBE; Co-founder of fashion label Red or Dead and Hemingway Design.

3	Key Issues
3.1	The Planning Department has received an 'RTPI Finalist' logo for you to use in your email signatures and social media, which the Planning Department is now using to celebrate recognition in Excellence.
3.2	Given Mid Ulster Council has the chance of winning this award, it is proposed that the Council be represented at the ceremony.

4	Resources
4.1	<u>Financial</u> Cost of ceremony tickets and flights (and accommodation?) for those attending

4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	That Council book places at the awards for the Chair, Deputy and a planning officer.

7	List of Documents Attached
7.1	RPTI 2017 Finalist Log Print.



RTPI AWARDS FOR
PLANNING
EXCELLENCE
FINALIST 2017

F

Subject	Mid Ulster Local Development Plan – Delegation of Authority to Planning Manager to set up a number of forums to discuss cross boundary planning issues
Date	7th March 2017
Reporting Officer	Chris Boomer Planning Manager
Contact Officer	Sinead McEvoy

1	Purpose of Report
1.1	To seek the permission of members to set up a number of forums to discuss common/shared cross boundary planning issues with neighbouring councils/authorities.

2	Background
2.1	Soundness is the basis on which all Local Development Plans (LDP) will be examined and is a new aspect to the plan making process in Northern Ireland. One of the tests of soundness is whether we have had regard to other relevant plans, policies and strategies relating to any adjoining council's district and also ensuring that our Plan policies and allocations are not in conflict with the DPDs of neighbouring councils.
2.2	In order to demonstrate soundness of the Mid Ulster LDP in relation to neighbouring councils it is considered that a number of forums should be formed to facilitate discussion of common/shared cross boundary planning issues.

3	Key Issues
3.1	<p>It is recommended that the forums be made up of elected members and council officers within the stated councils/authorities to discuss the following matters:</p> <ul style="list-style-type: none"> • Lough Neagh: Antrim and Newtownabbey Borough Council Mid and East Antrim Borough Council Armagh, Banbridge and Craigavon Borough Council Lisburn and Castlereagh City Council • The Sperrins: Causeway Coast and Glens Borough Council Derry City and Strabane District Council Fermanagh and Omagh District Council

	<ul style="list-style-type: none"> Cross Border Group: Fermanagh and Omagh District Council Monaghan County Council
3.2	It is recommended that representatives of the Northern Ireland Environment Agency be invited to sit on all three of the suggested forums.

4	Resources
4.1	<u>Financial</u> N/A
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	<ul style="list-style-type: none"> - That members note the contents of the paper and delegate authority to the Planning Manager to organise the suggested forums in respect of the Mid Ulster LDP. - That members are nominated to represent Mid Ulster on each of the 3 above mentioned forums.

7	List of Documents Attached
7.1	N/A

G



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Subject: Mid Ulster Council's response to a consultation request from DFI for a proposed windfarm at lands approx. 3km west of Swatragh accessed off the Corlackey Road. Ref LA09/2016/0232/F.

Date of Meeting: 7th Feb 2017

Reporting Officer: Melvin Bowman

Contact Officer: Dr Chris Boomer

1	Purpose of Report
1.1	To provide members with an update on the latest position on the Department's decision in relation to the above application.

2	Background
2.1	The Department for Infrastructure had previously requested a consultation response from Mid Ulster District Council on planning application LA09/2016/0232/F for the Erection of a windfarm development comprising 11 (3 blade) wind turbines, each up to a maximum of 149.9m tip height, with a total installed capacity of up to 36.3MW, a newly created site entrance, access tracks, crane hardstandings, control building and substation compound, electricity transformers, underground cabling, energy storage containers, a number of off-site areas of widening to the public road and all other associated ancillary development. During construction there would be a number of temporary works including a construction compound with car parking, an enabling works compound, temporary parts of crane hardstandings, welfare facilities and 3 temporary guyed lattice type meteorological masts.
2.2	Having heard a report at the 9 th Jan 2016 Committee meeting from officers recommending that the Council express its concerns with the proposal to the Department, members proposed that a site visit be undertaken before the Councils response was agreed. That visit took place on the 14 th Feb 2017, two members of the Committee attended.
2.3	Since that visit the Department have written to the Council on the 16 th February advising that it has withdrawn its Notice of Opinion to refuse the application originally served on the 4 th Jan 2017. This is to allow additional noise information

2.4	<p>submitted by the applicant on the 21st Dec 2016 to be considered. The Council will be consulted on this information also.</p> <p>The Council will be provided with the opportunity to comment on the proposal again before the Minister takes his decision on the application.</p>
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3	Key Issues
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4	Resources
4.1	<p><u>Financial</u> N/A</p>
4.2	<p><u>Human</u> N/A</p>
4.3	<p><u>Basis for Professional/ Consultancy Support</u> N/A</p>
4.4	<p><u>Other</u></p>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	<p>That members note the latest position and are advised that the Council will have an opportunity to formally respond to the additional noise information and comment on the proposal before the Minister takes his decision.</p>

7	List of Documents Attached
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7.1	Copy of Department's letter of 16 Feb 2017.
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Strategic Planning Division



Department for

Infrastructure

An Roinn

Bonneagair

www.infrastructure-ni.gov.uk

Melvin Bowman
Head of Development Management
Planning Department
Mid Ulster District Council
Magherafelt Office
50 Ballyronan Road
Magherafelt
Co Derry
BT45 6EN

Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB
Tel: 0300 200 7830

Your reference:
Our reference: LA09/2016/0232/F

Date: 16 February 2017

Dear Melvin

Proposal: The proposed wind farm development comprised 11 three-bladed, horizontal axis wind turbines, each up to a maximum of 149.9m to tip height, with a total installed capacity of up to 36.3MW.

Location: Corlacky Hill Wind Farm, in the townlands of Corlacky, Knockoneill, Half Gayne and Tirkane near Swatragh, Co Derry/Londonderry.

The Department has withdrawn its Notice of Opinion dated 4 January 2017 in respect of the above planning application and will present a fresh report and recommendation to the Minister in due course.

The Department intends to process additional noise information submitted by the Applicant on 21 December 2016 under the Planning (Environmental Impact Regulations) Regulations (NI) 2015 and will advertise and consult with the Council. Your members will therefore have the opportunity to provide comment on the proposal before the Minister takes his decision on the application.

Yours faithfully

CAROL RAMSEY
Director



E-mail: planning@infrastructure-ni.gov.uk
Website: www.planningni.gov.uk

H

Subject: Planning Appeal decisions.

Date of Meeting: 7th March 2017

Reporting Officer: Melvin Bowman

Contact Officer: Dr Chris Boomer

1	Purpose of Report
1.1	To inform members of recent Planning Appeal decisions.

2	Background
2.1	The PAC have issued decision on the following application.

3	Key Issues
3.1	<p>LA09/2015/0243/F – Mr Chris Cassidy, Replacement office and storage unit associated with an existing business (retrospective), 50m west of 35 Moss Road, Ballymaguigan. (appeal dismissed)</p> <p>The main issues in this appeal were whether the development was acceptable in principle, would harm the amenity of nearby dwellings, result in ribbon development, and, harm rural character including marring the distinction between the edge of Ballymaguigan and the countryside.</p>
3.2	<p>Whilst accepting that an existing storage use can still be considered to be an established economic development use as defined in PPS4, the Commissioner found issue with the criteria contained in Policy PED4 of PPS4 and how they related to this appeal proposal.</p>
3.3	<p>It was found that that the proposal would have a significantly greater visual impact that the existing portacabin arising from its larger size, height, location and orientation, the raising of ground levels and loss of frontage vegetation. The Commissioner was not persuaded that the appeal development would bring environmental benefits beyond the existing situation. The appeal proposal therefore failed to satisfy criteria a, b, and d of Policy PED4.</p>

3.4	On the matter of existing availability of office provision elsewhere, the Commissioner agreed with the Council that there was available office space in the area and in addition that a refusal of permission would not adversely impact on the appellants existing business or expansion plans.
3.5	On the matter of neighbouring amenity, the Commissioner was not persuaded that the level of activity associated with the proposal would harm the amenity of nearby residents in Nos. 35 or 37 by way of noise or pollution.
3.6	In considering Policy PED9 of PPS4 the Commissioner agreed with the Council that the site does not provide adequate and convenient access to public transport although it was acknowledged that this was a challenge with any rural site.
3.7	The Commissioner also agreed that planting measures proposed were not satisfactory to assist with integration given the greater visual impact associated with the appeal building. This aspect of PED 9 was not fully met therefore.
3.8	The proposal was felt not to result in ribbon development due to the location of adjoining buildings however, the site, despite the existence of the portacabin was viewed as acting as a visual break between the edge of Ballymaguigan settlement and existing rural properties (Nos 35 and 37). The proposal would, despite a high level of existing development, further erode the rural character of the area and mar the distinction between the settlement and the countryside.
3.9	Costs claims submitted were not awarded to either party for the reasons set out in the attached claim for costs decision.
4.0	The appeal was subsequently dismissed .

4	Resources
4.1	<u>Financial</u> N/A
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	That members note the attached appeal decision.

7	List of Documents Attached
7.1	Copies of PAC decision.

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2016/A0070.
Appeal by:	Mr Christopher Cassidy.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Replacement office and storage unit associated with an established business (retrospective).
Location:	50m west of 35 Moss Road, Ballymaguigan, Magherafelt.
Planning Authority:	Mid-Ulster District Council.
Application Reference:	LA09/2015/0598/F.
Procedure:	Hearing on 25 October 2016.
Decision by:	Commissioner Mark Watson, dated 16 February 2017.

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs was made by the Council against the Appellant. A claim for costs was also made by the Appellant against the Council. These claims are the subject of separate decisions.

Reasons

3. The main issues in this appeal are whether the appeal development would:
 - be acceptable in principle;
 - harm the amenity of nearby dwellings;
 - result in ribbon development; and
 - harm rural character, including marring the distinction between the edge of Ballymaguigan and the countryside.
4. The Magherafelt Area Plan 2015 (MAP) operates as the statutory local development plan for the proposal. In it, the site lies within the countryside, outside but in proximity to the settlement limit for Ballymaguigan. The site is not affected by any MAP designations. The MAP offers no specific policy or guidance in respect of the proposed development and is not material. In regard to the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). PPS21 policy provisions remain applicable to the appeal development.

5. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. This includes industry and business uses in accordance with PPS4. It follows that if the development complies with the provisions of PPS4 it will comply with Policy CTY1 of PPS21.
6. The site comprises an area of land on the southern side of Moss Road. Part of it has been covered in hardcore and there is a portacabin on site. The appeal building has been partially erected, with a steel frame base mounted on concrete pipes adjacent and south of the portacabin. The timber frame structure for the walls has been erected and there is a roof in place. A ranch fence and mature vegetation provide a portion of the site frontage, whilst there is a tall, mature beech hedge providing demarcation between the site and No. 35 Moss Road, a single storey dwelling adjacent and east of the site. No. 37, a dwelling with a shed within its curtilage lies to the south-east of the site and to the rear of No. 35. The western and part of the southern site boundaries are undefined, but new planting has taken place just west of the existing mobile and appeal structure. Part of the southern boundary has a mature hedge along it. Opposite and north-east lies a 1.5 storey dwelling with the Moss Tiles and Bathroom Centre located to its rear in a sizeable building. There are a number of detached dwellings to the north-west of the site, which lie within the small settlement of Ballymaguigan. There are several businesses within the locality.
7. The appeal building is to be a flat roofed timber framed structure, measuring approximately 9.9m by 9.38m, with a height of approximately 3.4m. The interior would comprise an office area, with file storage located along one wall, as well as a separate kitchen, bathroom and meeting room. It is to be finished in render with cedar timber cladding on parts of the facade.
8. Whilst Policy PED3 of PPS4 was referred to in the Appellant's evidence, that policy relates to expansion of established economic development uses in the countryside. Given the appeal development would replace the existing structure on site, this policy is not applicable. Whilst the Appellant described the development as a replacement office and storage scheme, on the basis of the submitted plans the storage element is ancillary to the main use of the building for an office.
9. The Appellant received a certificate of lawfulness of existing use or development (CLEUD) in respect of the existing portacabin on site for storage purposes. Storage falls under Class B4 of the Planning (Use Classes) Order (NI) 2015. The use for an office falls under Class B1 of the Use Classes Order. Whilst the Appellant may have a CLEUD in respect of storage use on the site, it does not cover the use of the portacabin for an office, even if the storage may have been in association with the Appellant's business. Whilst a separate CLEUD application was submitted in respect of office use of the portacabin, that application was refused.
10. At my accompanied site visit, I noted the interior of half the portacabin was fitted out for use as an office. The Appellant stated that it was used regularly by him for his business, as well as for holding meetings. He pointed to the fact the portacabin had water and electricity supplies. The submission of a number of affidavits from the Appellant, staff members and other persons who have

associations with the Appellant's business all state that the portacabin was used for meetings and office purposes. The Council pointed to the marked differences between the interior that day and its earlier site inspection in June 2016, where it was in a more dilapidated condition and did not appear to be in a condition suitable for office use and meetings. At that time the building did not have electricity linked up, although a generator had been placed into the portacabin.

11. I acknowledge the differences in the condition and fit out of the interior of the portacabin between the inspection in June 2016 and my own accompanied inspection, including the provision of electricity since then. Having reference to the plans submitted with the CLEUD granted by the Council for storage use, I note that the area within the portacabin that was in office use during my visit was shown on those plans as storage space. Regardless of the condition of the interior and its use, as well as the arguments that it has always been used for an office and meetings, the appropriate mechanism for determining an existing use of a building is through the submission of a CLEUD. The Appellant's existing CLEUD in respect of storage use for the portacabin does not in itself bestow wider commercial use rights on the site.
12. However, an existing storage use can still be considered to be an established economic development use in its own right. Policy PED4 of PPS4 states that a proposal for redevelopment of an established economic development use in the countryside for industrial or business purposes (or a sui generis employment use) will be permitted where it is demonstrated that all of 4 criteria are met. The policy would therefore in principle allow for the potential redevelopment of the existing storage use for the proposed office use, subject to meeting the criteria contained in Policy PED4.
13. Criterion (a) of PED4 requires that 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. Criterion (d) of PED4 states that the overall visual impact of the replacement buildings is not significantly greater than that of the buildings to be replaced.
14. The existing building, although of similar length to the appeal building, is narrower, sits at a lower level on the site in a position that avails of screening from existing roadside boundary vegetation. It thus possesses a low key visual presence. The appeal building would have a larger footprint and despite its flat roof, would still be 0.6m greater in height with a finished floor level approximately 0.75m higher than that of the portacabin. This, along with its more central position within the site, when taken with the removal of 18m of the frontage vegetation to facilitate the required visibility splays, would render the appeal building more visually conspicuous than the existing portacabin. For reasons outlined later in this decision the scale of the new building would harm the rural character and appearance of the local area. The new building would have a significantly greater overall visual impact than the existing building arising from its larger size and height, location and orientation, the raising of site levels to facilitate it, along with the parking area and loss of frontage vegetation, even though the critical view would be limited to the approach travelling south-east towards the site and its roof level would still be below that of No. 35 Moss Road. Whilst new planting is proposed along the western and southern boundaries, as well as to the rear of the visibility splay in question, and I note some planning has already taken place

within the western part of the site, this would not overcome the objection to the development on these grounds.

15. There was dispute between the parties as to the extent of the increase in site area arising from the appeal development. It is difficult to ascertain the previous extent of the site given the hardstanding for the appeal development is already in place. The drawings accompanying the approved CLEUD for storage use do not greatly assist in this regard. However, given the position of the existing portacabin in relation to the site access I consider it feasible that a sizeable portion of what is now hardstanding was likely previously used to provide access to the portacabin. Accordingly I would accept the Appellant's position that the increase to facilitate the appeal development could be termed as proportionate. This particular element of criterion (a) is not offended.
16. Whilst the Appellant pointed to a number of businesses in the locality and the area can be described as having a character with some degree of mixed use, the majority of the identified businesses lie within the settlement limit of Ballymaguigan. They therefore occupy an urban context for the purposes of planning policy. The businesses identified as E, F and J (as shown on Appellant's Site Analysis submitted with his Statement of Case), although lying outside the Ballymaguigan settlement limit are either set far back off the roadside or occupy well enclosed sites, resulting that they are not visually conspicuous and do not harm rural character. They would not justify the appeal development or the impacts arising from the development if approved. For the reasons given above the appeal development would not fully meet criterion (a) of PED4 and fail to meet criterion (d) of Policy PED4. The Appellant's visual analysis and aerial photography would not persuade me otherwise.
17. The Appellant pointed to the environmental benefits as a result of the redevelopment. He removed approximately 300 tonnes of waste from the site several years ago. Whilst the site may have previously had waste deposited on it and appeared extremely unkempt, the Appellant removed it and the improvements that have taken place are not linked to the appeal development. The site as it stands is in fair condition. Although the site level has been raised to provide a more level surface parking area, it cannot be described as unkempt, even if the condition of the portacabin itself has deteriorated. However, I am not persuaded that the appeal development would bring about environmental benefits beyond the existing situation, even with new planting, that would justify the development. The portacabin itself has a low key visual presence, hence even in its deteriorated state, were it to be replaced with the larger, more visually conspicuous appeal building, I am not persuaded that this would represent an environmental benefit. Whilst the appeal building might prove more energy efficient than the portacabin, when taken in the round, the overall visual and physical impacts of the development, including increased traffic to the site are such that I am not persuaded that criterion (b) of Policy PED4 would be met. However, even if accepting compliance with this criterion, that in itself would not be sufficient to overcome the other objections raised under Policy PED4. The appeal development does not fully meet criterion (a) and fails to meet criteria (b) and (d) of Policy PED4 of PPS4. Given the critical nature of these deficiencies, I find the policy is not met when read as a whole.

18. The Appellant stated that the appeal building was needed to accommodate additional staff as his business was expanding to meet an upturn in work. He hoped to employ up to 6 new staff in total. The appeal building would accommodate 4 staff as part of a new design and build team, with the potential for further staff if required. It would also be ideally located in relation to Belfast International Airport (BIA) for a number of clients coming from England and further afield for meetings, as well as being within suitable travel distance of the main office in Magherafelt. The location also suited as the majority of his business still comes from the Mid Ulster area. He considered that there were no existing premises within the area that met his business needs in respect of the location, floorspace needed and the need to provide disabled access for clients using wheelchairs. He provided letters from several agents confirming his attempts to secure new premises and the lack of available properties.
19. The Council disagreed, providing examples of premises to let located in a number of settlements in the Mid Ulster area. These were located in Cookstown, Toomebridge, Magherafelt, Moneymore, Maghera, Castledawson, Coalisland, Draperstown and Dungannon. Whilst a number of those raised by the Council are unavailable, as of 26 November 2016 there remained 7 of the 20 cited properties available to let or purchase. Several of these properties were ground floor premises, with floorspaces large enough, or larger than the Appellant's stated requirements. They could also conceivably be made suitable for disabled access, if they were not already. One property at Loves Hill, Castledawson had been deemed potentially suitable by the Appellant but discounted given its overly large size including a warehouse element, uncertainty over whether it could be subdivided and the high rental and rates costs. The Council's updated evidence stated that the property in question is available and there is potential for subdivision of the premises. Such potential subdivision could allow for negotiated lower rental costs as well as lower rates costs based on a smaller floorspace.
20. Whilst the Appellant considered that several properties did not suit due to their distance from his main office and BIA, I am not persuaded that this in itself would render those properties unsuitable, merely less desirable and convenient. One property was also discounted as being too expensive. Some of the properties had no dedicated car parking and would result in employees having to either pay for parking or rely on on-street facilities. The need for office workers to pay for car parking facilities is not uncommon and whilst the appeal site would provide free dedicated parking for employees, this would not justify the appeal development. Whilst some of the available properties might not suit the specific desires of the Appellant or his budget, they do not demonstrate a lack of availability of office premises in the Mid Ulster area, nor would they justify the appeal development.
21. Notwithstanding the continued disagreement between the parties as to the availability of several of the properties, it is evident that although the office rental market within the Mid Ulster area does fluctuate in terms of available properties, there remains a reasonable degree of office space, or properties potentially suited for that purpose, available. Whilst the situation may have changed somewhat since November 2016, I am not persuaded that premises either suitable or potentially suitable through adaptation would not be available to meet to the Appellant's business needs. The Appellant's argument that no other suitable or potentially suitable properties are available within the area that meet all his needs is not one that would outweigh the objections to the development.

22. From the evidence presented at the hearing, the Appellant's business is healthy and experiencing an upsurge in contracts. It was stated that the refusal of planning permission for the appeal development would force the Appellant to reconsider the expansion for the design and build team as his existing office has no more room to accommodate further staff. However, given the potential availability of other premises in the Mid Ulster area I am not persuaded that it would adversely impact on his business or ultimately on his expansion plans, even if it took him a period of time to secure additional premises.
23. The Appellant pointed to the dilapidated condition of the existing portacabin, including a leak in the roof that had caused damage to both the interior itself and stored equipment. He considered that the appeal building would provide comfortable, weatherproof accommodation for the business. Whilst I note the dilapidated condition of the existing portacabin and the need for some repairs, I am not persuaded that these matters would justify its replacement with the appeal building.
24. Although not referred to in the reasons for refusal, the Council also considered that the development would adversely impact on the amenity of Nos. 35 and 37 Moss Road by reason of noise and activity from the staff and visitors attracted to the site. The owner of No. 37 objected at application stage on this matter. The issue falls to be considered under criteria (a) and (b) of Policy PED9 of PPS4 – General Criteria for Economic Development. Despite the close proximity of the site to No. 35, there is a strong intervening hedgeline providing privacy and separation from the appeal site. No. 37 lies south-east of the site, with approximately 46m separation between the dwelling and the closest part of the appeal building and hardstanding. Whilst part of the appeal building would be visible from No. 37 this would not in itself warrant the withholding of planning permission. Approval of the development would inevitably give rise to a higher level of traffic and activity on the site, however, during my visits to the site I noted a reasonable level of vehicular traffic using Moss Road. Although traffic attracted to the site would be discernible from the properties in question, I am not persuaded that the level of activity associated with the proposed office use would harm the amenities of nearby residents in Nos. 35 or 37 by way of noise or pollution. Nor would the level of activity generated render the development incompatible with the surrounding land uses.
25. Whilst I note the comments from the Objector in No. 37 regarding the site and appeal building, a major focus was on the then unsightly nature of the site, which the Appellant has since tidied by removing waste material from the land. I note the retraction of comments from that Objector, although they were referenced under a separate planning application submitted by the Appellant on the site seeking an extension to the existing portacabin. In any event, regardless of the remaining contention between the Appellant and Council as to the status of this objection, given my consideration above I am not persuaded that the impacts on No. 35 or No. 37 would be objectionable given the level of activity proposed taken in the context of the existing surrounding area. Without prejudice to my conclusions on Policy PED4 and impact on rural character, I find that criteria (a) and (b) of Policy PED9 are not offended. This element of objection is not sustained.
26. The Council at the hearing also referred to additional criteria under Policy PED9 of PPS4 it felt the appeal development did not comply with. Although not referred to

in the Statement of Case they were referenced in the Council's Case Officer Report. The Appellant was alive to these matters, was able to comment on them at the hearing and was not prejudiced.

27. Criterion (i) of PED9 requires provision of a movement pattern 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 site is located in a rural area, wherein car use is the predominant form of transportation. Supporting walking and cycling to the site would not be particularly easy given its rural location. The building is designed to meet the needs of people whose mobility is impaired. Whilst I note the bus service referred to by the Appellant that runs through Ballymaguigan every two hours that service would be unlikely to readily suit office hours and facilitate visits for client meetings at the site. The site does not provide adequate and convenient access to public transport, though I acknowledge that with any rural site this is a more challenging task. Nevertheless, criterion (i) is not fully met.
28. Criterion (j) of PED9 requires that the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity. Whilst the Council raised issues with the design of the appeal building, although it is of timber frame construction, it is to be finished in smooth render with cedar panelling in parts. The design is contemporary in nature and given the materials and level of proposed finish, would not read as a simple prefabricated building. Without prejudice to my conclusions on overall visual impact and rural character, I do not find the design itself objectionable or of low quality. However, given the overall impacts the appeal development would have, I am not persuaded that the site layout, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity. Criterion (j) of PED9 is not fully met.
29. Criterion (k) of PED9 requires that appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view. Criterion (m) of PED9 states that in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape. No outside storage is proposed. The Appellant proposes boundary treatment and means of enclosure along the southern and western boundaries in the form of new planting. Several new trees are also shown in proximity to the parking area. Details of the new planting are not specified and I agree that the measures shown are not satisfactory to assist integration into the landscape given the greater visual impact the appeal building would possess in relation to the existing portacabin on rural character. These criteria of PED9 are not fully met.
30. Regardless of the failure to fully meet the stated criteria under Policy PED9, given my earlier conclusions in respect of Policy PED4, there remains no overall policy support in PPS4 for the development. As the appeal development does not comply with PPS4, it does not comply with CTY1 of PPS21. There are no overriding reasons why the development is essential and could not be located in a settlement. The Council's first and second reasons for refusal are sustained to the extent specified.

31. The Council considered that the appeal development would result in ribbon development. Whilst the appeal building would be evident in the landscape when travelling south-east towards the site, I do not agree that it would result in ribbon development with No. 35 as they would be the only two buildings with visual linkage fronting onto Moss Road. No 35's garage would not read with the other buildings as part of a ribbon given its subordinate and setback position to the rear of the forward building line of the host dwelling. No. 37, although visible to the south-east and "rear" of the appeal site, would not contribute to an impression of ribbon development given it does not have a frontage to Moss Road. The appeal development would not offend Policy CTY8 of PPS21 or criterion (d) of CTY14. This element of the third and fourth reasons for refusal is not sustained.
32. The appeal development would bring built development closer to the eastern edge of Ballymaguigan on the southern side of Moss Road. The site, despite the existing portacabin with its low key presence in the landscape, still acts as a visual break between the edge of the small settlement and existing rural properties, namely Nos. 35 and 37. The appeal building, being of greater scale and more prominent within the local landscape, would result in a visual consolidation between these dwellings and their outbuildings and the development within the Ballymaguigan settlement limit, despite there being no net gain in the number of buildings on the site. Whilst the rural character of the area may have suffered to a degree from the level of existing development, it does not follow that this in itself justifies unacceptable development that would further erode the rural character of an area, even one with a mix of land uses. The development would detrimentally impact on rural character given this consolidation and would also mar the distinction between Ballymaguigan and the surrounding countryside. The fact Moss Road runs to a dead end does not detract from or justify the impacts the appeal development would have on the distinction between Ballymaguigan and the surrounding countryside. The appeal development would be contrary to Policies CTY14 and CTY15 of PPS21. The Council's third and fourth reasons for refusal are sustained to the extent specified.
33. Whilst elements of the Council's reasons for refusal and third party objections have not been sustained, the remaining objections under the stated reasons for refusal have been sustained and are determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Map	1:2500	May 2015
02/1	Elevations & Floor Plan	1:100	Jun 2015
03/1	Block / Site Plan	1:200	Jul 2015

COMMISSIONER MARK WATSON

2016/A0070

List of Appearances

Planning Authority:-

Mr M Bowman (Mid-Ulster District Council)
Mr M McCrystal (Mid-Ulster District Council)

Appellant:-

Mr C Cassidy (Appellant)
Mr B McMullan (CMI Planning)

List of Documents

Planning Authority:-

'A' Statement of Case & Appendices
'C' Copies of available office space to let (presented at hearing)
'D' Photographs from Council site inspection on 28/6/16 (post-hearing submission)

Appellant:-

'B' Statement of Case & Appendices (CMI Ltd)
'E' Comments on available office space examples provided by Council (post-hearing submission)

Costs Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2016/A0070.
Appeal against:	The refusal of full planning permission for replacement office and storage unit associated with an established business (retrospective).
Location:	50m west of 35 Moss Road, Ballymaguigan, Magherafelt.
Claim by:	Mr Christopher Cassidy.
Claim against:	Mid-Ulster District Council for a partial award of costs.
Decision by:	Commissioner Mark Watson, dated 16 February 2017.

Decision

1. The claim for a partial award of costs is denied.

Reasons

2. In accordance with the Commission's publication 'Costs Awards Guidance' costs will normally only be awarded where all four of the following conditions are met:
 - the claim relates to a relevant type of appeal;
 - the claim is timely;
 - the party against whom the award is sought has acted unreasonably; and
 - the unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.

Eligibility

3. The planning application to which the appeal relates was determined under the Planning Act (NI) 2011. An appeal was made in accordance with Section 58 of the Planning Act against the refusal of full planning permission. The Commission therefore has the power to make an order as to the costs of parties in accordance with Section 205 of the Planning Act.
4. The Council queried the matter of the Claimant seeking costs on his company headed paper when he as applicant was named without reference to that company, which the Council considered to be a separate entity. The Claimant is a party to the appeal in question. He owns CMI Planners Ltd. Although that company was not referenced in the application, the proposed development was clearly sought for the purposes of that business. I am not persuaded that the use of company headed paper in pursuit of his claim invalidates it when read against Section 205(1) of the Planning Act.

Timeliness

5. Paragraph 20 of 'Guidance on Costs Awards in Planning Related Appeals' states that when a hearing takes place, any costs claim should be made as soon as

reasonably practicable after the behaviour that triggered the claim. It goes on to state that all claims must be in writing unless they arise from behaviour that occurred or came to light during the hearing, in which case a claim may be made orally at the end of the hearing.

6. The Commission guidance on the matter of timeliness in respect of claims arising from behaviour at hearings does not set down an absolute limit. The reference to claims being made as reasonably practicable after the triggering behaviour occurred suggests that what is reasonably practicable depends on the particular circumstances of the case. The costs claim relates to the work undertaken to provide comments post hearing in response to evidence submitted by the Council at that appeal hearing. This included work the Claimant considered nugatory given several properties were already unavailable, arising from the Council using out of date information. The Commission sought post hearing comments from the Claimant on the matter in the first instance. The claim was submitted to the Commission 13 working days after the hearing. It accompanied the written response to the Council's new evidence. The fact the claim also concurred with the response to a separate claim for costs against the Claimant by the Council is irrelevant.
7. The Claimant, although querying the introduction of new evidence at the hearing, accepted the opportunity to comment post-hearing. He did not indicate at the hearing that he would be seeking to claim costs in regard to any efforts incurred in replying to the Council evidence, but it is a reasonable assumption that determining the amount of work required to respond to the Council's examples could not be made without a more detailed assessment first. In the context of when the new information was introduced by the Council as well as the time given the Appellant for post-hearing comment, the claim is a timely one.

Unreasonable Behaviour

8. The costs claim entails matters relating to providing a written response in regard to the suitability and availability of other premises raised by the Council at the hearing as potential alternative premises for the Claimant's business. A central plank of the Claimant's case was that the appeal development was required as there were no existing suitable premises in the Mid Ulster area to meet his needs. The Council submitted information pertaining to twenty properties that it considered were potentially suitable alternatives.
9. The Claimant cites unreasonable behaviour in that the Council submitted new evidence at the hearing in respect of other available properties to let. These were spread over nine settlements within the Mid Ulster area. The Claimant stated that over half the examples given were already let / rented out and this in itself put him to unnecessary expense in assessing those properties.
10. Although Commission guidance advises against submission of new evidence at a hearing, it states that acceptance of new evidence is at the discretion of the Commissioner, having been persuaded that it would be relevant and could not have been provided with the Statement of Case. In this case, the evidence was accepted as being relevant to the issue of the availability or otherwise of other premises. The Claimant was able to comment orally on several properties at the hearing, but was not in a position to comment on all of them. It was determined that the fairest way to proceed was to allow the Claimant to comment post-hearing

on the properties raised in the Council evidence. He was given two weeks to respond in writing.

11. There remains dispute between the parties in respect of whether some of the examples raised were based on out of date information and were in fact unavailable even at the time the Council presented them at the hearing. I note the updated position from the Council which contradicts the Claimant's position as to the number of properties that were let out or unavailable. Regardless of whether some of the example properties may have been incorrectly deemed to be available at the time of submission through use of outdated information, I have no reason to consider the Council presented them in anything but good faith.
12. Five of the twenty properties were raised by the Council during processing of the application. The Claimant was able to comment on these at the hearing. The fifteen additional properties were first presented at the hearing, rather than submitted with the statement of case. The Council stated that the evidence was a response to the Claimant's own statement of case, which included a letter from an estate agent as to the lack of availability of other premises in the locality. Submission of the evidence at the hearing also allowed for the most up to date picture to be provided, particularly given the fluctuating nature of the rental market. I note that the Claimant only provided more specific rationale for his particular accommodation requirements at the hearing rather than during the application process, including the need for ground floor accommodation to facilitate clients using a wheelchair. In this particular context I accept that although not an ideal situation, the provision of evidence designed to provide the most up to date picture available at the time of the hearing in respect to a key issue of the case cannot in itself be considered to be unreasonable behaviour.

Unnecessary Expenses

13. Regardless of the timing of submission of the majority of examples, such as having been presented either during the application process or in the Council's appeal statement, the time and cost in investigating them, the manner and time taken to do so being under the Claimant's own control, would have been the same in any event. Notwithstanding the outcome of the appeal, I do not accept that the Claimant has incurred unnecessary expenses in assessing the examples provided by the Council.
14. The Claimant presented detailed information as to the nature of the expenses incurred. Notwithstanding the Council's opinion that the claim lacks sufficient detail to substantiate it, as I have found that no unreasonable behaviour occurred, the Claimant has not incurred any unnecessary or wasted costs.
15. Given the above reasoning the claim for partial costs is denied.

COMMISSIONER MARK WATSON

2016/A0070

List of Documents

Claimant:- 'CA' Cost Claim by Mr C Cassidy

Respondent:- 'CB' Response to Cost Claim (Mid-Ulster District Council)

Appeal Reference:	2016/A0070.
Appeal against:	The refusal of full planning permission for replacement office and storage unit associated with an established business (retrospective).
Location:	50m west of 35 Moss Road, Ballymaguigan, Magherafelt.
Claim by:	Mid-Ulster District Council.
Claim against:	Mr Christopher Cassidy for a partial award of costs.
Decision by:	Commissioner Mark Watson, dated 16 February 2017.

Decision

1. The claim for a partial award of costs is denied.

Reasons

2. In accordance with the Commission's publication 'Costs Awards Guidance' costs will normally only be awarded where all four of the following conditions are met:
 - the claim relates to a relevant type of appeal;
 - the claim is timely;
 - the party against whom the award is sought has acted unreasonably; and
 - the unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.

Eligibility

3. The planning application to which the appeal relates was determined under the Planning Act (NI) 2011. An appeal was made in accordance with Section 58 of the Planning Act against the refusal of full planning permission. The Commission therefore has the power to make an order as to the costs of parties in accordance with Section 205 of the Planning Act.

Timeliness

4. Paragraph 20 of 'Guidance on Costs Awards in Planning Related Appeals' states that when a hearing takes place, any costs claim should be made as soon as reasonably practicable after the behaviour that triggered the claim. It goes on to state that all claims must be in writing unless they arise from behaviour that occurred or came to light during the hearing, in which case a claim may be made orally at the end of the hearing. The Claimant considered the claim to be timely as it was within 10 working days from the date the hearing took place.
5. The Commission guidance on the matter of timeliness in respect of claims arising from behaviour at hearings does not set down an absolute limit, with the reference to 10 days relating to appeals that are withdrawn or arranged hearings that do not

go ahead. The reference to claims being made as reasonably practicable after the triggering behaviour occurred suggests that what is reasonably practicable depends on the particular circumstances of the case. The costs claim relates to the late arrival of the Appellant at the hearing. The hearing took place on 25 October 2016, with the Claimant's claim being submitted on 4 November 2016, 8 working days later. The Claimant started that it required this period of time to prepare the claim. Although 8 working days is certainly at the upper end of what could be termed reasonably practicable, given the particulars of the case, the context of the behaviour that triggered the claim, as well as the Appellant's acceptance that he was very late in arriving, I consider it to be timely.

Unreasonable Behaviour

6. The Claimant claims unreasonable behaviour in relation to the following matter:
 - the Appellant arrived extremely late to the hearing, resulting in wasted time in Council staff waiting for the hearing to begin.
7. During the appeals procedure the Appellant opted for an informal hearing. It was scheduled for 10.00am on the appointed date. Both parties were notified by letter of the time and date, which was contained in the same letter notifying parties of the submission date for statements of case. Both parties submitted statements of case.
8. Two planning staff attended the hearing on behalf of the Claimant. By the appointed start time for the hearing no-one for the Appellant had arrived at the venue. Following a phonecall from the Commission to the Appellant's office querying his non-attendance, a member of the Appellant's staff subsequently attended the hearing venue at 10.30am. The Appellant's employee advised that he could not properly represent his employer in this matter, as he lacked the specific information to fully participate. The Appellant ultimately arrived at 10.40am. He apologised, explaining that the wrong date had been entered into his diary and that he had been out on site that morning. Allowing for a few minutes of preparation time for the Appellant, the hearing began at 10.45am.
9. The Appellant in his written response to the Claimant again apologised to the Council and Commission for his delay in attending the hearing. He stated that he agreed to pay the costs claimed by the Claimant in this regard. Notwithstanding the Appellant's offer to pay costs, the matter as to whether the Appellant's late arrival amounted to unreasonable behaviour must still be considered.
10. The Appellant admitted that he had put the wrong date in his diary. He did not seek to make any excuse or explanation beyond the fact he entered the incorrect date in his diary, even though a member of his staff had queried it with him earlier in the week. Whilst the Claimant considered this to be an inappropriate explanation, I disagree. In the context of what had occurred, the Appellant's admission of an administrative error is a simple fact. In light of the realisation of the error in date keeping, he could do nothing more beyond attend the hearing as quickly as possible and participate. The Appellant had been out on site in an area with variable mobile telephone coverage. Once he was able to be contacted, the Appellant made his way to the appeal venue expeditiously. The appeal hearing proceeded shortly after his arrival. Whilst getting the date of the proceeding wrong proved unhelpful and delayed the start, the hearing still went ahead on the arranged date, lasting the same time it would have had it began at 10.00am. The accompanied site visit that took place following the hearing would have also been

necessary regardless of the start time. I am not persuaded that the 45 minute delay in beginning proceedings, which by the Appellant's own admission was a genuine error for which he repeatedly apologised for, amounts to unreasonable behaviour.

Unnecessary Expenses

11. The Claimant presented information as to the nature of the expenses incurred, namely one hour's time for each of the two planning staff who attended the hearing. However, as I have found that no unreasonable behaviour occurred, no unnecessary or wasted costs have been incurred.
12. Given the above reasoning and despite the Appellant's offer to pay costs, the claim for partial costs is denied.

COMMISSIONER MARK WATSON

2016/A0070

List of Documents

Claimant:- 'CA' Cost Claim by Mid-Ulster District Council

Respondent:- 'CB' Response to Cost Claim (Mr C Cassidy)