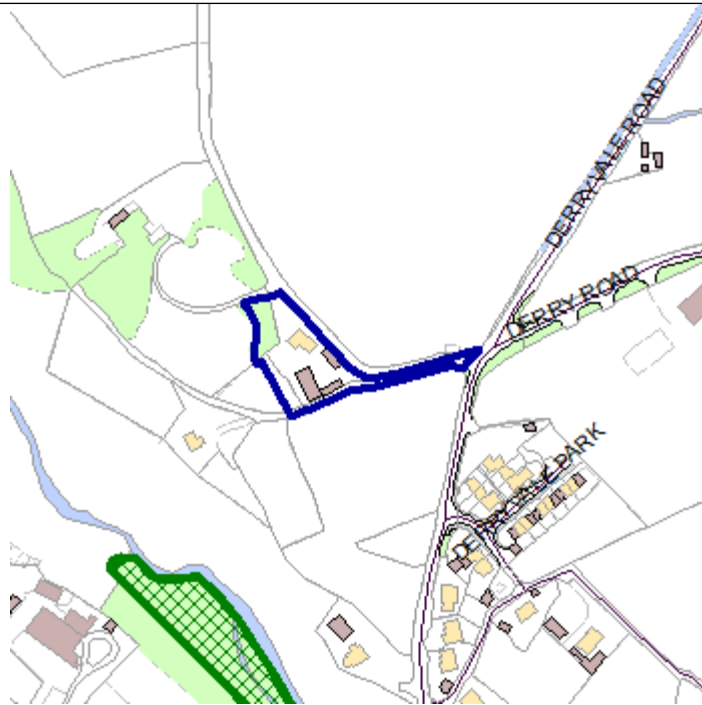




## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2020/0771/F	<b>Target Date:</b> 26 August 2020
<b>Proposal:</b> Retention of new spray workshop, mobile office building, generator, concrete retaining wall and extension of curtilage	<b>Location:</b> 73 Derryvale Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Stephen Halligan And Sons 73 Derryvale Road Coalisland BT71 4DY	<b>Agent Name and Address:</b> C McIlvar Ltd Unit 7 Cookstown Interprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	

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

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**Consultations:**

Consultation Type	Consultee	Response
	DETI - Geological Survey (NI)	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Strategic Applications	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	Environmental Health Mid Ulster	Substantive: TBC

	Council	
	Environmental Health Mid Ulster Council	Substantive: TBC
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-20-0771 F 73 Derryvale Road.doc 080223.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-20-0771 F 73 Derryvale Road.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-21-1758 O Lands adjacent to Galbally.doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	

#### **Representations:**

Letters of Support	0
Letters of Objection	1
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

#### **Summary of Issues**

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

The site is located approximately 1.5km west of Coalisland Town Centre and just outside its settlement limits, as defined within the Dungannon and South Tyrone Area Plan 2010.

It sits just north of a small node of development (within but separated from Coalisland's primary node) known locally as Derryvale; and land zoned for Phase 2 housing 'CH21 Land West of Derryvale Road' within the Plan, currently in agricultural use like lands within the rural countryside to the north of the site.

The site is a relatively flat, square shaped plot comprising no. 73 Derryvale Rd, a single storey dwelling and its curtilage including 3 commercial manufacturing workshops (2 of which were the subject of a recent CLUD application LA09/2020/1440/LDE). It is set back approx. 100m west from, and accessed off, the Derryvale Road via an existing access and laneway serving 2 other dwellings, nos. 75 & 71 Derryvale Rd located approx. 83m to the west and 430m north of the site respectively. The stretch of the lane, serving the site and no. 75, which forks off from the stretch serving no. 71, runs along the outside and edge of Coalisland settlement limits.

The workshops on site, which all have rectangular floor plans, are located on a hard-core yard to the south side of the dwelling. The largest shed identified on the site block plan as shed B (subject of LA09/2020/1440/LDE), which has a pitched roof construction, measures approx. 9.4m (gable depth) x 20.9m (length) x 5.7m (ridge height above FFL).

It has an approx. 196.46m<sup>2</sup> footprint. One of the smaller sheds identified as shed A (subject of LA09/2020/1440/LDE), which has a sloped shed roof construction, measures approx. 5.3m (gable depth) x 14.3m (length) x 4.1 - 4.5m (ridge height above FFL). It has an approx. 75.79m<sup>2</sup> footprint. Sheds A & B are finished in precast concrete blocks to the lower half of their walls and green cladding to the upper half of their walls and roof. They are sited approx. 12m apart running parallel to each other; orientated gable ends facing the lane serving and bounding the site, to the south. Shed B's gable sits adjacent the lane, shed A's gable just back off the lane. The front elevation of sheds B & A (E & W elevations respectively), which provide access off the yard via roller / sliding shutter doors, face onto each other across the yard. The third shed on site, shed C (subject of this application - 'spray work shop'), is located running immediately along the west side of shed B. Shed C, which has a rectangular floor plan and pitched roof construction, measures approx. 5.3m (gable depth) x 13m (length) x 5.2m (ridge height above FFL). It has an approx. 71.5m<sup>2</sup> footprint and is finished in light coloured cladding.

The site is open onto the lane serving it, which bounds it to the south. What appears a relatively new concrete retaining wall bounds the site the west side, with the foundations of a dwelling visible in the adjacent field. It is noted a small mobile office, which measures approx. 2.2m (gable depth) x 2.5m (length) x 2.9m (ridge height above FFL), sits just outside the western boundary of the site on elevated lands held back by the retaining wall. A set of metal stairs within the site, accesses the office. The aforementioned wall with a mix of mature trees and vegetation to its outside bounds the site in part to its north (west side) with remainder of the north boundary (east side) largely open onto a gravelled area being used for parking ancillary to the house / business on site. This gravelled area is accessed through the yard it its south, along the rear of no. 73 Derryvale Rd. A low stone retaining wall and mix of mature vegetation bounds the site to the east with the lane serving no. 71 Derryvale Rd, running to its outside. A small no. of steps provide pedestrian access off the lane to the east up into the front garden and curtilage of no. 73 Derryvale Rd.

The surrounding area is characterised by its' edge of settlement location. Land in the immediate area surrounding and to the north of site is typically rural, comprising largely agricultural lands interspersed with single dwellings and farm groups. Land within the node of development further south of the site is largely a mix of residential and industrial development with Derryvale Park a well-established housing development visible from the site alongside a no. of industrial businesses / sheds located further along Derryvale Rd, just outside the node to the east.

### **Description of Proposal**

This is a full planning application for the retention of works at an established engineering and sandblasting business located at 73 Derryvale Road Coalisland. Works include the retention of:

- \* a new spray workshop,
- \* a mobile office building,
- \* a generator,
- \* a concrete retaining wall, and
- \* extension of curtilage.



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

### **Policy Consideration**

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

The following documents provide the primary policy context and guidance for the determination of this application:

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement (PPS) 2: Natural Heritage

Planning Policy Statement (PPS) 3: Access, Movement and Parking

Planning Policy Statement (PPS) 4: Planning and Economic Development

Planning Policy Statement (PPS) 6: Planning, Archaeology and the Built Heritage

Planning Policy Statement (PPS) 15: (Revised) Planning and Flood Risk

Planning Policy Statement (PPS) 21: Sustainable Development in the Countryside

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

#### **Planning History**

##### **On site**

\* M/1989/4013 - Improvements to dwelling - 73 Derryvale Rd Dungannon - Permitted Development 12th April 1989

\* LA09/2020/0032/CA - Alleged unauthorised business; engineering / sandblasting and erection of a wall - On hold pending outcome of this CLUD application; and planning application LA09/2020/0771/F

\* LA09/2020/1440/LDE - Retention of commercial business comprising 2 workshops, as defined in Class B3: General Industrial use under The Planning (Use Classes) Order (Northern Ireland) 2015 - 73 Derryvale Road Coalisland - Permitted Development 24th March 2021

##### **Adjacent Site**

\* M/1999/1010/O - Dwelling - Approximately 80m south of 73 Derryvale Rd Coalisland - Refused 13th January 2001 as contrary to Policies SP12/GB CPA 1/GB.CPA3 and HOU12 of the PSRNI in the site lies in Green Belt and development not an exceptional

case to justify a relaxation of policy.

The above site related to a field immediately SW of the current site at the opposite side of the access lane. This field was part of subsequent refusal application for a dwelling, M/2012/0602/O; then approved for a dwelling under LA09/2016/0598/O. See below

\* M/2000/0155/F - Replacement dwelling - 75 Derryvale Rd Coalisland - Granted 5th June 2000

\* M/2012/0602/O - Proposed farm dwelling and garage - 40m SE of 75 Derryvale Rd Coalisland - Refused 12th April 2013 as contrary to CTY1 & CTY10 of PPS 21 in that does not merit being considered an exceptional case and not demonstrated the farm business is currently active and established at least 6 years. (Appealed - Appeal Dismissed 1st October 2013)

The above site encompassed the curtilage of no. 75 Derryvale Rd a bungalow located to the SW of the current site; a field immediately west of the current site, and a field immediately SW of the current site and E of no. 75. The aforementioned fields were later approved for dwellings under subsequent application below, in the first instance M/2014/0175/O and LA09/2016/0598/O respectively. See below

\* M/2014/0175/O - Infill dwelling and garage - Granted 20th January 2015

\* LA09/2015/0377/RM - Proposed single storey dwelling - Granted 18th September 2015  
The above applications relate to a site (approved for 5.5m ridge dwelling) adjacent and west of no. 73 Derryvale Rd. On the date of site inspection, there were foundations of a dwelling on this site.

\* LA09/2016/0598/O - Off site replacement dwelling SW of 73 Derryvale Rd Coalisland - Granted 7th October 2016

\* LA09/2016/1731/F - Revise condition 5 of LA09/2016/0598/O to allow 7.5m ridge height - Granted 16th March 2017

\* LA09/2017/1290/RM - Proposed 1.5 storey replacement dwelling - Granted 13th March 2018

\* LA09/2019/0860/NMC - Minor amendment to approved plans by raising front porch from single storey to storey and half - Consent Granted 30th July 2019

The above applications relate to the replacement of a building that was within the curtilage of no. 73 Derryvale Rd on lands immediately SW of and at the opposite side of the access lane to no. 73 Derryvale Rd.

#### Consultees

1. DETI - Geological Survey (NI) were consulted on the 14th August 2020 as the site is located within an area of constraint on abandoned mines. DETI responded on the 2nd September 2020, having assessed the planning proposal in view of stability issues relating to abandoned mine workings, that a search of the Geological Survey of Northern Ireland "Shafts and Adits Database" indicates that the proposed site is greater than 100m from any known abandoned mines. Abandoned mines should cause no issue of concern for the proposal.

2. NI Water - Strategic Applications were consulted on the 14th August 2020 and raised no concerns outlining there is a public water supply within 20m has capacity to serve this proposal; and that the applicant proposes to discharge foul sewage to septic

tank and discharge surface water to soakaways.

3. DFI Roads (Roads) were consulted on the 14th August 2020 in relation to access, movement and parking arrangements of this proposal. Roads responded on the 3rd September 2020 that: A review of Parking Standards guidelines indicate 12 car and 1 lorry spaces is required to support the operations associated with the current use and the proposed increase in floor area. A drawing depicting this parking / servicing provision should be submitted, details of visibility splays at access point on to public adopted road should also be plotted on drawing. An amended site location and block plan, was subsequently received on the 5th November 2020 to show the required parking marked out and details of visibility splays onto the public road plotted. Roads were re-consulted and subsequently responded on the 25th May 2021 raising no objections to the proposal subject to standard conditions and informatives. Subject to adherence with the stipulated conditions I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

4. Shared Environmental Services (SES) were consulted on the 10th May 2021 and considered the application in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Having considered the nature, scale, timing, duration and location of the project, SES concluded the application be eliminated from further assessment because it could not have any conceivable effect on a European site. The elimination reason was that a substantial land buffer (approx. 120m) comprising improved grassland, an existing dwelling and two sites under construction for an infill and a replacement dwelling intervenes between the site and Torrent River at its closest point. The Torrent River forms a tenuous and distant hydrological link to Lough Neagh and Lough Beg Ramsar/SPA, via the River Blackwater, approx. 8km and 13km respectively downstream. It is considered no viable pathway exists to the Torrent River from the site as a result there are no conceivable impacts to European designated sites as a result of work already undertaken or proposed. The P1 form indicates that surface water will be disposed of via soakaways. Surface water is considered 'clean water'. A septic tank is proposed for the disposal of foul waste. Any system will be authorised by NIEA Water Management Unit (WMU), to ensure Water Framework Directives are met. No operational impacts on any European designated sites.

5. Environmental Health Mid Ulster Council were consulted at the outset of this application and outlining that there are a number of sensitive receptors in close proximity to the site requested:

- \* A noise impact assessment - given the no. of potentially noisy sources (forklift trucks, HGV movements, loading and unloading of steel, movement & handling of steel, onsite generator, shot blasting, vehicle movements, open doors to fabrication areas, general fabrication activities).

- \* A dust impact assessment / report / findings - as the development includes shot blasting, which poses risk of dust emissions from the activities.

- \* Odour dispersion modelling - as the 'New Spray Workshop', would involve the application of coating material and painting, which may give rise to odour from the activity.

The agent submitted a dust impact assessment and an odour impact assessment received on the 14th March 2022; an acoustic report received on the 8th October 2020;

additional acoustic information received 7th April 2022 and then then again on the 20th June 2022 in relation to the lands zoned for Phase 2 Housing adjacent the site.

Environmental Health were re-consulted for further comment and whilst they raised no concerns with regards to the impact of dust; odour; or noise of the proposed development on existing residential properties subject to a number of conditions they advised potential properties on the lands zoned for Phase 2 Housing adjacent the site would be detrimentally impacted by noise.

Environmental Health advised the noise consultancy letter / additional acoustic information in relation to the lands zoned for Phase 2 Housing stated the sound levels described within the Acoustic report would place the zoned lands in the negligible to low category of ProPG: Planning & Noise - Professional Practice Guidance on Planning & Noise guidance. This is incorrect as it considers the predicted noise level (37 dB(A)) at the closest noise sensitive receptor to this proposal (No. 6 Derryvale Park, pg 5 of the acoustic report received 8th October 2020 and assesses this against ProPG guidance outlined above. However, the separation distance between this proposal and No. 6 Derryvale Park is approximately 105m but the separation distance between this proposal and the zoned land is the width of a laneway, 8-9m at best. The resultant noise level at this zoned land, due to this proposal, is subsequently 58 dB(A) and therefore in the low to medium category of ProPG guidance. This would exceed the external limit of 50 dB(A) for amenity space and exceed the internal target for any residential property of 35 dB(A) (assuming 15 dB(A) for attenuation for an open window). Furthermore, this level of 58 dB(A) is significantly higher than the ambient noise level of 41 dB(A) from all other noise sources within the locality. Future development of the zoned land would therefore be impacted by this proposal should planning permission be granted.

Further to the above the agent submitted a further consultant's letter dated the 4th November 2022 for Environmental Heath's attention within which he also outlined the facts of the situation are as follows:

- \* There is no specific plan for the zoned lands which the EHD can validly respond to.
- \* The EHD calculation of impact is totally unrealistic being based on a house "on" the boundary extreme edge.
- \* Neither we nor the EHD can know the layout of any development on the zoned lands prior to an application being made. Consequently, we cannot know how access arrangements, parking spaces, play areas and other design criteria might affect the layout of any such application.
- \* Neither we nor the EHD can know the reaction of local residents to any possible application.
- \* Neither we nor the EHD can know what other applications may affect the local area prior to any housing application if any.
- \* Lands zoned for housing does not mean that housing will be built.
- \* Phase 2 lands may never get re-zoned as Phase 1
- \* Phase 2 lands may get removed / rezoned in the Councils area plan.
- \* The response of the EHD seems to be sitting precisely on the fence, not wanting to say yes and not wanting to say no.

Environmental Health considered the consultants letter submitted and advised the figure of 58 dB(A) was calculated using the data submitted by the noise consultancy. The noise

consultant is correct that this relates to the nearest perimeter of the zoned land (CH21) to this proposal and this noise level will reduce as the separation distance(s) increase. Approximately 20 metres of the zoned lands, closest to this proposal, will experience noise levels above the 50 dB(A) noise limit for amenity space stated within ProPG: Planning & Noise – Professional Practice Guidance on Planning & Noise guidance. It should be noted that the 50 dB(A) limit relates to amenity space of any future housing development which may include front/rear gardens and acts to protect the enjoyment of these outdoor space(s). Planning conditions were previously recommended to protect existing residential amenity situated further away from this development (100 metres) than zoned land CH21 (8-9 metres). Any planning decision should be made with the knowledge of the implications this has on zoned lands.

Through the above consultation with Environmental Health I consider this proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development and Policy HOUS 1 Housing Zonings of the Dungannon and South Tyrone Area Plan 2010 in that the development would, if permitted be incompatible with the comprehensive development of the adjacent zoned Phase 2 Housing land by reason of noise nuisance. Whilst conditions can be attached to any subsequent decision to protect existing residential amenity from unacceptable noise disturbance, they cannot protect the residential amenity of potential housing on the Phase 2 lands.

#### Dungannon and South Tyrone Area Plan 2010

The Plan identifies the site as being located within the rural countryside just outside the settlement limits of Coalisland. It sits just north of a small node of development (within but separated from Coalisland's primary node) known locally as Derryvale; and land currently in agricultural use but zoned for Phase 2 housing 'CH21 Land West of Derryvale Road' under the Plan. Plan Policy HOUS 1 Housing Zonings safeguards zoned Phase 2 housing for potential future housing development.

#### Strategic Planning Policy Statement (SPPS) for Northern Ireland

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. That any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

The aim of the SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development. The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment. It outlines that alongside farm diversification and the re-use of rural buildings that redevelopment and expansion proposals for industrial and business purposes normally offer the greatest scope for sustainable economic development in the countryside. And that such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner.

The SPSS retains the policy provisions of the following key Planning Policy Statements (PPS's) relevant to this proposal detailed below.

Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside - Policy CTY 1 of PPS 21 'Development in the Countryside', outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.

One type of development outlined in PPS21 which in principle is considered acceptable in the countryside and that will contribute to the aims of sustainable development: is industry and business uses in accordance with Planning Policy Statement 4: Planning and Economic Development.

Planning Policy Statement 4 (PPS 4): Planning and Economic Development - Policy PED 2 of PPS 4 'Economic Development in the Countryside', states proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

- \* The Expansion of an Established Economic Development Use - Policy PED 3
- \* The Redevelopment of an Established Economic Development Use - Policy PED 4
- \* Major Industrial Development - Policy PED 5
- \* Small Rural Projects - Policy PED 6

Economic development associated with farm diversification schemes and proposals involving the re-use of rural buildings will be assessed under the provisions of Planning Policy Statement 21 'Sustainable Development in the Countryside'. All other proposals for economic development in the countryside will only be permitted in exceptional circumstances.

Policy PED 3 applies as this proposal is for the expansion of an established economic development use. Planning application LA09/2020/1440/LDE established the economic development use on this site. This application granted a certificate of lawfulness for the retention of a commercial business comprising 2 workshops, as defined in Class B3: General Industrial use under The Planning (Use Classes) Order (Northern Ireland) 2015 on this site. It was considered, sufficient evidence had been submitted, to demonstrate the aforementioned workshops (use and operational development) has been in place for 5 or more consecutive years from the date the application was made. As such, the time for taking enforcement action had expired

Policy PED 3 states the expansion of an established economic development use in the countryside 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 of the enterprise. Such proposals will normally be expected to be accommodated through the reuse or extension of existing buildings on site. And in all

cases, measures to aid integration into the landscape will be required for both the extension and the existing site.

This proposal has been assessed against and for the reasons bullet pointed below complies with PED 3:

- \* It is the expansion of an established economic development use, an existing engineering and sandblasting business; and
- \* I believe the scale and nature of the works to be retained including the new spray workshop, mobile office building, generator, concrete retaining wall, extension of curtilage to include parking provision, associated site works and landscaping are proportionate to the established business on site and locality. Whilst I recognise this is a substantial proposal, I do not feel there is a major increase to the floor space or the site area of the established business on site; and the site and surrounding area has accommodated the works without significantly greater visual impact than had previously existed.

In addition to Policy PED 3, this proposal is required to meet the requirements of Policy PED 9 - General Criteria for Economic Development, which I have considered below.

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

With regards to the criteria above having consulted with Environmental Health I am content this proposal is compatible with existing land uses in that it should not have a significantly detrimental impact in terms of dust, odour, or noise subject to a number of conditions on existing residential properties. However, I am not content it is compatible with the future development of the lands adjacent the site for housing. As detailed further above the site sits just north of land zoned for Phase 2 housing 'CH21 Land West of Derryvale Road' under the Plan. Plan Policy HOUS 1 Housing Zonings safeguards zoned Phase 2 housing for potential future housing development. Environmental Health advised the resultant noise level at this zoned land, due to this proposal, is subsequently 58 dB(A) and therefore in the low to medium category of ProPG guidance. This would exceed the external limit of 50 dB(A) for amenity space and exceed the internal target for any residential property of 35 dB(A) (assuming 15 dB(A) for attenuation for an open window). Furthermore, this level of 58 dB(A) is significantly higher than the ambient noise level of 41 dB(A) from all other noise sources within the locality. Future development of the zoned land would therefore be impacted by this proposal should planning permission be granted.

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

It should not adversely affect features of the natural or built heritage. In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

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

I am content this proposal should not cause or exacerbate flooding on site or elsewhere.

NI Flood Maps indicate the site is not located in an area at flood risk and the development is under the thresholds warranting a Drainage Assessment under Policy FLD 3 of PPS 15 'Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains'. The site area does not exceed 1 hectare; and areas of new hard surfacing does not exceed 1000m<sup>2</sup> in area.

f) it is capable of dealing satisfactorily with any emission or effluent;

I am not content that the proposal is capable of dealing satisfactorily with emission. Whilst effluent is to be dealt with via septic tank and Environmental Health raise no concerns regarding dust, odour or noise emissions in relation to existing residential properties they have raised concerns regarding noise emissions in relation to the future development of the zoned Phase 2 lands adjacent the site for housing

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

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

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

DfI Roads were consulted in relation to the proposal and subject to an amended drawing raised no concerns about road safety or parking and manoeuvring within the site.

Accordingly, I am content the proposal should not prejudice road safety or inconvenient the free flow of traffic. I am also content that there are no footpaths that the site can link to and that the majority of access to the site will be vehicular, therefore it is not possible to encourage walking to the site that would be considered safe.

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

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

l) is designed to deter crime and promote personal safety; and

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

The site layout and design of buildings and walls are generally considered acceptable for this site and locality. No additional infrastructure or landscaping is proposed as the proposal will utilise existing access arrangements and the site is relatively well-enclosed by mature vegetation, which will be conditioned to be retained in the interests of visual amenity and to assist the promotion of sustainability and biodiversity. I am content appropriate boundary treatment and means of enclosure including walls and vegetation exist to help screening the yard from public view and in my view helping to deter crime and promote personal safety.



## Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 4 third party objections / representations were received from or on behalf of Niall and Clare-Maria Currie the owners / occupiers of Drumreagh House located approx. 380m to the north of the site and owners of the lane adjoining the site, this included: 1 objection dated the 2nd November 2020 from Niall and Clare-Maria Currie; 1 objection dated the 10th March 2021 from Planning Consultant Liam Currie on behalf of and supplementing Niall and Clare-Maria Currie's initial objection letter and issues raised. 1 representation dated 30th June 2021 from Niall Currie providing supplementary information requested by Planning regarding the objection received on the 10th March 2021; and 1 objection dated the 22nd August 2022 from Niall Currie to supplement the previous. An email was also received on the 26th January 2021 from the applicant's agent in response / rebut the issues raised in the objection received 2 NOV 2020. The key issues raised in the objections received have been considered below:

1. Validity of planning application - That the applicant was not in full control of the entrance onto the Derry Rd and that as owners of the lands outside his control they do give permission for him to use their lands.

I am content that following the above issue raised the agent advised she was unaware that the applicant was not in full control of the entrance onto the Derry Road. To this regard revised Q27 on the P1 form to certificate C and served notice (via P2a certificate) on the landowners. With regards ownership / legalities surrounding land ownership I am content as any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that he controls all the lands necessary to carry out and access the proposed development.

2. Principle of Development & Enforcement - That the existing engineering and sand blasting business has been operating in this area of the rural countryside without the benefit of planning permission for some time. That this proposal does not comply with any of the range of non-residential development considered acceptable under Policy CTY 1 of Planning Policy Statement 21 (PPS21) or Planning policy Statement 4 Economic Development (PPS4).

As detailed in the main body of this report I am content planning application LA09/2020/1440/LDE established the economic development use on this site. This application granted a certificate of lawfulness for the retention of a commercial business comprising 2 workshops, as defined in Class B3: General Industrial use under The Planning (Use Classes) Order (Northern Ireland) 2015 on this site. It was considered, sufficient evidence had been submitted, to demonstrate the aforementioned workshops (use and operational development) has been in place for 5 or more consecutive years from the date the application was made. As such, the time for taking enforcement action had expired.

Policy PED 3 of PPS 4 then makes provision for the expansion of an established economic development use in the countryside, where in my opinion is the case here, 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 of the enterprise. As detailed

above in the main body of this report whilst in principle I consider this proposal to comply with Policy PED 3 of PPS 4 it must also meet all the requirements of Policy PED 9 of PPS 4 'General Criteria for Economic Development', which I do not consider it does. Having consulted with Environmental Health I am not content this proposal is compatible with surrounding land uses i.e. the Phase 2 Housing lands adjacent the site zoned and safeguarded by the Plan. Whilst Environmental Health raised no concerns with regards to the impact of dust; odour; or noise of the proposed development on existing residential properties subject to a number of conditions they advised potential properties on the lands zoned for Phase 2 Housing adjacent the site would be detrimentally impacted by noise.

3. Compatibility Issues - Raises compatibility issues with established land uses at this location and states the noise, dust and odour assessments requested by Environmental Health should take into account his dwelling, its associated curtilage which takes in the full extent of the laneway and his animal rehabilitation business unit with its associated horse paddocks. Advising this proposal will have an adverse impact on his family's residential amenity, the safe operation of their business and health. The applicant supplied a no. of photos and video evidence in support of this issue raised.

Noise, dust and odour assessments were submitted to Environmental Health for consideration of any such impact on neighbouring amenity. Whilst Environmental Health raised no concerns with regards to the impact of dust; odour; or noise of the proposed development on existing residential properties subject to a number of conditions, they advised potential properties on the lands zoned for Phase 2 Housing adjacent the site would be detrimentally impacted by noise.

4. Access, traffic and transportation -It should be confirmed to DfI Roads that the current use is unauthorised and the subject application effectively seeks to establish an industrial enterprise at this site. The suitability of the access should therefore be considered in terms of accommodating a new industrial enterprise as opposed to extending a current one.

As detailed in the main body of this report I am content planning application LA09/2020/1440/LDE established the economic development use on this site. This application granted a certificate of lawfulness for the retention of a commercial business comprising 2 workshops, as defined in Class B3: General Industrial use under The Planning (Use Classes) Order (Northern Ireland) 2015 on this site. It was considered, sufficient evidence had been submitted, to demonstrate the aforementioned workshops (use and operational development) has been in place for 5 or more consecutive years from the date the application was made. As such, the time for taking enforcement action had expired. Policy PED 3 of PPS 4 then makes provision for the expansion, as is the case here, of an established economic development use in the countryside. DfI Roads have been consulted (see 'Consultees' above) in relation to access, movement and parking arrangements and subject to an amended site location and block plan raised no objections to the proposal subject to standard conditions and informatives. Subject to adherence with the stipulated conditions I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

5. Other Matters - the proposal involves the reuse of an existing building and the extension of the curtilage area into a heavily vegetated field parcel. The site also adjoins a Local Landscape Policy Area (LLPA) 03 - River Torrent aimed at protecting the area's visual amenity, nature conservation interest, archaeological interest and recreation/public access potential. The vegetation within the area of the proposed yard is dense and feeds into the LLPA and River Torrent and is rich in species such as bats and badgers. The applicant has already removed a significant number of trees, hedging and carried out earth works in this area having no regard to the appropriate period for doing so in terms of roosting birds, bats or impact on the integrity of the LLPA. It is noted that NIEA has not been consulted, any ecological assessments carried out and a biodiversity checklist should be completed in order to identify if adverse effects on any biodiversity and natural heritage interests may have occurred or are likely to occur, and determine whether further assessments would be required. The site clearance and intensive nature of the industrial use also raises issues regarding the potential to pollute the River Torrent (Site of Local Nature Conservation Importance) which merges with the River Blackwater and hydrologically links to The Drumcrow Area of Special Scientific Interest (ASI) and Lough Neagh / Beg Special Protection Area (SPA) both protected national and international sites. The proposal would result in the creation of a hardstanding area in excess of 1000m<sup>2</sup>. The works carried out to date has already resulted in surface water falling and accumulating on the laneway and surrounding lands. Therefore, a Drainage Assessment is required in accordance with Policy FLD3 of PPS15 Planning and Flood Risk. That Environmental Impact Assessment Regulation requires the Council to make a determination as to whether the development would be require an environmental impact assessment report.

It is not considered an ecological assessment, biodiversity checklist or consultation with NIEA is necessary in this instance as the Dungannon and South Tyrone Area Plan identifies that whilst the site is located in the vicinity off, it is not located within or adjacent, LLPA 03 - River Torrent. The vegetation referred to above, which on the date of site inspection had already been removed, was not designated and / or protected by the Plan. No other areas of vegetation are proposed to be cleared as part of this application and vegetation bounding and within the site could be protected via condition under any subsequent decision. With regards any works as specified above being carried out, outside of the appropriate times and affecting protected species, would be a potential criminal matter outside the remit of Planning. Shared Environmental Services were consulted and considered the application in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Having considered the nature, scale, timing, duration and location of the project, SES concluded the application be eliminated from further assessment because it could not have any conceivable effect on a European site. The elimination reason was that a substantial land buffer (approx. 120m) comprising improved grassland, an existing dwelling and two sites under construction for an infill and a replacement dwelling intervenes between the site and Torrent River at its closest point. I am content that this land buffer should in the first instance protect the River Torrent from potential pollution and prevent any conceivable effect on a the River Blackwater, the Drumcrow Area ASI and Lough Neagh / Beg SPA. NI Flood Maps indicate the site is not located in an area at flood risk and the development is under the thresholds warranting a Drainage Assessment under Policy FLD 3 of PPS 15 'Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains'. The site area does not exceed 1 hectare; and

areas of new hard surfacing does not exceed 1000m<sup>2</sup> in area. Accordingly, I am content this proposal should not cause or exacerbate flooding on site or elsewhere. I am also content the environmental impacts of his proposal can be and have been considered within this report and that under The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 this development is not Schedule 1 development or Schedule 2 development.

**Recommendation:** Refuse

The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development and Policy HOUS 1 Housing Zonings of the Dungannon and South Tyrone Area Plan 2010 in that the development would, if permitted be incompatible with the comprehensive development of the adjacent zoned Phase 2 Housing land by reason of noise nuisance.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development and Policy HOUS 1 Housing Zonings of the Dungannon and South Tyrone Area Plan 2010 in that the development would, if permitted be incompatible with the comprehensive development of the adjacent zoned Phase 2 Housing land by reason of noise nuisance.

**Case Officer:** Emma Richardson

**Date:** 22 February 2023

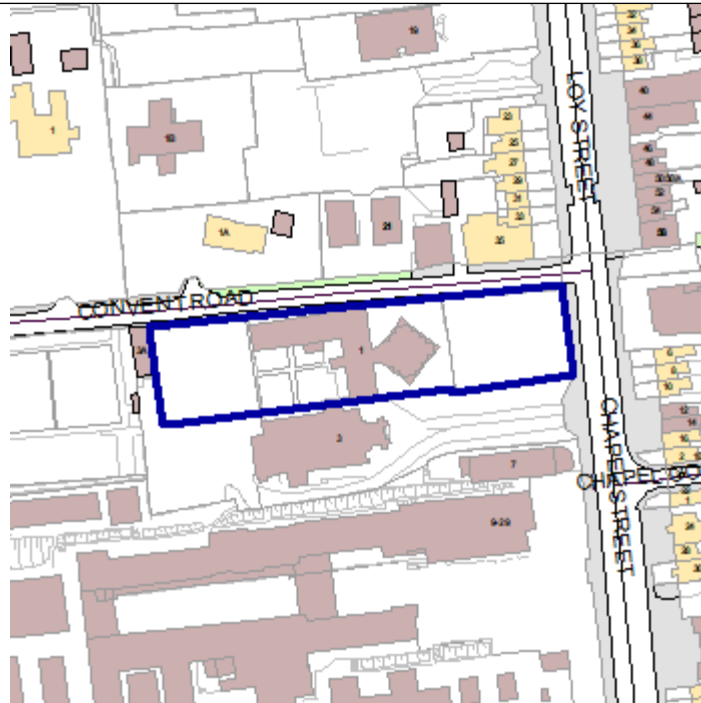
ANNEX	
<b>Date Valid</b>	1 July 2020
<b>Date First Advertised</b>	5 April 2022
<b>Date Last Advertised</b>	14 July 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 75 Derryvale Road, Coalisland, Tyrone, BT71 4DY	
<b>Date of Last Neighbour Notification</b>	9 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DETI - Geological Survey (NI)-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR NI Water - Strategic Applications-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Shared Environmental Services-Substantive: YResponseType: FR Shared Environmental Services-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC Environmental Health Mid Ulster Council-LA09-20-0771 F 73 Derryvale Road.doc 080223.doc Environmental Health Mid Ulster Council-LA09-20-0771 F 73 Derryvale Road.doc Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council-LA09-21-1758 O Lands adjacent to Galbally.doc Environmental Health Mid Ulster Council-	

<b>Drawing Numbers and Title</b>
Existing Plans      Plan Ref: 04 Proposed Plans      Plan Ref: 03 Site Layout or Block Plan   Plan Ref: 02 Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b>
Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2020/1313/F	<b>Target Date:</b> 15 December 2020
<b>Proposal:</b> Proposed change of use from disused convent and national school to 15 apartments	<b>Location:</b> St Brigid's Convent & National School Convent Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> FR L Boyle Parochial House Convent Road Cookstown	<b>Agent Name and Address:</b> Don Sonner 26A St Jeans Cottages Cookstown BT80 8DQ
<b>Executive Summary:</b>	

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

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	NI Water - Multiple Units West	Substantive: TBCResponseType: PR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Historic Environment Division (HED)	Substantive: TBCResponseType: PR
	Environmental Health Mid Ulster Council	Substantive: TBC

**Representations:**

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

**Summary of Issues**



Proposal considered against prevailing planning policy and all material considerations below. It is considered the proposal as it stands fails to comply with the SPPS, PPS3, PPS6 and PPS7. No letters of representation received. This application is accompanied by a Listed Building Consent application under reference LA09/2020/1318/LBC.

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

The application site is located within the settlement limits of Cookstown as defined in the Cookstown Area Plan 2010 outside the town centre and within a designated area of townscape character. The site is located at the junction of Loy Street and Convent Road. The site encompasses St Brigid's Convent & National School building and grounds which are currently derelict and a portion of the car park to rear which is utilised by the adjacent Holy Trinity Church. The convent building on site is Grade B2 Listed therefore of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011. The site frontage is defined by a metal railing fence which defines the northern and eastern boundary. The southern boundary is defined by mature hedging separating the site from the Church grounds. The surrounding area is urban in character with a varying uses including residential, commercial and professional services.

### **Description of Proposal**

This application seeks full planning permission for the change of use from disused convent and national school to 15 apartments of which 11no. are 1 bedroom and 4no. are 2 bedroom.

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

#### **Policy Consideration**

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

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

- o Regional Development Strategy 2030
- o Strategic Planning Policy Statement for Northern Ireland
- o Cookstown Area Plan 2010
- o PPS 3 - Access, Movement and Parking
- o PPS 6 -Planning, Archaeology and the Built Heritage
- o PPS 7 - Quality Residential Environments

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

#### Representations

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

#### History on Site

LA09/2020/1318/LBC - Proposed change of use from disused convent and national school to 15 apartments, St Brigid's Convent & National School, Convent Road, Cookstown - under consideration

LA09/2018/1466/F - Proposed alteration and change of use from derelict dwelling, store and garage to tea room for church use - Rear Of Holy Trinity R.C. Church, Chapel Street, Cookstown - Permission Granted 13/03/19

I/2015/0035/PREAPP - Replacement school on existing site - Holy Trinity College Chapel Road, Cookstown, BT80 8OB

LA09/2019/0665/F - Demolition of existing school building construction of new 16,000m<sup>2</sup>, 1300 pupil school building and associated works on the existing school site to accommodate in-curtilage bus, car park drop offs and turning areas, 3G synthetic pitch and Multi-Use games area - Holy Trinity College, 9-29 Chapel Street, Cookstown - Permission Granted 12/08/20

#### Key Policy Considerations/Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Cookstown Area Plan (CAP) 2010 is the statutory local development plan for the application site. The application site is located within the settlement limits of Cookstown within a designated Area of Townscape Character. Plan Policy SETT 1 Settlement Limits of the extant Area Plan states favourable consideration will only be given to development proposals within settlement development limits provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials; there is no significant detrimental impact on amenities or the recognised conservation interests; and where there are satisfactory arrangements for access, parking and sewage disposal. The sensitivity of the proposal to the settlement and will be considered in more detail below when considering the prevailing policy criteria and there are no key site requirements on the application site. Plan Policy ATC 1 Cookstown

Area of Townscape Character states an ATC is designated in the commercial core in recognition of the quality of both individual buildings and the historic street pattern. In order to help retain the historic characteristics of this area, special attention will be given to the height, form, scale, massing and detailing of any development proposals to ensure that they do not detract from the character of the area. Given the proposal is for a change of use of an existing building with minimal external alterations, it is not considered the proposal will detract from the character or appearance of the area.

PPS 6 (Addendum) is a retained policy document under the SPPS and provides the appropriate policy context for Areas of Townscape Character. Policy ATC 2 permits new development in an Area of Townscape Character provided it maintains and enhances the overall character of the ATC and respects the built form in the area. Given the minimal external changes to this building, the proposal will not have any negative impact on the ATC. The change of use of the building will not be out of keeping with the mixed character of the area.

Historic Environment Division are the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended) to provide advice on built heritage and archaeological impact. The existing building subject to this application is Grade B1 Listed (HB09/2020/024/A) and the site is also located in proximity to Chapel of the Annunciation, (HBO9/2020/024/B) Holy Trinity Roman Catholic Church (Grade B+). Historic Environment Division were consulted and responded on 08/12/20 advising HED (Historic Monuments) were content with the proposal however HED (Historic Buildings) had incomplete information to allow a substantive response. As a preliminary requirement, HED (Historic Buildings) required a photographic record; drawings distinguishing historic fabric to be retained, removed and any new interventions and construction; a comprehensive schedule of repair works for specialist fittings; a method statement for the retention/reinstatement of all ceiling cornices etc; drawings indicating the position of all proposed drainage runs, SVPs, fan extraction points; an investigative studies on the presence and eradication of damp; and a detailed site plan, clearly illustrating the curtilage of the property and identifying all structures within as many of the existing walls, railings and gates are listed. This information was requested on 09/12/20, the agent advised on 25/01/21 that he was waiting on a site meeting with HED which was necessary to provide the amendments and this could not happen at this time due to the current Covid 19 lockdown. I followed up on 23/06/21 and the agent advised he had discussions with HED and had made some progress and HED would be carrying out a site meeting. Following a request for an update, the agent advised on 26/07/21 that in order to make the project more viable he was exploring the removal of less significant buildings and he was meeting HED to discuss. A further update was requested on 01/11/21 and the agent responded on 02/12/21 advising reports were currently being prepared for submission following a site meeting with HED and the delay was due to covid restrictions over the previous months. The agent was given a 3 month deadline in June 2022 to provide all outstanding information given the significant period of time that had passed since information was initially sought. The agent agreed to this and advised on 30/06/22 the necessary information would be submitted within the next 3 months. However, to date no additional information or amendments have been provided. In the absence of the necessary information required by HED (Historic Buildings) the application as it stands fail to demonstrate compliance with Paragraphs 6.12 (setting) and 6.13 (Listed Buildings) of

SPPS and Policies BH8 and BH11 of PPS 6.

Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature in an urban setting should be assessed against. The proposal has been considered against all criteria outlined under Policy QD1.

- a) The proposed change of use from a disused convent and national school to 15 No. apartments is considered appropriate to the character of this area. The site is within the development limits of Cookstown with a mix of land uses and where housing in urban areas is encouraged. As this is a change of use application it is noted that there are minimal external changes and from this I am content the development will respect the surrounding area.
- b) As stated above the building is listed and Historic Environment Division (HED) have been consulted on this application. As the necessary information has not been submitted to ensure there will be no significant impact on features of built archaeological interest, this criterion has not been met.
- c) Drawing 02 indicates a shared garden area to the rear of the building as private amenity space. It is considered this is acceptable as communal space for residents in this instance given the proximity to the town centre location and public open spaces and play parks.
- d) The proposal site is situated within the settlement limits of Cookstown thus it is considered there is easy accessibility to local neighbourhood facilities. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.
- e) It is noted that a footpath is located adjacent to the application site which will support walking and cycling. The proposal seeks to access onto Chapel Street upgrading an existing access to allow modern day access. DfI Roads were consulted and have responded advising access onto Chapel Street is contrary to policy. PPS3 Policy AMP3 advises that direct access or the intensification of the use of an existing access is only permissible from a protected route where access cannot be reasonably taken from an adjacent minor road. Chapel Street is a protected route and DfI Roads have advised access can be reasonably taken from the adjacent minor road - Convent Road. Furthermore, the location of the proposed access on Chapel Street is impacting on a segregated cycletrack / footway and within 30 metres of the Convent Road junction and is therefore considered contrary to DCAN 15 and PPS3 Policy AMP2. DfI Roads comments were sent to the agent and amendments sought on 25/01/21, this was followed up on 23/06/21, 1/11/21, 2/12/21 and 22/06/22 however to date amendments have not been received and the access arrangements are therefore currently contrary to policy.
- f) Drawing 02 indicates the provision of 16no formal car parking spaces in front of the subject building. Parking Standards require the provision of 20 spaces however it is noted there is existing parking to the rear which appears to be used as the chapel car

park and this is located partially within the red line. Overall, given the car park to the rear and the town centre location it is considered there is adequate and appropriate provision of car parking.

g) The proposed design is considered to be sympathetic to the listed building and area of townscape character with minimal external changes with works seeking to retain or replace to match the existing.

h) The proposal is for a change of use of existing building with minimal external changes. The building immediately adjacent to the south is a church. Immediately north of the application site are commercial units and residential properties. It is noted that the proposal is located within an existing urban area and policy states few households can claim not to be overlooked to some degree. It is not considered that the proposal would give rise to unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light or overshadowing to warrant refusal. In my view there are no issues of noise, nuisance or general disturbance of existing or proposed amenity. Environmental Health have been consulted and have raised no concerns. It is considered this residential development will not conflict with existing land uses.

i) I have no significant concerns in terms of crime or health and safety with respect to the proposed design.

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

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to the Strategic Planning Policy Statement, Policy BH8 and Policy BH11 of Planning Policy Statement 6 Planning, Archaeology and the Built Heritage in that insufficient information has been provided to demonstrate that the proposal will not adversely affect a listed building or its setting.

##### **Reason 2**

The proposal is contrary to DCAN 15 and PPS3, Access, Movement, and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the proposed access is in close proximity to the Convent Road junction and would add to existing traffic hazards created by the slowing down and turning movements of vehicles entering and leaving the access.

##### **Reason 3**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and

conditions of general safety.

**Case Officer:** Grace Heron

**Date:** 16 February 2023

ANNEX	
<b>Date Valid</b>	20 October 2020
<b>Date First Advertised</b>	3 November 2020
<b>Date Last Advertised</b>	3 November 2020
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 6 Chapel Street Cookstown Tyrone BT80 8QB The Owner / Occupier 8 Chapel Street Cookstown Tyrone BT80 8QD The Owner / Occupier 35 Loy Street Cookstown Tyrone BT80 8PZ The Owner / Occupier 58 Loy Street Cookstown Tyrone BT80 8PE The Owner / Occupier 1A Convent Rd, Cookstown, BT80 8QA The Owner / Occupier 21 Loy Street, Cookstown, Tyrone, BT80 8PZ The Owner / Occupier 7 Chapel Street, Cookstown, Tyrone, BT80 8QB The Owner / Occupier 3 Chapel Street, Cookstown, Tyrone, BT80 8QB The Owner / Occupier 2-4 Chapel Street, Cookstown, Tyrone, BT80 8QB The Owner / Occupier 58A Loy Street Cookstown Tyrone BT80 8PE The Owner / Occupier 3A Chapel Street, Cookstown, Tyrone, BT80 8QB	
<b>Date of Last Neighbour Notification</b>	7 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	

NI Water - Multiple Units West-Substantive: TBCResponseType: PR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
Historic Environment Division (HED)-Substantive: TBCResponseType: PR  
Environmental Health Mid Ulster Council-Substantive: TBC

**Drawing Numbers and Title**

Existing Elevations Plan Ref: 11  
Existing Elevations Plan Ref: 10  
Existing Floor Plans Plan Ref: 09  
Existing Floor Plans Plan Ref: 08  
Existing Floor Plans Plan Ref: 07  
Proposed Elevations Plan Ref: 06  
Proposed Floor Plans Plan Ref: 05  
Proposed Floor Plans Plan Ref: 04  
Proposed Floor Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

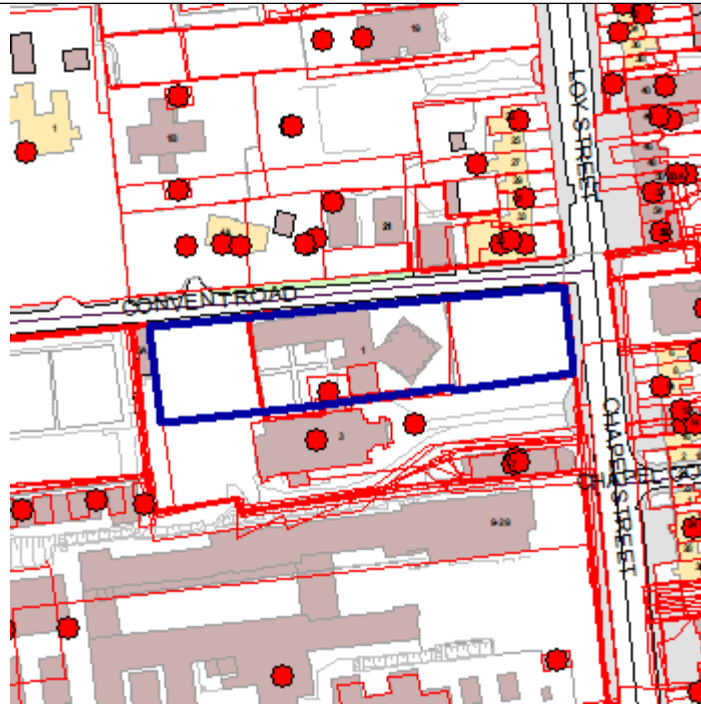
Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2020/1318/LBC	<b>Target Date:</b> 15 December 2020
<b>Proposal:</b> Change of use from disused convent & national school to apartments. Existing structures to be retained & restored	<b>Location:</b> St Brigid's Convent & National School Convent Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> FR L Boyle Parochial House Convent Road Cookstown	<b>Agent Name and Address:</b> Don Sonner 26A St Jeans Cottages Cookstown BT80 8DQ
<b>Executive Summary:</b>	

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

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**Consultations:**

Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: TBCResponseType: PR

**Representations:**

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

**Summary of Issues****Characteristics of the Site and Area**

The application site is located within the settlement limits of Cookstown as defined in the Cookstown Area Plan 2010 outside the town centre and within a designated area of townscape character. The site is located at the junction of Loy Street and Convent Road. The site encompasses St Brigid's Convent & National School building and grounds which are currently derelict and a portion of the car park to rear which is utilised by

adjacent Holy Trinity Church. The convent building on site is Grade B2 Listed which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011. The site frontage is defined by a metal railing fence which defines the northern and eastern boundary. The southern boundary is defined by mature hedging separating the site from the Church grounds. The surrounding area is urban in character with a varying uses including residential, commercial and professional services.

### **Description of Proposal**

Proposal considered against prevailing planning policy and all material considerations below. It is considered the proposal as it stands fails to comply with the SPPS, PPS3, PPS6 and PPS7. No letters of representation received. This application is accompanied by a Listed Building Consent application under reference LA09/2020/1313/F

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

#### **Policy Consideration**

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

#### **History on Site**

LA09/2020/1313/ - Proposed change of use from disused convent and national school to 15 apartments, St Brigid's Convent & National School, Convent Road, Cookstown - under consideration

LA09/2018/1466/F - Proposed alteration and change of use from derelict dwelling, store and garage to tea room for church use - Rear Of Holy Trinity R.C. Church, Chapel Street, Cookstown - Permission Granted 13/03/19

I/2015/0035/PREAPP - Replacement school on existing site - Holy Trinity College Chapel Road, Cookstown, BT80 8OB

LA09/2019/0665/F - Demolition of existing school building construction of new 16,000m2 , 1300 pupil school building and associated works on the existing school site to accommodate in-curtilage bus, car park drop offs and turning areas, 3G synthetic pitch and Multi-Use games area - Holy Trinity College, 9-29 Chapel Street, Cookstown - Permission Granted 12/08/20

### Key Policy Considerations/Assessment

This proposal seeks consent for a change of use from disused convent and national school to 15 apartments. The existing building subject to this application is Grade B1 Listed (HB09/2020/024/A) and the site is also located in proximity to Chapel of the Annunciation, (HBO9/2020/024/B) Holy Trinity Roman Catholic Church (Grade B+).

The Strategic Planning Policy Statement for Northern Ireland - Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS states Listed Buildings of special architectural or historic interest are key elements of our built heritage and are often important for their intrinsic value and for their contribution to the character and quality of settlements and the countryside. It is important therefore that development proposals impacting upon such buildings and their settings are assessed, paying due regard to these considerations, as well as the rarity of the type of structure and any features of special architectural or historic interest which it possesses. The SPPS advises that the policy provisions of Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage are retained.

Policy BH 8 of PPS6 states consent will normally only be granted for an extension or alteration of a listed building where all the following criteria are met:

- a) the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
- b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- c) the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.

Policy BH 11 of PPS 6 states that proposals affecting the setting of a Listed building will normally only be considered appropriate where all the following criteria are met:

- a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- c) the nature of the use proposed respects the character of the setting of the building.

The proposed drawings indicate minimal external changes. Historic Environment Division were consulted and responded on 08/12/20 advising HED (Historic Monuments) were content with the proposal however HED (Historic Buildings) advised they have incomplete information which does not allow a substantive response. As a preliminary requirement, HED (Historic Buildings) required a photographic record; drawings distinguishing historic fabric to be retained, removed and any new interventions and construction; a comprehensive schedule of repair works for specialist fittings; a method statement for the retention/reinstatement of all ceiling cornices etc; drawings indicating the position of all proposed drainage runs, SVPs, fan extraction points; an investigative studies on the presence and eradication of damp; and a detailed site plan, clearly

illustrating the curtilage of the property and identifying all structures within as many of the existing walls, railings and gates are listed. This information was requested on 09/12/20 and on 25/01/21 the agent advised that he was waiting on a site meeting with HED which was necessary to provide the amendments and this could not happen at this time due to the current Covid 19 lockdown. I followed up on 23/06/21 and the agent advised he had telephone calls with HED and had made some progress with the necessary information and HED would be carrying out a site meeting. Following a request for an update, the agent advised on 26/07/21 that in order to make the project more viable he was exploring the removal of less significant buildings and was meeting HED to discuss. A further update was requested on 1/11/21 and 2/12/21 and the agent responded advising reports were currently being prepared for submission following a site meeting with HED however this was moving slowly given the covid restrictions over the previous few months. The agent was given a 3 month deadline in June 2022 to provide all outstanding information given the significant period of time that had passed. The agent agreed to this and advised on 30/06/22 the information requested will be submitted within the next 3 months however to date no further information has been provided. In the absence of the necessary information required by HED (Historic Buildings) the application as it stands fail to demonstrate compliance with Paragraphs 6.12 (setting) and 6.13 (Listed Buildings) of SPPS and Policies BH8 and BH11 of PPS 6. Therefore, it is not considered listed building consent should be granted.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to the Strategic Planning Policy Statement, Policy BH8 and Policy BH11 of Planning Policy Statement 6 Planning, Archaeology and the Built Heritage in that insufficient information has been provided to demonstrate that the proposal will not adversely affect a listed building or its setting.

**Case Officer:** Grace Heron

**Date:** 16 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	20 October 2020
<b>Date First Advertised</b>	3 November 2020
<b>Date Last Advertised</b>	3 November 2020
<b>Details of Neighbour Notification</b> (all addresses)	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
Historic Environment Division (HED)-Substantive: TBCResponseType: PR	
<b>Drawing Numbers and Title</b>	
Existing Floor Plans Plan Ref: 11	
Existing Floor Plans Plan Ref: 10	
Existing Elevations Plan Ref: 09	
Existing Elevations Plan Ref: 08	
Existing Elevations Plan Ref: 07	
Proposed Elevations Plan Ref: 06	
Proposed Elevations Plan Ref: 05	
Proposed Plans Plan Ref: 04	
Proposed Plans Plan Ref: 03	
Proposed Plans Plan Ref: 02	
Site Location Plan Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2020/1372/F	<b>Target Date:</b> 29 December 2020
<b>Proposal:</b> Stockpile storage of aggregate on a temporary basis	<b>Location:</b> 25 Crancussy Road Evishacrancussy Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Core Aggregates 25 Crancussy Road Cookstown	<b>Agent Name and Address:</b> Kevin Loughran 155 Drum Road Cookstown BT80 9DW
<b>Executive Summary:</b>	



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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	Health & Safety Executive For NI	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Health & Safety Executive For NI	Substantive: TBCResponseType: FR
	Health & Safety Executive For NI	Substantive: TBC

<b>Representations:</b>	
Letters of Support	0
Letters of Objection	4
Letters Non Committal	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<p>Summary of Issues including representations</p> <p>Eleven representations have been received in respect of this proposed development all of which are from the same objector and relate to the following issues:-</p> <ul style="list-style-type: none"> <li>o The stockpile of aggregates should be inspected and investigated by the appropriate authorities;</li> </ul> <p>Health and Safety Executive NI were consulted on the proposal and have no objections.</p> <ul style="list-style-type: none"> <li>o HGV's and road going vehicles using haul roads within the working quarry;</li> </ul> <p>The use of HGV's and road going vehicles on haul roads within the quarry is a matter for the quarry operators.</p> <ul style="list-style-type: none"> <li>o The stability of stockpiles must be investigated;</li> </ul> <p>The original planning approval I/1972/0077 states at Condition 6 that 'The height of any stockpile adjacent to the plant shall not exceed 7 metres. At the time of site inspection, no stockpiles were observed in the proposed area which exceeded 7 metres in height.</p> <ul style="list-style-type: none"> <li>o The planning approval granted under I/1972/0077 has expired and therefore cannot be relied on.</li> </ul> <p>The quarry as approved under I/1972/0077 is clearly in operation and I see no evidence to the contrary.</p> <ul style="list-style-type: none"> <li>o The applicant applies for retrospective permission after the proposal has been completed;</li> </ul> <p>To apply retrospectively for planning approval is not an offence and the applicant is entitled to do so bearing in mind that they are taking the risk of the proposed development being refused.</p> <ul style="list-style-type: none"> <li>o The objector feels that 10 months of stock piling is enough and not commercially viable.</li> </ul> <p>A quarry operator may, if they so wish to, stockpile materials for any length of time unless there is a condition restricting this. There is no such condition attached to the original approval.</p> <ul style="list-style-type: none"> <li>o That the proposed development is not risk assessed, the non-existence of health and safety regulations and that the Health and Safety Executive be consulted.</li> </ul> <p>The HSENI were consulted and advised that they have no objections.</p> <ul style="list-style-type: none"> <li>o Drainage has not been consulted by a Geotechnical expert;</li> </ul> <p>NIEA Water Management Unit were consulted and raised no issues of concern regarding drainage.</p> <ul style="list-style-type: none"> <li>o Due to the revocation matter, Council are allowing further damage to the ASSI as it is integrated into the operation of the site;</li> </ul> <p>The applicant provided confirmation from DoE Environment and Heritage Service including a map detailing the extent of the ASSI and that indicated that the proposed site does not encroach into the ASSI.</p>	

- o Is the applicant in receipt of Furlough payments;  
This is not a planning consideration.
- o The applicant has not stated what they believe a temporary time scale to be;  
Whilst the description of the proposed development states 'Stockpile storage of aggregate on a temporary basis....' this is a full application which is not for a temporary period. The proposal is for the storage of materials on a temporary basis after which they may be moved on elsewhere and may then be replaced by newly excavated materials. This issue is irrelevant.
- o The stockpile is C.100m from the objectors home;  
The proposed stockpile is in fact in excess of 400m from the objectors dwelling and Environmental Health advised that they are satisfied that the proposal is situated far enough from residential receptors so as not to impact amenity in respect of noise or dust.
- o Lorries being loaded from the stock pile and therefore the excavated material is not being reworked within the quarry;  
As this is a commercial quarry, the stockpile of excavated material does not have to be reworked within the quarry and there is no requirement for this to happen.
- o Requests clarification on what a soakaway is;  
A soakaway is by nature where water soaks away into the ground. The applicant clarified that the soakaways are existing through the permeable base of the excavation zone and that no new soakaways are proposed.
- o The objector alleges that the original 1972 approval was never implemented, however, I am not aware of any enforcement action being taken against the applicant for such a breach, nor am I aware of any revocation process in respect of same.
- o The Bio-Diversity report was completed as a desk study with review of contemporary photos. Additional issues are raised with respect to the content of the report.  
NIEA Natural Environment Division accepted this Bio-diversity report and advised that they are content that the ecologist has considered potential impacts. NED are content that impacts on designated sites and other natural heritage impacts are not considered likely as a result of the proposal.

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

#### Characteristics of the site and area

The site sits within an existing operational sand and gravel quarry located on the Crancussy Road and approved under I/1977/0072. The quarry is located 6Km north of Pomeroy, 13Km west of Cookstown and 20Km east of Omagh. The site is adjacent to but lies outside the Lough Doo ASSI (a designated site) which is of national importance and is protected by the Environment (NI) Order 2002 and is also within the Sperrins AONB.

### **Description of Proposal**

#### Description of proposal

Stockpile storage of aggregate on a temporary basis whilst awaiting further processing at the plant at a later date.

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

### **Policy Consideration**

Planning Assessment of Policy and other Material Considerations

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

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 21 - Sustainable Development in the Countryside

Planning Strategy for Rural NI

The Department of the Environment published the Strategic Planning Policy Statement for Northern Ireland (SPPS) in September 2015. This policy is a consolidation of some twenty separate policies, however, the policy provisions of 'A Planning Strategy for Rural Northern Ireland - Policies MIN1 - MIN8 are retained until such times as Mid Ulster District Council adopts a Plan Strategy for the Council area. There is no conflict between the Policy on Minerals in the SPPS and the retained policies.

PPS 21 Sustainable Development in the Countryside states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance.

In terms of integration, as the site is located within the larger quarry site, the proposed development will have a negligible visual impact on the surrounding landscape.

PPS 21 goes on to state that in relation to non-residential Development 'planning permission will be granted for non-residential development in the countryside in the following cases which includes minerals development in accordance with the MIN Policies of PSRNI.'

The relevant policies are MIN1-MIN8 of A Planning Strategy for Rural NI.

#### **POLICY MIN 1 - ENVIRONMENTAL PROTECTION**

This section of the policy is to assess the need for the mineral resource against the need to protect and conserve the environment. The quarry has been approved and assessed against this policy at the time of its approval.

The agent has indicated the reason for the application is to allow for the storage of aggregate on a temporary basis whilst awaiting further processing at the plant at a later date. The stockpiling of aggregate is due to the Covid 19 crisis slowing demand of certain products streams and increasing demand in others meaning further processing will be required. Removal of the stockpiles will be needed to excavate the area as per the current approval. All works will occur onsite in the areas outlined.

#### **POLICY MIN 2 - VISUAL IMPLICATIONS**

The storage area is not easily visible from the main Crancussy Road, it is well screened by existing thick bushes, trees and shrubbery. There is no detrimental impact on any amenities for neighbouring properties. The existing vegetation is outside the red line of the application site and so cannot be conditioned to be retained. However it was conditioned under the 1977 approval under conditions 13 & 14 relating to the planting and thickening of the screen banks in order to minimise the impact on the landscape.

#### **POLICY MIN 3 - AREAS OF CONSTRAINT**

Relevant consultees were asked to comment on the proposal and any impact it may have on the AONB or ASSI the site is located within.

Dept of Agriculture, Environment & Rural Affairs have a duty to ensure the natural and historic environment is conserved, enhanced and managed for the benefit of present and future generations.

Land and Groundwater Team, Regulation Unit considered the impacts of the proposal on the groundwater environment and are satisfied that they would not have significant adverse impacts on groundwater. Pollution prevention measures should be required to prevent run off from the proposed temporary aggregate stockpiles to surface water receptors.

NIEA - Water Management unit have considered the impacts of the proposal on the surface water environment and have no objection subject to the applicant obtaining and complying with any required statutory permissions; referring and adhering to DAERA standing advice and noting the advice contained within the explanatory note.

NIEA - Natural Environment Division assessed the impacts of the proposed activity on designated sites and other natural heritage interests and has no concerns.

Shared Environmental Services advised that there are no viable hydrological linkages.

NIEA Regulation Unit confirm no issues with respect to groundwater. Additionally, there is no open or flowing water within 100m; inert material to be stored; DAERA NED has not identified any designated sites issues. It is concluded that there can be no conceivable effects on the upper Ballinderry River SAC.

#### **POLICY MIN 4 - VALUABLE MINERALS**

This application is not for exploitation of valuable or uncommon minerals.

#### **POLICY MIN 5 - MINERAL RESERVES**

This application for the stockpiling of minerals would not prejudice future exploitation of valuable mineral reserves. Indeed, the description states that 'Removal of this stockpile will be needed to excavate the area as per the current approval'.

#### **POLICY MIN 6 - SAFETY & AMENITY**

The applicant must adhere to the Quarry Regulations in terms of Health and safety .The Quarries Regulations 1999 Approved Code of Practice will indicate what should be carried out by each Quarry. The Regulations aim to protect those working at a quarry and others who may be affected by quarrying activities, eg those living, passing or working nearby, or visitors to the site. HSENI were consulted and advised that they have no comments to make.

#### **POLICY MIN 7 - TRAFFIC IMPLICATIONS**

DfI Roads advised that as the application is stated as being an internal operation within the confines of the site they have no issues with the proposal.

## POLICY MIN 8 - RESTORATION

The proposed stockpile is located on an area within the existing working quarry. As detailed on the P1 application form at Q5, 'Removal of this stockpile will be needed to excavate the area as per the current approval.' The Quarry, which is active, has its own restoration conditions associated with its original approval which will still have to be adhered to.

### Other Material Considerations

Objections have been received from a neighbouring property, No 31 Crancussy Road.

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

Transport NI advised that they have no objection to the proposed development as it is located within the existing quarry.

### Consultation responses

All consultees have responded positively.

Consideration -The proposal meets the policy requirements and in my opinion is considered to be acceptable.

### Recommendation

On consideration of the above, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

### **Summary of Recommendation:**

Approve is recommended

Approve subject to the condition listed below:-

### Approval Conditions

#### Condition 1

This approval is effective from the date of this decision notice and is issued under Article 55 of the Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

**Case Officer:** Malachy McCrystal

**Date:** 24 January 2023



<b>ANNEX</b>	
<b>Date Valid</b>	3 November 2020
<b>Date First Advertised</b>	1 December 2020
<b>Date Last Advertised</b>	1 December 2020
<b>Details of Neighbour Notification</b> (all addresses)	
<b>Date of Last Neighbour Notification</b>	22 April 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>Health &amp; Safety Executive For NI-Substantive: TBCResponseType: FR</p> <p>NIEA-Substantive: YResponseType: FR</p> <p>NIEA-Substantive: YResponseType: FR</p> <p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR</p> <p>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR</p> <p>NIEA-Substantive: YResponseType: FR</p> <p>NIEA-Substantive: YResponseType: FR</p> <p>Environmental Health Mid Ulster Council-Substantive: TBC</p> <p>Health &amp; Safety Executive For NI-Substantive: TBCResponseType: FR</p> <p>Health &amp; Safety Executive For NI-Substantive: TBC</p>	



**Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 02

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2020/1529/F	<b>Target Date:</b> 26 January 2021
<b>Proposal:</b> Application to vary condition No 11. of previous planning approval I/1977/0072	<b>Location:</b> Core Aggregates 25 Crancussy Road Cookstown.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Core Aggregates 5 Crancussy Road Evishacrancussy Cookstown BT80 9PW	<b>Agent Name and Address:</b> Kevin Loughran 155 Drum Road Cookstown BT80 9DW
<b>Executive Summary:</b>	

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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	NIEA	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Shared Environmental Services	Substantive: TBC
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: TBC

	NIEA	Substantive: TBCResponseType: PR
<b>Representations:</b>		
Letters of Support	0	
Letters of Objection	4	
Letters Non Committal	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<p>Five representations have been received in respect of this proposed development all of which are from the same objector and relate to the following issues:-</p> <ul style="list-style-type: none"> <li>o The application is a variation of the 2016 approval which is part of the revocation process being undertaken by Council and the variation does not appear on the portal This application is a standalone application and is not being treated as part of any other application or variation or otherwise. The application is fully viewable on the planning portal.</li> <li>o The objector refers to a condition on a 2016 approval but then misquotes the said condition as follows, 'Only scrap machinery material shall be stored within the red line of the application site....' whereas the actual condition states that 'The scrap material shall be stored only within the red line of the application site....' They proceed to add the following lint to the condition 'Such scrap metal or machinery should be used solely for the purposes of providing spare parts for machinery operational on the site. After a period of 4 years from the date of this decision remove all scrap within the land outlined in red, reinstate the land by re-soiling with 150mm of topsoil and reseeding in grass'. The actual condition does not include the wording above in italics.</li> <li>o The I/1977/0072 application was never implemented and the applicant cannot rely on the 1980 permission which was also not implemented. Therefore what approval is the application relying on.</li> </ul> <p>It is clear from the description that the application is relying on I/1977/0072 approval. As I am not aware of Council having taken enforcement action to stop the quarry approved under that 1977 approval, then in my opinion, that approval has been implemented and it is clear that this is an application for a variation of a condition of the 1977 approval.</p> <ul style="list-style-type: none"> <li>o The applicant is somehow confused that the 1980 planning approval is relevant; The application does not refer to any 1980 approval.</li> <li>o How is the applicant qualified to state the area is safe and harmful.</li> </ul> <p>The applicants qualifications are irrelevant as consultations have been sought from NIEA and Environmental Health in respect of such potential harm.</p> <ul style="list-style-type: none"> <li>o The planning department has stated on file that the I/1977/0072 approval was never built or implemented.</li> </ul> <p>I can find no evidence of the Planning Department having taken the above opinion.</p> <ul style="list-style-type: none"> <li>o There has been a deliberate back filling of the original settlement pond and pipe work laid to a ring main south of the pond to facilitate the excess water from Lough Aleen. Rivers agency should be consulted.</li> </ul> <p>Dfl Rivers were consulted and raised no objections with the proposal.</p>		

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

The site sits within an existing operational sand and gravel quarry located on the Crancussy Road and approved under I/1977/0072. The quarry is located 6Km north of Pomeroy, 13Km west of Cookstown and 20Km east of Omagh. The site lies approximately 100m inside the boundary of Lough Doo ASSI (a designated site) which is of national importance and is protected by the Environment (NI) Order 2002 and is also within the Sperrins AONB.

The site location plan shows an area of approximately 1585m<sup>2</sup>. There are some parts of plant/equipment/machinery existing on site.

The roadside boundary is defined by existing trees, bushes and shrubbery between the site and the Crancussy Road with the land to the east sitting at a much higher level and being heavily vegetated with gorse bushes. Both the northern and eastern boundaries provided an effective degree of screening to the site.

## **Description of Proposal**

Application to vary condition No 11. of previous planning approval I/1977/0072.

Condition 11 of I/1977/0072 reads as follows

- o No scrap or waste materials shall be retained on site during the operation of this development.

Reason: In the interest of amenity.

- o This application is for the variation of a condition in relation to a quarry which is currently active and established. The condition is to be varied to read 'No scrap or waste materials shall be retained on site during the operation of this development unless in connection with the current plant or operations.

Reason: In the interest of amenity.

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

### **Policy Consideration**

#### **Planning History**

I/1977/0072 - Sand washing plant, garage, office weighbridge etc. - Approved  
08.07.1980

LA09/2016/0581/F - Variation of Condition No.11 of planning Approval I/1977/0072/F - retention of scrap associated with and to be reused in the maintenance of existing mineral development plant and quarry - Approved 05.10.2016

The application applies for the variation of Condition 11 of approval I/1977/0072 for a sand washing plant, garage, office, weighbridge etc. and the condition reads 'No scrap or waste material shall be retained on site during the operation of the development'. The following is to be added to the above condition; 'unless in connection with the current plant or operations'.

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

Strategic Planning Policy Statement for Northern Ireland (SPPS)  
Planning Policy Statement 21 - Sustainable Development in the Countryside  
Planning Strategy for Rural NI

The Department of the Environment published the Strategic Planning Policy Statement for Northern Ireland (SPPS) in September 2015. This policy is a consolidation of some twenty separate policies, however, the policy provisions of 'A Planning Strategy for Rural Northern Ireland - Policies MIN1 - MIN8 are retained until such times as Mid Ulster District Council adopts a Plan Strategy for the Council area. There is no conflict between the Policy on Minerals in the SPPS and the retained policies.

PPS 21 Sustainable Development in the Countryside states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance. PPS 21 goes on to state that in relation to non-residential Development 'planning permission will be granted for non-residential development in the countryside in the following cases which includes minerals development in accordance with the MIN Policies of PSRNI.'

The relevant policies are MIN1-MIN8 of A Planning Strategy for Rural NI.

#### **POLICY MIN 1 - ENVIRONMENTAL PROTECTION**

This section of the policy is to assess the need for the mineral resource against the need to protect and conserve the environment. The quarry has been approved and assessed against this policy at the time of its approval.

The agent has indicated the reason for the application is to accommodate the storage of second hand parts which are required to be retained on site to ensure the continued efficient operation and maintenance of the plant.

#### **POLICY MIN 2 - VISUAL IMPLICATIONS**

The storage area is not easily visible from the main Crancussy Road, it is well screened by existing thick bushes, trees and shrubbery which exist between the proposed site and the Crancussy Road. There is no detrimental impact on any amenities for neighbouring properties as the nearest dwelling is approximately 125m to the east and is well screened by the gorse vegetation on top of the quarry face as the site lies at a much lower level. Although the existing vegetation is outside the red line of the application site, it is within the control of the quarry and so can be conditioned to be retained. Likewise, it was conditioned under the 1977 approval under conditions 13 & 14 relating to the planting and thickening of the screen banks in order to minimise the impact on the landscape.

### **POLICY MIN 3 - AREAS OF CONSTRAINT**

The site is located within an area of constraint on Mineral Development, however as the quarry was approved under I/1977/0072 on 8th July 1980 this preceeded the designation of the area of constraint.

Relevant consultees were asked to comment on the proposal and any impact it may have on the AONB or ASSI the site is located within.

Land and Groundwater Team, Regulation Unit considered the impacts of the proposal on the groundwater environment and advised that as the material stored on site was classified as site derived and/or parts for repair therefore this is not a waste and will not require an authorisation.

NIEA - Water Management unit have considered the impacts of the proposal on the surface water environment and thanks the applicant/agent for the email clarification received in

relation to points raised in the previous response to this application and is content to vary condition 11 of I/1977/0072 subject to any Statutory permissions held and the applicant referring and adhering to DAERA Standing Advice on Pollution Prevention Guidance and Discharges to the Water Environment.

NIEA - Natural Environment Division (NED) assessed the impacts of the proposed activity on designated sites and other natural heritage interests and advised that the application site is within the Lough Doo Area of Special Scientific Interest (ASSI) which is of national

importance and is protected by the Environment (Northern Ireland) Order 2002. NED acknowledges receipt of the Northern Ireland Biodiversity Checklist Report, date stamped 15/07/21 by the Mid Ulster District Council. Given that the application seeks to develop lands is located within an already operational quarry, it is unlikely that development will have any significant impact on the designated site. NED has no further concerns regarding designated site.

Shared Environmental Services advised that This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project. Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. There is no pathway for effects on Upper Ballinderry River SAC or supporting habitat for its selection features.

DfI Rivers has no objection to section 54 application to vary Condition 11.

Environmental Health advise that they have no objections to the proposed development.

### **POLICY MIN 4 - VALUABLE MINERALS**

This application is not for exploitation of valuable or uncommon minerals.

### **POLICY MIN 5 - MINERAL RESERVES**

This application for variation of condition to allow second hand plant and/or parts to be store on the site would not prejudice the future exploitation of valuable mineral reserves.

## POLICY MIN 6 - SAFETY & AMENITY

The applicant must adhere to the Quarry Regulations in terms of Health and Safety. The Quarries Regulations 1999 Approved Code of Practice will indicate what should be carried out by each Quarry. The Regulations aim to protect those working at a quarry and others who may be affected by quarrying activities, eg those living, passing or working nearby, or visitors to the site. HSENI were consulted and advised that they have no comments to make.

## POLICY MIN 7 - TRAFFIC IMPLICATIONS

As this proposal is for the storage of second hand plant/parts within the existing quarry, a consultation with DfI Roads was not considered necessary.

## POLICY MIN 8 - RESTORATION

The Quarry, which is still active, has its own restoration conditions associated with its original approval and which will still have to be adhered to. The proposed storage of second hand plant and/or parts should not impact on the ability of the quarry to comply with the restoration conditions.

### Other Material Considerations

Objections have been received from a neighbouring property at No 31 Crancussy Road.

### Consultation responses

All consultees have responded positively.

Consideration -The proposal meets the policy requirements and in my opinion is considered to be acceptable.

### Recommendation

On consideration of the above, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

No scrap or waste material shall be retained on site during the operation of this development unless in connection with the current plant or operations.

Reason: In the interest of amenity.



Condition 2

In the event of operations ceasing in advance of the exhaustion of approved reserves for a continuous period of 6 months and within 3 months of a written request from Council, all scrap and waste materials shall be permanently removed from the site.

Reason: In the interest of amenity

**Case Officer:** Malachy McCrystal

**Date:** 25 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	1 December 2020
<b>Date First Advertised</b>	15 December 2020
<b>Date Last Advertised</b>	15 December 2020
<b>Details of Neighbour Notification</b> (all addresses)	
<b>Date of Last Neighbour Notification</b>	8 March 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p> NIEA-Substantive: TBCResponseType: FR  Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  Rivers Agency-Substantive: YResponseType: FR  Shared Environmental Services-Substantive: TBCResponseType: FR  NIEA-Substantive: YResponseType: FR  Environmental Health Mid Ulster Council-Substantive: TBC  NIEA-Substantive: YResponseType: FR  Environmental Health Mid Ulster Council-Substantive: TBC  Shared Environmental Services-Substantive: TBC  NIEA-Substantive: YResponseType: FR  NIEA-Substantive: TBC  NIEA-Substantive: TBCResponseType: PR </p>	

<b>Drawing Numbers and Title</b>
Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b>
Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2021/0233/F	<b>Target Date:</b> 13 April 2021
<b>Proposal:</b> Winning and working of minerals (Psammite and overlaying sand and gravel) to include a North Easterly lateral extension and deepening from existing, permitted floor level with restoration to biodiverse habitats.	<b>Location:</b> Lands At Corvanaghan Quarry 29 Corvanaghan Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> P Keenan Quarries 35 Rocktown Road Knockloughrim	<b>Agent Name and Address:</b> Chris Tinsley 10 Saintfield Road Crossgar BT30 9HY
<b>Executive Summary:</b>	

Case Officer Report		
Site Location Plan		
<p>This material is based upon Crown Copyright and is reproduced with the permission of Land &amp; Property Services under delegated authority NIMA CS&amp;LA581 from the Controller of Her Majesty's Stationary Office © Crown copyright and database rights.</p>		
Consultations:		
Consultation Type	Consultee	Response
	Historic Environment Division (HED)	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	NIEA	Substantive: TBC
	Rivers Agency	Substantive: TBC
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	NIEA	Substantive: TBCResponseType: PR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
Non Statutory Consultee	Shared Environmental Services	LA09-2021-0233-F_HRA_AA_14092022.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 21 0233 F Lands at Convanaghan Quarry, 29 Corvanaghan Road, Cookstown 180123.doc

Statutory Consultee	Geological Survey NI (DfE)	MUDC-LA09_2021_0233_F.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 21 0233 F Lands at Corvanaghan Quarry, 29 Corvanaghan Road, Cookstown 190722.doc
Statutory Consultee	Health And Safety Executive For NI	CN202209-0007 - Lands at Corvanaghan Quarry, 29 Corvanaghan Rd, Cookstown BT80 9NN.pdfPlease see attached response on behalf of HSENI CN202209-0007 - Lands at Corvanaghan Quarry, 29 Corvanaghan Rd, Cookstown BT80 9NN.pdf
Statutory Consultee	NIEA	LA09-2021-0233-F.PDF
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2021-0233-F.pdf

#### **Representations:**

Letters of Support	0
Letters of Objection	5
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

#### **Summary of Issues**

Major application - local objection received.

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

This proposed extraction is located to the NE side of the existing Keenan Quarry (Corvanagahn) located at 29 Corvanaghan Road, Cookstown. The quarry is located in the rural area as defined in the current Cookstown Area Plan. The proposal and the existing quarry are also located within the AONB as also designated in the CAP 2010.

Dispersed rural dwellings to the periphery of the quarry site and this application boundary and largely agricultural / forestry is the predominant land use beyond the immediate dominant quarrying activity taking place in the immediate locality.

Markedly undulating landform making approaching views of the quarrying operations largely imperceptible particularly on the eastern approaches. More evident awareness of the existing quarry and associated operations from the NW approaches.

#### **Description of Proposal**

Winning and working of minerals (Psammite and overlaying sand and gravel) to include a North Easterly lateral extension and deepening from existing, permitted floor level with restoration to biodiverse habitats (amended red line)

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

### **Policy Consideration**

Planning Assessment of Policy and Other Material Considerations.

#### **Proposal**

This application extends to an area of some 22.36h and comprises the existing mineral extraction area and the lateral extents of the proposed future workings of the quarry. The Environmental Statement (ES) states that only a modest c 3.3ha lateral extension is required to facilitate the proposed extraction.

This same quarry gained planning permission under LA09/2017/1410/F in July 2018 for a Proposed lateral extension to the existing quarry in N and E direction.

#### **Phasing stages.**

Stage 1 of the proposed development will see the erection of advanced earthen screening bunds along the perimeter of the proposed extraction area. These will be constructed using overburden material stored in the NW part of the quarry. These are to be finished with top soil and seeded with woodland species to be later specified and agreed with Council. The bund is to act as a barrier containing noise and dust with the planting on the outer slopes of the bund acting to screen view of the development from nearby properties and longer range views. Underlying bedrock will be extracted by drill and blast which is a practise currently approved at the site. Blasting is to occur once a month. The calculations indicate that the proposed development will facilitate the release of some 140,000 cubic m of sand and gravel and some 3.5 million cubic m (10 million tonnes) of psammite.

Water will continue to be managed via established management practices, this involves the accumulation of surface water in the quarry sump which is then pumped to a system of settlement ponds before being discharged to a watercourse to the south at a licensed discharge point.

Stage 2- the site will be worked in a phased manner with extraction firstly extending to the maximum lateral extents followed by systematic deepening. These are detailed in the ES.

Stage3 - Restoration - the quarry void will be allowed to fill with surface water to a level of c219mAOD. Water will then top-out and drain via the settlement lagoon system to the consented discharge point as is current practice at the site.

No ancillary buildings are sought permission for under this application.

This application is accompanied by an ES which provides reports on the following:

Geology  
Landscape  
Visual  
Ecology  
Hydrogeology  
Archaeology  
Noise  
Dust  
Traffic.

Cookstown Area Plan.

The site lies beyond a defined Area of constraint on Minerals Development (MN 1) and is not affected by MN2 policy in relation to mineral reserves. The plan recognises the district as one of the main mineral sources of sand and gravel in NI. In addition, building and roadstone aggregates (such as the main aggregate here from Keenans quarry) are produced from 4 quarries in the district. Corvanaghan quarry is additionally specifically referenced in this regard.

In a Regional Planning Context the CAP references the RDS, specifically

1. the aim of maintaining a working countryside with a strong mixed-use rural economy.
2. the aim of encouraging the wise use and management of environmental resources in the interest of future generations, and,
3. the use of minerals for economic development in a sustainable manner.

The plan recognises that the main regional policy for minerals development are set out in 'A Planning Strategy for Rural Northern Ireland'

MN4 - Restoration of despoiled lands - recognises that parts of the Cookstown district have been despoiled by previous workings, although makes specific reference to other locations within the district.



## Draft Plan Strategy.

The Councils Draft Plan Strategy 2030 states that Minerals development represents a key challenge in Mid-Ulster in that we must decide how to facilitate appropriate minerals development whilst also protecting our important landscapes, nature, conservation and heritage interests. At Par 14.2 Minerals are recognised as being important in terms of resources for the District. Par 14.5 acknowledges that minerals deposits are also found in many of our AONB where visual impact has the potential to be greater. The DPS introduces an area of constraint on minerals development, however Corvanaghan quarry nor its proposed expansion under this application is included. Under MIN5 of the plan strategy all applications for mineral development must include where appropriate satisfactory and sustainable restoration proposals.

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

## The SPSS

### Minerals

6.148 Minerals, including valuable minerals, are an important natural resource and their responsible exploitation is supported by Government. The minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel and crushed rock, and other uses, and is also a valued provider of jobs and employment, particularly in rural areas.

6.149 The Sustainable Development Strategy recognises that while it is important that we respect the limits of our natural resources and ensure a high level of protection and improvement of the quality of our environment, 'sustainable development' does not prevent us from using and capitalising on such resources. An enduring successful economy will effectively use natural resources and contribute towards the protection of the environment.

6.150 While minerals development delivers significant economic benefits, there are also a number of challenges arising from this form of development which fall to be addressed through the planning system. The effects of specific proposals can have significant adverse impacts on the environment and on the amenity and well-being of people living in proximity to operational sites. This presents a challenge because minerals can only be extracted from sites where they occur, and there may be limited opportunities for consideration of alternative sites. A further challenge is related to the restoration of sites upon completion of work associated with the extraction and processing of materials.

6.151 The planning system has a key role to play in facilitating a sustainable approach to minerals development, and ensuring the appropriate restoration of sites after working has ceased. However, as the impact of mineral working on the environment can never be entirely reversed the broader role and responsibilities of government, the industry, customers and key stakeholders also need to be recognised. For example, the Sustainable Development Strategy advocates the greater use of recycled building rubble in construction so as to reduce the depletion of natural resources and to limit transportation of such materials.

#### Regional Strategic Objectives

6.152 The regional strategic objectives for minerals development are to:

1. facilitate sustainable minerals development through balancing the need for specific minerals development proposals against the need to safeguard the environment;

This application is accompanied by an ES covering hydrological, hydrogeological, ecological, noise and dust impacts and visual assessments. All of these conclude that with appropriate mitigation, planning conditions, the proposal will not have a detrimental impact on the environment.

2. minimise the impacts of minerals development on local communities, landscape quality, built and natural heritage, and the water environment;

Noise and dust impacts on local receptors are considered in the ES and are considered as low. The noise impact assessment has considered a worse case potential scenario of noise impacts on the closest receivers to the site. 11 specific noise receptors are identified in the vicinity of the quarry. More recently a replacement dwelling LA09/2021/1423/O has also been considered by EHO. The baseline noise survey has been undertaken in proximity to four noise sensitive receptors which are stated as being representative of the background noise level in proximity to the N,S, E and W of the quarry. Typical noise sources from the quarry contributing to the noise levels recorded include Benninghoven asphalt plant, generators, screeners, crushers, diggers. It is concluded that at all noise sensitive receiver locations, the proposed development, in cumulation with the existing approved operations of the quarry, would not result in any exceedance of the 50dB limit. The noise level in the immediate area will continue to be dominated by activities associated with the operation of the quarry.

Drilling and blasting works will continue as is current practise at the quarry. Table 7.7 of the Noise section of the ES indicates that sensitive receptors within 500m of the blasting site could be exposed to instantaneous noise levels of approx 65-70dB. However these blasts will result in short term noise impacts and it is concluded do not constitute a significant noise impact. An assessment of noise from restoration works which will be carried out during an 8 week window per annum could result in daytime limits of 70 db. The ES concludes that these works and their longer term environmental benefits outweigh any temporary short term noise increases. A series of mitigation measures are set out at Par 7.6.

The Environmental Health Department of the Council have raised no objections to the findings and conclusions of the Noise assessment/s and are content with a recommendation to approve subject to conditions. EHDs assessment of the noise levels also includes an examination of a recent approved replacement dwelling application LA09/2021/1423/O which proposes to replace an old dwelling close to the SE edge of the proposed quarry extension area. Matters relating to vibration and dust are also considered by EHD to be acceptable subject to conditions which are considered and detailed later in my report in the consideration of local objections. To protect the overall amenity of any occupants of the replacement dwelling the Health and Safety Executive have requested that no blasting occurs within 100m of any replacement dwelling approved under LA09/2021/1423/O.

The amendment to increase the red line towards No.17 Corvanaghan Road, but with no extraction within this area, based on the Noise analysis provided within 7.1 of the ES also shows no exceedance beyond target noise level of 50 dB(A).

NIEA have been consulted on the proposal, in relation to the Historical Environment, HED states that This application site is located close to a number of recorded historic sites including that of an enclosure identified through aerial photography (TYR 28: 25) which is located to the north of the application site. These can be taken as indicators that previously unrecorded, buried, archaeological remains may be uncovered during site works within the application site. HED (Historic Monuments) has reviewed the Cultural Heritage section within the Environmental Impact Assessment (EIA) submitted with this application and agrees with the conclusions and recommendations for archaeological mitigation made within it. As such, archaeological conditions should be attached to any planning approval for this application.

Regulation Unit Land and Groundwater has considered the impacts of the proposal on the groundwater environment and on the basis of the information provided are content with conditions. Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal strictly subject to: The applicant referring and adhering to DAERA Standing Advice. Any required statutory permissions being obtained and complied with.

In relation to NED and natural heritage impacts, a previous consultation response indicated that NED were content with the proposal subject to the following: NED consider that previous concerns regarding impacts to the raised bog have not been adequately addressed, and consider that an assessment of impacts to the raised bog from proposed development works, including proposed restoration plans, should be provided and mitigation proposed if necessary.

#### Further Information

1. An assessment of impacts on the Raised Bog present along the Western aspect of the Red Line Boundary from the proposed development works, including proposed restoration plans, must be completed. Mitigation should be provided if necessary.

In response the agent provided the following clarification which NIEA NED were been formally asked to comment on:

As observed on site, the planting along the north western boundary as shown on Drawing No.06/2 Landscape Restoration (date stamped 27/08/21) is existing vegetation and is situated upon the long-established earthen berms located along this boundary. The berm is c. 6 metres in height and is located over 20 metres away from the area of Raised Bog. The berm has naturally vegetated over time. No additional planting is proposed along this berm. Given that the vegetation is existing and is sited upon an existing berm, that the berm is c. 6 metres in height and is located over 20 metres away from the area of raised bog, the proposed development will not disturb the water balance at the bog and therefore will not alter the hydrology of the peatland.

In terms of the potential shading from trees, as observed during the site visit, you will have noted that the vegetation along the berm is limited in its height. The vegetation is at its maximum height and is not anticipated to grow any higher than at present. In any event, the vegetation can be managed by the quarry operator in order to limit its height. No further vegetation planting is proposed along this boundary. Therefore, given the nature and limited height of the existing vegetation and the separation distance between the vegetation and the raised bog, there will be no overshadowing issues at the raised bog resultant from the development.

The response from NIEA set out below indicates that they are now content with the proposal:

NED acknowledge receipt of document Clarification from Agent on NED Consultation, published to the Mid Ulster Planning Portal on 22/09/2022.

#### Designated Sites

Detailed comments regarding an assessment of the significance of potential impacts to Designated Sites has been provided in NEDs previous consultation responses, dated 21/06/2021 and 18/02/2022. NED previously noted that a recommended condition regarding the implementation of silt traps will be included, wording for such has been included in this consultation response.

#### Other Natural Heritage Interests

In NEDs previous response, concerns were raised regarding the potential impact from native woodland planting as a result of the sites restoration plan and how this would impact on the hydrology of the raised bog in proximity to the application site, and also how shading from proposed woodland planting may impact on Sphagnum mosses. The clarification provided establishes that trees are already present in the western aspect of the proposal, and that these are a result of natural vegetation. NED are content that no additional planting is proposed along the western berm and recommend that a condition is included regarding the restriction of planting along the western berm of the application site, as per the clarification document, as a means of ensuring that detrimental impacts will not arise on this area of bog as a result of the restoration plan for the application site.

Subject to recommended conditions, NED are content with the proposal.

Shared Environment Service have advised that Following an appropriate

assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects. In reaching this conclusion, SES has assessed the manner in which the project is to be carried out including any mitigation. This conclusion is subject to the following mitigation measures being conditioned in any approval:

1. Silt Fence/Trap mitigation must be constructed on the northern boundary bunds. This should be as detailed in Section 5.27 of the HRA by Neo Environmental Ltd dated 17/06/2021. Reason: To protect the features of Upper Ballinderry River SAC from potential adverse impacts from the proposal.

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 14/09/2022. This found that the project would not have an adverse effect on the integrity of any European site.

3. secure the sustainable and safe restoration, including the appropriate re-use of mineral sites, at the earliest opportunity.

The site will be fully restored as described in the earlier part of my report. Part 4.8.4 along with MDA fig 9.14 details this and provides the proposed planting ratios with the overall aim being to allow the site to assimilate back into the local landscape as well as delivering biodiversity improvements where possible. Following cessation of operations at the site all vehicles and related equipment related to the proposed development is to be removed. As referenced earlier, given the impermeable nature of the rock and in the absence of any water management at the quarry following the cessation of mineral extraction, the water level in the void will rise due to surface water. The restoration scheme allows top out of water above a c219m AOD to a lagoon and consented water course south of the quarry.

#### PPS 2 (Natural Heritage)

The existing quarry and the proposed extraction area is located within an AONB. Policy NH 6 - Areas of Outstanding Natural Beauty of PPS2 states the following:

Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and

b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and

c) the proposal respects:

local architectural styles and patterns; traditional boundary details, by retaining features such as hedges, walls, trees and gates; and local materials, design and colour.

5.14 This policy requires development proposals in Areas of Outstanding Natural Beauty (AONB) to be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife.

5.15 The quality, character and heritage value of the landscape of an AONB lies in their tranquillity, cultural associations, distinctiveness, conservation interest, visual appeal and amenity value.

The landscape and visual assessment section of the ES provides a very detailed analysis of the impacts of the proposed development. It defines the characteristics of the proposed development as being sequenced and positioned with direct input from the landscape architect to ensure that the quarry incorporates primary mitigation measures to minimise potential landscape and visual effects. The application therefore includes direct design input which had included:

1. design and positioning of advance screening, including heights of landform bends and extent of woodland cover.
2. identification and agreement of extraction limit.
3. agreement of final quarry shape and form.
4. identification of stand-offs and buffers.
5. agreement of phasing / restoration.

The key elements / dimensions are set out as being:

1. Total excavation area (12.1h existing / 3.3ha extension)
2. Height of advanced screen berm N boundary (c 4-5m), E boundary (c 5-8m), SE (C 5-8M).
3. Total area of advanced screen berm (36,136 sq.m)
4. Total area of screening woodland (1.79 ha).

The assessment recognises a number of regional and LLPA areas within 5km and assesses impacts from the proposed development at each stage of the process against these. In addition, 9 viewpoints are cited. Predicted visual effects arising from the proposal at the selected visual receptors following the operational phases and full restoration are assessed as ranging from minor to negligible.

An assessment of visual interactions is provided at Par 9.9 - here a number of topic areas where interaction impacts can occur along with landscape and visual are assessed. These include Noise / Air quality - these are designed to reduce perceived landscape character impacts through a combination of directional extraction and earthwork screening berms. In terms of Natural Heritage, the ES recognises the significant positive opportunity to improve the ecological diversity of the site. An assessment of cumulative impacts arising from other developments is provided at 9.9.1.

I agree that there are no similar works /development types within the landscape and visual catchment.

In summary, my visual assessment during my site visit, (which I detail further below under MIN 2 Policy, and along with the visual assessment carried out by the agent in the ES, allows me to be content that this proposed extraction area will not compromise the integrity of the AONB and therefore that I find that the proposal does not conflict with PPS2.

A Planning Strategy for Rural Northern Ireland.

## MINERALS

MIN 1 - Environmental Protection - To assess the need for the mineral resource against the need to protect and conserve the environment.

Economic data for the District provided in the ES shows that Mid-Ulster is significantly more dependent on the construction and manufacturing sectors than the rest of NI. References are made to a consortium of mineral operators within the district which provides employment for over 1600 people with the collective value associated with the working of mineral in the district quoted as being over c £217 million.

Further expansion on Page 30 of the ES states that it is imperative that a sufficient supply of local construction aggregate can be made for the local market. The application is regarded as being imperative in terms of its contribution towards the hard rock land bank within the district. A key component of the applicants business is stated as being the provision of road surface, with the company cited as being the term maintenance contractors for the Mid Ulster area for over 15 years. This site at Corvanaghan is regarded as playing a key role in local supply.

At present it is stated in the ES that the quarry benefits from a permitted reserve of less than 600,000 tonnes and as such additional reserves are required to meet its the companies anticipated demand. The securing of the additional extraction is said to secure a long term supply at the site and is regarded as making a direct contribution to the local economy via direct local employment and the downstream benefits of supporting employment within the roads resurfacing industry within Mid-Ulster.

It is my view that the proposal complies with MIN1.

MIN 2 - Visual Implications - To have regard to the visual implications of mineral extraction.

I have carried out visual inspections from a number of critical viewpoints and this has been assisted with the visual LVIA submitted in the ES. I agree that the combination of considered advanced screening, phased stripping and extraction and progressive restoration that the overall landscape and visual impacts can be minimised at the site. I accept that greatest impacts are likely to be during the initial establishment phase, part of which is to facilitate the creating of screening measures. I was struck by the topography of the site which allows the impact of the existing quarry and the proposed

area of extraction to remain largely discreet from view on public approaches. Greatest potential is likely to be from approaches East and further South, this is supported by the Visual analysis provided in the ES.

PPS2 sets out policies for development within AONBs where proposals are required to be sensitive to the distinctive character of the area, the quality of their landscape, heritage and wildlife. In relation to Landscape character, the site is located within Local Landscape Character Area (LCA) 41 (Slieve Gallion) and Regional LCA 12 (Carrickmore Plateau and Pomeroy Hills). RLCA recognises that extensive minerals workings are already a feature of this area as well as the hard rock resource further south. It states that further quarries could erode the qualities of tranquility and remoteness within this landscape, as well as the time depth which is a key characteristic. LCA 41 - whilst the summit and steep slopes of Slieve Gallion are extremely sensitive to change, the LCA recognises extensive sand and gravel on the fringes of Lough Fea. Whilst LCA descriptions broadly describe and classify landscape, the ES acknowledges that whilst providing a baseline to aid decision making, that they do not set value / sensitivity levels of individual LCAs in relation to particular development typologies. I have examined the various phases of the proposed development in visual impact terms earlier in my report and remain of the view that, coupled with the restoration plan, that the proposal will not have a significant visual or other impact on this AONB.

MIN 3 - Areas of Constraint - To identify areas of constraint on Minerals Development.

The site is not located in an area of constraint on Minerals Development.

MIN 6 - Safety and Amenity - To have particular regard to the safety and amenity of the occupants of the developments in close proximity to mineral workings

The most likely impacts on the occupants of nearby residences are noise and dust along with vibration. A noise impact assessment has been submitted in the ES. In summary based on predicted noise modelling, and as agreed with the Environmental Health Department of the Council, noise levels are below the adopted threshold limits for the site. EHD have no objections subject to conditions, these are set out later in this report.

In relation to dust, 10.3 of the ES is satisfactory to EHD subject to condition. The ES concludes that the impact on air quality from dust emissions is expected to have a negligible effect at all receptors used for the assessment. This is not an exhaustive list of receptors but is indicated as being a selection of the closest to the proposed extension area allowing for a worse case scenario assessment to be made. No 8 Beltonanean Road, north of the extraction area is the closest dwelling to the proposed extraction area as I see it being some 88m away from the dust source. It is stated in the ES that other additional receptors at a greater distance will be subject to a lesser potential impact. The impact of dust on the replacement dwelling LA09/2021/1423/O has been more recently considered by EHO after an objection raised criticism that it had not been. I have further addressed this later in my report under the consideration of those objections. In short, EHO remain content in relation to dust impacts on all identified receptors.



A view has been sought from the Health and Safety Executive and they have raised no objections subject to a condition in relation to the approved replacement dwelling permission to the eastern side of the quarry face and a condition restricting blasting. This is further detailed under the consideration of local objections.

In addition, GSNI has reviewed the geological information provided in the Environmental Statement and has no issues of concern regarding the proposed application.

MIN 7 - Traffic - To take account of the safety and convenience of road users and the amenity of persons lining on roads close to the site of the proposed operations.

The ES indicates that no additional increase to the average output levels from the quarry. No intensification is promoted or proposed within the application. The average historic output levels associated with the site are at c. 100,000 tpa. The average of 19 HGVs per day is calculated by dividing the 100,000 tpa by the number of working days (275) and the average payload of 20 tonnes for each vehicle. DFI roads have offered no objections to the application.

MIN 8 - Restoration - to require Mineral workings to be restored at the earliest convenience.

This is Stage3 of the process which will see the quarry void being allowed to fill with surface water to a level of c219mAOD. Water will then top-out and drain via the settlement lagoon system to the consented discharge point as is current practice at the site. Part 4.8.4 along with MDA fig 9.14 details this and provides the proposed planting ratios with the overall aim being to allow the site to assimilate back into the local landscape as well as delivering biodiversity improvements where possible. Following cessation of operations at the site all vehicles and related equipment related to the proposed development is to be removed. I am satisfied that the proposal offers a sufficient restoration programme which can be secured via appropriate conditions.

PPS15 - Planning and flood risk.

Rivers Agency have considered all relevant material relating to drainage / flood risk and have raised no objections to the proposal.

PPS3 - as considered under MIN 7 Policy, The ES indicates that no additional increase to the average output levels from the quarry. No intensification is promoted or proposed within the application. The average historic output levels associated with the site are at c. 100,000 tpa. The average of 19 HGVs per day is calculated by dividing the 100,000 tpa by the number of working days (275) and the average payload of 20 tonnes for each vehicle. DFI roads have offered no objections to the application.

PPS6- Historic Environment Division have been consulted and are content with conditions relating to archaeological evaluation.

## Consideration of local objections.

A number of objections to the application have been received. The issues of concern raise a number of matters which I will address in turn below:

1. Procedural matters: It is stated that the description as presented on the P1 form is inaccurate/ that Certificate C (relating to land ownership) has not been completed in accordance with Legislation / that lands are included within the originally submitted application which do not belong to the applicant / that the Pre-application community consultation has not followed through on the commitments in the PAN Notice, specifically Reg 5 (2) (b) (i) of the Planning (Development Management) Regs 2015.

2. Right of Way encroachment between field Nos 17 and 22.

In relation to both of the above issues, I am satisfied that land ownership matters have been amended satisfactorily as a result of amendments to the red line of the application boundary to exclude parcels of land. It is a well established and understood position that the grant of any planning permission does not confer any title, or indeed extinguish or amend any rights of way that are enjoyed across lands. I therefore adopt this position in relation to the claim made about such a ROW on lands associated with the application.

3. Inclusion of additional lands as per Aug 2021 plan and the need for re-advertisement / notification to now affected property (No 17).

Records show that following the amendment of the application to remove lands and add those additional land towards No 17 that a full EIA press add was run in Aug 2021. In addition I have more recently specifically notified No 17 which appears upon site inspection to abut the extended red line area. An objection referred to as being from the owner/ occupier of No 17 was received on the 18 Nov 2022 and raises the following concerns.

Impact on water supply to neighbouring properties - in this regard it is stated that the application site crosses a watermain that provides a supply to No 17 and a farm at No 21 Corvanaghan Road. It is stated that this was laid some 50 years ago and a related map and redacted letter accompanies the submission. It is the concern that approval of the excavation will interfere and have a detrimental impact on water quality to No 17 and the farm. In response NI Water were consulted and responded with no objections. I do note that the reply does not acknowledge that a public water supply traverses the site. A copy of a letter in 2000 from the company to Mr McKenna appears to indicate that the water connection enjoyed by him would not be available after Nov 2000 due to an expansion of the quarry, and instruction follows to arrange for another permanent supply. The author of the objection letter affirms that this said letter was withdrawn on the basis of legal advice from both sides, no further action was taken nor was the matter ever mentioned again. I sought further clarification from NI Water on the status of this water connection in light of a further recent objection from Oonagh Given on the 19th Jan 2023 challenging the NI Water response. I received this clarification from the author of the

original NI Water response on the 20th Jan 2023 stating, 'To quickly clarify- NI Water are not responsible for private water services or mains. Yes the private water mains / service pipes are connected to the public water main but as a company we do not have records nor do we maintain private supplies within private lands. This falls solely to the customer'.

Notwithstanding this, my initial reaction is that matters relating to established easements / private water supplies are matters not prejudiced / extinguished by the grant of planning permission and would be subject to further appropriate legal easement procedures between the parties.

The objection from No 17 goes onto challenge the amendment made to the blue lands associated with the application to withdraw No 29 Corvanaghan Road. Concerns remain that No 29 is still used as the applications site address and that as a consequence the application is invalid.

In response I have examined Par 3 of the Planning (General Development Procedure) Order (NI) 2015 which at 3 (b) states an application for planning permission shall contain the 'postal address' of the land to which the development relates. I note the specific reference is made here to the postal address and whilst i appreciate there is a dispute on whether the application site should use No 27 or No 29 Corvanaghan Road. In discussions with Building Control who have investigated the issue relating to the address of the quarry and the adjacent dwelling i have been advised that it may in fact be the case that the Quarry is No 27 and not No. 29. Building Control also advise that this is also the number that LPS hold and also refer to the quarry as being No 27. I am advised that if both parties were in agreement that Building Control would have no issues amending their records, this would also mean that the numbers along this stretch of road would be in sequence.

In writing this report i have carried out a postcode / address check via Royal Mails website to find that the quarry's postal address is listed there as being No 29. A search for the company and the quarry online also refers to No 29 Corvanaghan Road. The matter of whether any party has been prejudiced or is unaware of the precise location of the proposed extraction application is a key consideration for the Council in this regard. It remains my view that this is extremely unlikely given the full description of the site location reads as 'Lands at Corvanaghan Quarry, 29 Corvanaghan Road, Cookstown'. Historical permissions at the quarry have also referred to No. 29 Corvanaghan Road. Until such times as the postal address is altered to reflect the above building control advice it is my understanding that the postal address is likely to remain as No 29 for the Quarry.

4. The impact of the extension of the red line towards No 17 / account not taken of No 17 in the consideration of noise and associated modelling / noise monitoring locations used appear to be skewed towards N,S and W. Also, the baseline used for the noise assessment was used in 2017 for the purposes of an earlier application LA09/2017/1410 and the quarry environment has since changed as a result of the 2017 permission granted in 2018.

I have examined the noise report and appendix 7 of the ES Noise assessment and can see that noise levels at No 17 will also not exceed the target noise level of 50 dB(A). This conclusion is one that Environmental Health were also contact with in relation to their consideration of potential impact on the current replacement dwelling along the eastern side of the quarry. In addition a condition is suggested by EHO as follows offering wider protection to noise receptors: The level of noise emitted from the approved site shall not exceed 50 dB(A) LAeq, 1hour (free field) as measured 3 metres from the façade of any noise sensitive dwelling in the vicinity of the quarry.

A more recent objection from Oonagh Given on 11 Oct 2022 refers to the Noise Impact Assessment (chapter 7 of the ES) where it is noted that it states that the proposed operation of the quarry will be 0700-1800 M-F and 0800-1400 Sat. This is challenged on the basis that it asserted that the quarry already operates at night and evidence in the form of a previous noise report to support a nearby replacement dwelling application within which it is stated that sound from the processing plant finished well after 1800. It is stated in this objection that the quarry 'regularly works through the night with lorries and machinery moving to and from the Corvanaghan quarry every time they have a large roads project'. It is further claimed that the quarry has been witnessed in operation during weekends and at night in recent times. Submitted with this same objection is a Facebook screenshot of the company laying hot rolled asphalt at night on the Cookstown / Moneymore dual-carriageway. In short the imposition of a condition limiting hours of operation to those I refer to above is seen as not being reasonable given evidence of service provided by the quarry operator extending beyond these. EHO were asked to comment on this and have responded to state, 'Following our consultation response dated 4th August 2022, additional representation has been made in regard to this proposal. This Department's comments relate solely to the issues of noise, dust and vibration.

Conditions recommended in our previous consultation response relate to this proposal and not to parts of the existing quarry. As this proposal seeks to extend to the north east of the existing quarry then conditions were recommended to protect residential properties which were previously less affected by quarrying noise. However, we accept that the conditions could be made more precise and therefore suggest that conditions 1 & 2 be amended as follows.

No quarrying activities or site operations, including the operation of any equipment or machinery shall take place within the red line as annotated on drawing number 01/3 date stamped 18 Oct 2022 outside of the following hours:

0700 to 1800 hours Monday to Friday,  
0800 to 1400 hours on Saturdays

There shall be no quarry activities or site operations, including the operation of any equipment or machinery at any time on Sundays or on Public Holidays.

Reason: To protect neighbouring residential amenity from excessive noise.

The level of noise emitted from the approved site, as annotated on drawing number 01/3

date stamped 18th Oct 2022, shall not exceed 50 dB(A) LAeq, 1hour (free field) as measured 3 metres from the façade of any noise sensitive dwelling in the vicinity of the quarry.

Dust concerns raised in the 11 Oct 2022 letter it is claimed have not been addressed by EHO in relation to impacts on the now approved replacement dwelling. EHO in being asked for comments have also responded stating, 'In respect of dust, we are satisfied that the dust impact assessment adequately considers the localised impact of dust and PM10 within the locality and whilst it does not list the replacement dwelling specifically, air quality objectives at this additional receptor should not be breached. However, we would still request that the following condition be attached to any planning approval':

The dust mitigation measures outlined within Table 10.3 of the Environmental Statement shall be implemented and maintained for the duration of the development prior to any mineral extraction within the red line as annotated on drawing number 01/3 date stamped 18th Oct 2022.

Reason: To protect neighbouring residential amenity from dust emissions.

The matter of the validity of the application is again raised in respect of blue lands and proper notification to No 29 (covered in my assessment above).

5. Whilst no extraction is proposed to the recent SE extended site area, this could give the impression that works covered by the permission could be carried out on those lands / this extended area should therefore be removed and would also remove the ROW issue previously referred to.

In response to this concern, the precise extent of extraction being considered in this application is clearly detailed and identified on plans. Any approval of this application will also specifically restrict extraction to these plans. I have previously provided a view on the implications of granting planning permission and ROW issues which are not extinguished by the granting of any such permission but remain a civil matter.

6. The site boundary directly abuts the farm land belonging to the occupant of No 15 Corvanaghan Road. The building of screening bunds is proposed right up to the boundary / how can these be constructed without trespass onto the owners lands / the red line should be pulled back to create a buffer.

This point strays into what I feel can be considered a civil matter between the parties involved. The requirements of any conditions being implemented, if covering this aspect of the proposed development, will have to be complied with. Should an issue of access to third party lands be an impediment to comply with a condition, this will be a matter for the applicant to resolve.

7. The site and proposal will impact upon the amenity of future occupants of the recently approved replacement dwelling LA09/2021/1423/O / this has not been factored in any noise / dust assessment and the proposed screen bunding may also have an impact on

the replacement dwelling / a section should be submitted showing this impact.

Environmental Health have commented by stating, 'In addition to our previous consultation response; the potential for a replacement dwelling at coordinates 381211 272146 has been considered and we are satisfied that noise levels at any replacement dwelling within this locality will not exceed the target noise level of 50 dB(A)' . The Health and Safety Executive NI have raised no objections and state:

HSENI has no objections to this application.

Note: HSENI has also been requested to consult on the planning application Ref. No: LA09/2021/1423/O. This application is for a replacement dwelling and garage. If this application is approved by Mid Ulster District Council then HSENI would request that a condition is applied to the approval for application Ref No. LA09/2021/0233/F that no blasting occurs within 100 metres of the dwelling once it has been constructed and is occupied.

These comments by HSENI regarding planning application (Ref: No. LA09/2021/0233/F) should be considered in conjunction with HSENI's comments on the planning application (Ref. No. LA09/2021/1432/O). Members may recall that the Committee approved the replacement dwelling application at its December 2022 meeting at which the matter of conditions and implications for future occupants of any replacement dwelling was discussed. No that LA09/2021/1432/O has been determined, any approval of this quarry extension shall include the abovementioned condition that no blasting occurs within 100m of the dwelling.

EHO on the back of a further objection dated 11 Oct 2022 have been asked for a comment on dust impacts on the replacement dwelling and as previously stated have no concerns requiring any further analysis.

Oonagh Given in a more objection dated 19th Jan 2023 adopts a position that because the replacement dwelling has now been approved that the quarry application should now be amended to pull back all proposed extraction from the 100m exclusion area. In adopting this position it seems that this questions the robustness of the proposed planning condition which i have referred to above. I do not share her interpretation of the HSENI response which, as a result of sequencing indicates that the 100m exclusion from blasting condition can be applied on the basis that the replacement dwelling as approved before any decision on the quarry application. This has been the case and therefore is why I suggest that the exclusion from blasting condition is appropriate and I believe ultimately enforceable. In relation to concerns raised in the objection about blasting in such close proximity to the replacement dwelling recently approved, no issue has been identified to me from Environmental Health Dept who are aware of the proposed 100m blasting restriction which i have referenced above.

Sections of the proposed Bunds at the quarry are contained within the ES and i have examined these. I also understand that the replacement dwelling approved is subject to a siting condition restricting its future position. In considering all i do not see an unacceptable impact on the occupants of any future replacement dwelling.

8. Objection from the occupant and owner of No 29 Corvanaghan Road claiming that her

property is included within 'blue' lands indicated as being under control of the applicant and that at no point does she agree to her address being referenced by the applicant in the submitted location of the proposed development. It is also pointed out that at no stage has the occupant of No 29 been made aware / notified of any application for the quarry

The agent has since reduced the blue lands associated with the application and has removed the dwelling referred to as being No. 29. I have covered the matter of the applications reliance on No 29 as its location above. No 29 (the dwelling referenced in this context) does not directly abut the red line of the application site as as such was not a notifiable property for the purposes of notification. That property is not prejudiced in any case as a submission has been made by them and they are aware of the proposed development. In further discussions with a third party associated with No 29 (the dwelling), whilst acknowledging the removal of the property from blue lands, there remains objection to reliance on No 29 being associated with this application. I have addressed this same issue at Point 3 above and can add further that Building Control records held as of Nov 2022 by the Council have also confirmed that their maps and the Quarry reads as No 29.

This was followed up by contact with me from Building Control in Dec 2022 stating, 'I had previously confirmed the numbers we hold for 2 No. properties at Corvanaghan Road, Cookstown'.

The lady in the dwelling shown as No. 27 was in contact with this office to inform us that she is actually No. 29. We investigated the issue and it would appear that this may be correct. A Building Control application was made in 1998 for a replacement roof to a dwelling with the address given as No. 29. This is also the number that LPS hold while they refer to No. 27 as a quarry'

If both parties were to be in agreement we would have no issue in amending our records. This would also mean that the numbers along this stretch of road would be in sequence.

Ultimately I go back to my consideration of this disputed address issue at Point 3 above where i refer to the Legislative test being that an application for planning permission shall contain the 'postal address' of the land to which the development relates. I have considered the likelihood of any party being prejudiced by the reference to No 29 being used to describe this application and do not feel that, within the full context of the description making reference to 'Corvanaghan Quarry' that this is unlikely to have occurred.

#### Summary and Conclusion:

I am of the opinion that the proposal meets with the requirements of the Cookstown Area Plan, the SPPS and all other relevant planning policies. I have considered the local

objections to the application and where necessary sought the opinions of consultees on these concerns. I therefore recommend to members that the application be approved subject to the below conditions:

Conditions.

1. The development hereby approved shall be commenced within 5 years from the date of this permission.

Reason: Time limit.

2. The proposed area of extraction shall take place in accordance with Drawing Nos 03/2 and 04/2 date stamped 27 Aug 2021. No extraction shall take place outside this limit of extraction.

Reason: In order to control the extent of the development.

3. All works as shown and referred to on Drawing No 03/2 date stamped 27th Aug 2021 shall be completed in accordance with this plan including the erection of all advanced screening bunds where identified along the perimeter of the proposed extraction area prior to any commencement of any phased mineral extraction.

Reason: in the interests of visual and neighbouring amenity.

4. All bunds as identified on Drawing No 03/2 and dimensioned on cross-section plan number 210608 Drawing No 05/2 date stamped 27th Aug 2021 shall be constructed in accordance with these plans and as detailed within Par 4.8.2 of the Environmental Statement. These bunds shall also be seeded and planted with a specified woodland mix to be agreed with Mid-Ulster Council in writing prior to any such seeding/ planting.

Reason: In the interests of visual amenity.

5. No extraction shall take place below the cross-section and levels as detailed on cross-sectional drawing 210608 Drawing No 05/2 date stamped 27th Aug 2021.

Reason: To limit the extent of the site and facilitate restoration of the site.

6. Following the exhaustion of all permitted mineral reserves, and within a period of not more than 18 months, the site shall be restored in accordance with the submitted restoration plan (Drawing No 06/2 date stamped 27th Aug 2021) . All proposed landscaping to be carried out in the first available planting season following the exhaustion of permitted reserve extraction and also in accordance with the details on Drawing No 06/2 date stamped 27th Aug 2021.



7. No quarrying activities or site operations, including the operation of any equipment or machinery shall take place within the red line as annotated on drawing number 01/3 date stamped 18th Oct 2022 outside of the following hours:

0700 to 1800 hours Monday to Friday,  
0800 to 1400 hours on Saturdays

There shall be no quarry activities or site operations, including the operation of any equipment or machinery at any time on Sundays or on Public Holidays.

Reason: To protect neighbouring residential amenity from excessive noise.

8. The level of noise emitted from the approved site, as annotated on drawing number 01/3 date stamped 18th Oct 2022, shall not exceed 50 dB(A) LAeq, 1 hour (free field) as measured 3 metres from the façade of any noise sensitive dwelling in the vicinity of the quarry.

Reason: To protect neighbouring residential amenity from excessive noise.

9. Mineral extraction as per Phase 2 of the Environmental Statement shall not commence until bunds/screening (as shown on Drawing Number 03/2 Date Stamped 27th August 2021) has been completed.

Reason: To protect neighbouring residential amenity from excessive noise.

10. All crushing and screening plant (other than a Metso Logotrak LT300 HP & Metso Logotrak LT3054) shall only be permitted to operate within the area annotated in yellow on Drawing Number 03/2 date stamped 27th August 2021.

Reason: To protect neighbouring residential amenity from excessive noise.

11. No blasting shall occur within 100 metres of the replacement dwelling (or any subsequent Full or Reserved Matters application for it) approved under application LA09/2021/1423/O once it has been constructed and is occupied.

Reason: To protect neighbouring residential amenity from excessive noise and vibration.

12. Each blasting charge shall be so balanced that a peak particle velocity of 10 mm/second and an air overpressure of 128dB is not exceeded at any residential receptors.

Reason: To protect neighbouring residential amenity from excessive noise and vibration.

13. The operator shall monitor and record levels of ground vibration and air overpressure

for each blasting operation at the nearest residential receptor, or such alternate location as may be agreed in writing with the Council. The results of this monitoring shall be retained for a minimum of 12 months and shall be made available to the Council upon request.

Reason: To protect neighbouring residential amenity from excessive noise and vibration.

14. In the event that the levels specified in condition 11 are exceeded during any blast the Council should be notified within 7 days and no further blasting shall be permitted at the site until Mid Ulster District Council is satisfied that these standards will be met in future blasting operations, and have confirmed this in writing to the operator.

Reason: To protect neighbouring residential amenity from excessive noise and vibration.

15. Within 4 weeks of a written request by Mid Ulster District Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess noise levels from the approved quarry. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring residential amenity from excessive noise.

16. The dust mitigation measures outlined within Table 10.3 of the Environmental Statement shall be implemented and maintained for the duration of the development prior to any mineral extraction within the red line as annotated on drawing number 01/3 date stamped 18th Oct 2022..

Reason: To protect neighbouring residential amenity from dust emissions.

17. The Groundwater monitoring plan as detailed in "Environmental Statement Produced by nQuarry Plan Parts 2 and 3 dated June 2021" section 6.6 Proposed Mitigation Measures shall be implemented to the satisfaction of the Planning Authority where monitoring records should be maintained and made available if requested.

Reason: Protection of groundwater environment.

18. No site works of any nature or development shall take place until a programme of

archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

The identification and evaluation of archaeological remains within the site;  
Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;  
Post-excavation analysis sufficient to prepare an archaeological report, to publication standard if necessary; and  
Preparation of the digital, documentary and material archive for deposition.

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

19. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition L15a.

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

20. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition L15a. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

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

21. A Silt Fence/Trap mitigation must be constructed and retained on the northern boundary bunds prior to any commencement of development hereby approved. This should be constructed as detailed in Section 5.27 of the HRA by Neo Environmental Ltd dated 17/06/2021.

Reason: To protect the features of Upper Ballinderry River SAC from potential adverse impacts from the proposal.

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

**Case Officer:** Melvin Bowman

**Date:** 9 February 2023

ANNEX	
<b>Date Valid</b>	16 February 2021
<b>Date First Advertised</b>	30 August 2022
<b>Date Last Advertised</b>	2 March 2021
<b>Details of Neighbour Notification</b> (all addresses) <p>The Owner / Occupier 8 Beltonanean Lane, Cookstown, Tyrone, BT80 9TH</p> <p>The Owner / Occupier 7 Beltonanean Road, Cookstown, Tyrone, BT80 9TP</p> <p>The Owner / Occupier 17 Corvanaghan Road Cookstown Tyrone BT80 9TN</p>	
<b>Date of Last Neighbour Notification</b>	20 January 2023
<b>Date of EIA Determination</b>	16 March 2021
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b> <p>Historic Environment Division (HED)-Substantive: TBC  DFI Roads - Enniskillen Office-Substantive: TBC  Environmental Health Mid Ulster Council-Substantive: TBC  NIEA-Substantive: TBC  Rivers Agency-Substantive: TBC  Historic Environment Division (HED)-Substantive: YResponseType: FR  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  NIEA-Substantive: YResponseType: FR  Rivers Agency-Substantive: TBCResponseType: FR  NIEA-Substantive: TBCResponseType: PR  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  Historic Environment Division (HED)-Substantive: YResponseType: FR</p>	

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
Rivers Agency-Substantive: TBCResponseType: FR  
NIEA-Substantive: YResponseType: FR  
NIEA-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBC  
Shared Environmental Services-LA09-2021-0233-F\_HRA\_AA\_14092022.pdf  
Environmental Health Mid Ulster Council-LA09 21 0233 F Lands at Convanaghan  
Quarry, 29 Corvanaghan Road, Cookstown 180123.doc  
Geological Survey NI (DfE)-MUDC- LA09\_2021\_0233\_F.docx  
Environmental Health Mid Ulster Council-LA09 21 0233 F Lands at Convanaghan  
Quarry, 29 Corvanaghan Road, Cookstown 190722.doc  
Health And Safety Executive For NI-CN202209-0007 - Lands at Corvanaghan Quarry,  
29 Corvanaghan Rd, Cookstown BT80 9NN.pdfPlease see attached response on behalf  
of HSENI-CN202209-0007 - Lands at Corvanaghan Quarry, 29 Corvanaghan Rd,  
Cookstown BT80 9NN.pdf  
NIEA-LA09-2021-0233-F.PDF  
NI Water - Strategic Applications-LA09-2021-0233-F.pdf

#### **Drawing Numbers and Title**

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

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

Not Applicable

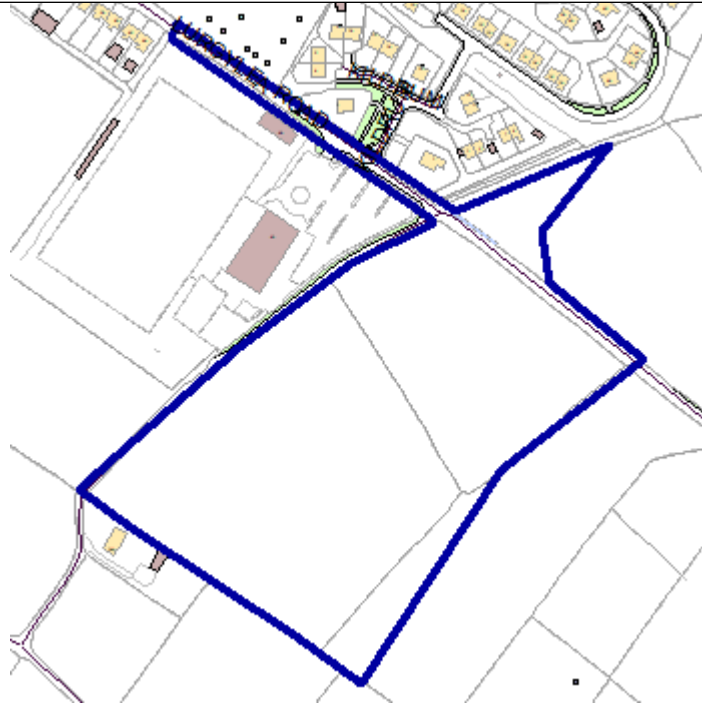


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2021/1758/O	<b>Target Date:</b> 1 February 2022
<b>Proposal:</b> Extension of existing sporting, social and educational facilities to create an enhanced recreational hub and lifelong centre of learning to include new vehicular access, additional car-parking, extended green space and associated ancillary works	<b>Location:</b> Lands Directly Adjacent And East Of Galbally Pearses Gaa Grounds And Community Centre 36 Lurgylea Road Galbally Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Galbally Pearses Gac Galbally Pearses Gac And Galbally Youth 36 Lurgylea Road Galbally Dungannon BT70 2NX	<b>Agent Name and Address:</b> McKeown And Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Strategic Applications	Substantive: YResponseType: FR
		Substantive: TBCResponseType: IR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	Shared Environmental Services	Substantive: TBCResponseType: FR
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	18-10-2022.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	591532 - Final



		Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	13-10-2022.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-21-1758 O Lands adjacent to Galbally.doc
Statutory Consultee	NIEA	PRT LA09-2021-1758-O ADV.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Rivers Agency	57962 - Final Response.pdf
	Rivers Agency	
Statutory Consultee	Rivers Agency	30775 - Final Response.pdf
Statutory Consultee	Rivers Agency	

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is located directly outside Galbally settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The settlement limits of Galbally comprise two clusters of development, the application site lies outside the western portion which is characterised by residential development and the football club and playing fields. The surrounding area to the east is rural and characterised predominantly by agricultural fields. The application site comprises 2 large agricultural fields as well as a small portion of two further fields. The topography of the site is relatively flat however there is a slight incline to the east and southwest. The boundaries of the site are defined by hedging and fencing. Immediately northwest of the application site is Galbally Community Centre with associated parking and play areas.

### Description of Proposal

This application seeks outline planning permission for the extension of existing sporting, social and educational facilities to create an enhanced recreational hub and lifelong centre of learning to include new vehicular access, additional car-parking, extended green space and associated ancillary works located on lands directly adjacent and east of Galbally Pearses GAA Grounds and Community Centre 36 Lurgylea Road, Galbally.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 21 – Sustainable Development in the Countryside

PPS 8: Open Space, Sport and Outdoor Recreation

PPS 3: Access, Movement and Parking

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

### **Representations**

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

### **History on Site**

LA09/2018/0738/PAN - Extension to existing sporting, social and educational facilities to create an enhanced recreational hub and lifelong centre of learning to include new vehicular access, additional car parking, extended green space, ancillary works and requisite landscaping - Lands Directly Adjacent To The East Of Galbally Pearse's Gaa Grounds And Community Centre – PAN Accepted 11/06/18

M/2013/0144/PREAPP - Proposed new Primary school - Lands At Lurgylea Road Galbally

LA09/2022/1622/F - Extension of an existing community Centre to include extension to ground floor McCaughey Suite, entrance area meeting and case space and extension to first floor fitness suite spaces for community use - 36 Lurgylea Road, Galbally – Permission Granted 11/01/23

M/2012/0358/F - Proposed extension to existing building to include new multipurpose rooms for danceroom, playschool, meeting room and 'cannyman' theatre rehearsal rooms and ancillary stores - Galbally Community Centre, Lurgylea Road, Galbally - Permission Granted 27/07/12

LA09/2019/1236/F - Proposed housing development consisting of 27No. Dwellings (24 No Semi detached and 3No.Detached) and associated site works - Lands Opposite 44-45 Lurgylea Road, Galbally - Permission Granted 17/04/20

LA09/2021/0947/F - Variation of Condition No's 3, 4 & 7 for planning approval

LA09/2019/1236/F - Lands Opp 44-45 Lurgylea Road, Galbally – Application Withdrawn

LA09/2021/0252/F - Change of house type to sites 2, 3, 4, 5, 8 & 9 from semi- detached to detached 2 storey dwellings - Lands Opposite 44-45 Lurgylea Road, Galbally - Permission Granted 22/06/21

### **Key Policy Considerations/Assessment**

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations.

The site is located outside Galbally settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The extant area plan identifies capital works programmes are ongoing, with plans at various stages for new and replacement schools within the Borough including St. Joseph's Primary School, Galbally (Page 34). Policy COMM 1 in DSTAP sets out a list of essential criteria whereby planning permission may be granted for Community Uses including education. However, this policy is only applicable to development which lies within the development limits of a settlement.

Strategic Planning Policy Statement (SPPS) sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS introduces transitional arrangements which will operate until the Councils Plan Strategy has been adopted. During this period planning authorities will apply the existing policy contained within the Planning Policy Statements referred to the retained policy together with the SPPS. Any conflict between the SPPS and the retained policy must be resolved in favour of the SPPS. Paragraph 2.1 states the planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. Planning authorities should therefore simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society.

Planning Policy Statement 21- Sustainable Development in the Countryside provides the policy context for development in the countryside and states all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations

including those for drainage, access and road safety. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted. The proposal includes a 4G pitch, tennis courts, netball/basketball for school/after school, additional car parking for the existing playgroup, after schools and football and community group, as well as a centre of learning. The agent has clarified that the hope is that the Centre of Learning is a replacement School Campus for St Joseph's Primary School, Galbally should funding become available and this would be run and managed by the Department for Education. Policy CTY1 states that planning permission will be granted for non-residential development of a necessary community facility to serve the local rural population. The agent has provided a supporting statement arguing population growth within Mid Ulster and Galbally, demonstrated by the number of new houses being built in the Galbally area in recent years, will increase school numbers and demand for pre-school and after school childcare provision. The existing Child Care facility is currently being accommodated for in the Community Centre adjacent to the current application site. It is accepted there has been residential development constructed within Galbally settlement limits in recent years, combined with a growing rural community, could result in greater demand for additional educational and child care facilities. The agent has argued that the existing facilities at St Joseph's Primary School are too small for the school numbers and insufficient space remains around the existing school and within settlement limits for an extension. The agent has identified and argued all available plots of land within Galbally settlement limits are unsuitable. It is accepted that the majority of land within Galbally settlement limits which could accommodate a school have now been developed, however a large field remains within the eastern cluster of Galbally settlement limits adjacent to the crossroads. It is considered given the size of this field, the proposal could be accommodated at this location however the agent has provided a signed letter from the landowner advising this land forms an integral part of the landowners farm business and therefore will not be sold for redevelopment. Minutes of a NI Assembly debate on road safety at schools in Mid Ulster was provided in which MLA's specifically refer to speeding cars passing St Joseph's Primary School, as well as a NICCY investigation from 2016 which recommended a number of safety measures to ensure safety to children at the school given the proximity to the public road. The preferred long-term solution outlined in the NICCY investigation report was the re-building of the school on an alternative site as the current school site is unsuitable. The agent has also provided a letter of support from the St Joseph's Primary School Board of Governors to a new Centre of Learning advising due to increasing enrolment figures as well as health and safety concerns with the existing site a new school campus is a priority. Having considered the above supporting information at internal group, it was agreed that the centre of learning and associated childcare and community use parking is acceptable in this instance and complies with Policy CTY1 non-residential development of a necessary community facility to serve the local rural population. A large catchment area combined with a growing rural community has created greater demand for additional facilities in which to educate pupils and it is accepted these facilities require adequate space particularly for the safe dropping off and collecting of children. This is an outline application therefore the exact details of design and scale are not available and will be a matter for consideration should a reserved matters or full application be forthcoming. The proposed siting adjacent to the existing Galbally Community Centre facilities is considered acceptable and in keeping with the character of the immediate setting.

The proposal also includes a 4G pitch, ¾ training pitch and netball, basketball and tennis courts. Policy CTY 1 of PPS21 directs planning permission will be granted for outdoor sports and recreation in accordance with PPS 8 – Open Space, Sport and Recreation.

Policy OS 3 Outdoor Recreation in the Countryside states the development of proposals for outdoor recreational use in the countryside will only be permitted where all the following criteria are met:

- (i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;*

No archaeology or built heritage features have been identified on site or in close proximity of the site to be impacted by this proposal. Shared Environmental Services were consulted and confirmed no viable environmental pathways to any European Site and therefore there is no likely significant effects from the proposal to any European Site or feature.

- (ii) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;*

I do not consider the proposal will result in a loss of the most versatile agricultural land, nor have an unacceptable impact on neighbouring agricultural activities.

- (iii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;*

It is considered that given the established recreational use adjacent to the site, the proposal will read with existing community and sports uses and would not have an adverse visual impact or detrimentally impact the character of the landscape to warrant refusal. The proposal site benefits from a degree of existing natural landscaping which will be retained and augmented through additional planting as a planning condition attached to any forthcoming planning approval.

- (i) there is no unacceptable impact on the amenities of people living nearby;*

Environmental Health have been consulted and on receipt of a concept plan have not offered any objections to the proposal. It is considered adequate separation distance between existing properties and the proposed development existing and this will be considered further should a reserved matters or full application be forthcoming which will provide detailed plans. No letters of objection have been received to the proposed development and in light of EHD response it is not envisaged that there will be an unacceptable impact on neighbouring residential amenity to warrant refusal.

- (ii) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;*

Given the proposal is sited adjacent to existing recreation uses including a large community centre and playing fields, I am content the proposal is compatible with existing and surrounding land uses.

- (iii) any ancillary buildings or structures are designed to a high standard, are of a*

*scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;*

The proposal is outline therefore no details of design and scale have been provided. The proposed concept plan details a centre of learning building which has been considered above under Policy CTY1, the concept plan does not include any ancillary buildings associated with the outdoor recreation aspect of the proposal.

*(iv) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and*

As stated previously, this is an outline planning application therefore detailed plans are not available. However, it is noted that the proposal includes additional parking facilities and a footpath runs adjacent to the application site providing access by foot and bike to the site from the western cluster of Galbally settlement.

*(v) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.*

DFI Roads were consulted and have offered no objections subject to conditions. DFI Roads have advised the required sight line of 4.5m by 120m to the north-west will entail the setting back of a wire fence and possible tree removal and this is outside the applicants control. This was considered at internal group and it is noted that the applicant is Galbally Pearse's Gac and Galbally Youth with an address at 36 Lurgylea Road which relates to the land to the northwest requiring fencing set bac. Therefore, whilst landownership is a legal matter, given the applicants address it is therefore considered the necessary sight lines are achievable. In light of DFI Roads comments, it is considered the road network can handle the additional vehicular traffic and satisfactory access and parking arrangements are in place in accordance with PPS3 Policy AMP 2. NI Water were consulted and have offered no objections advising there is available waste water capacity. The applicant has provided a drainage assessment given the application site is over 1 hectare in accordance with PPS15 FLD3. DFI Rivers were consulted and have advised the DA has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates the issue of out of sewer flooding can be managed by attenuating the 1 in 100 year event within the proposed drainage network when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. DFI Rivers have no concerns on this basis subject to a condition. DFI Rivers have also advised the application site does not lie within a floodplain, however an undesignated watercourse flows along the south-western boundary of the site which will require the retention of a suitable working strip protected from impediments, land raising or any future development. The agent has detailed this on Drawing 02 Rev 1 and it is considered this can be secured by a planning condition to any forthcoming approval.

PPS 21 CTY 15 – The Setting of Settlements states planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. The application site is located directly outside the settlement limits of Galbally. However, the proposed development will read with the existing community and recreational facilities immediately adjacent to the northwest. The site does not act an important visual break between the countryside

and the development limits in my opinion. I do not consider the proposal will mar the distinction between Galbally settlement and the surrounding countryside or result in urban sprawl.

**Summary of Recommendation:**

Approve is recommended

On the basis of the assessment above, I am satisfied the proposal meets the requirements contained within the prevailing planning policy and I recommend that the application is approved.

**Approval Conditions**

**Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

Full particulars, detailed plans and elevations of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

Reason: To enable the Council to consider in detail the proposed development of the site.

**Condition 4**

No development shall take place until a plan indicating finished floor levels as well as existing and proposed ground levels has been submitted to and approved by the

Council.

Reason: In the interest of visual amenity.

**Condition 5**

The existing natural screenings of this site shall be permanently retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works.

Reason: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.

**Condition 6**

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

**Condition 7**

The working maintenance strip identified on Drawing 02 Rev 1 shall be provided at a minimum of 5m and permanently retained along the northern boundary of the site to be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or any future development. Access to and from the maintenance strip shall be available at all times.

Reason: To ensure access is available to the watercourse for maintenance purposes.

**Condition 8**

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event.

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

**Condition 9**

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the 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.

**Condition10**

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

**Condition11**

Approval of the details of the siting in relation to the necessary safety clearances required to be maintained between the development hereby approved and any NIE overhead lines and associated equipment within the development site (hereinafter called "the reserved matters") shall be obtained from the Council, in the form of written agreement from NIE Networks, before any development is commenced.

Reason: To ensure the siting of the proposed development will not infringe on NIE Networks required safety clearance between its equipment and any building or structure

**Signature(s):** Grace Heron

**Date:** 22 February 2023

ANNEX	
<b>Date Valid</b>	7 December 2021
<b>Date First Advertised</b>	28 December 2021
<b>Date Last Advertised</b>	28 December 2021
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 40 Lurgylea Road, Galbally, Dungannon, Tyrone, BT70 2NX The Owner / Occupier 7 Kildrum Lurgylea Road Dungannon BT70 2NW The Owner / Occupier 1 Kildrum Lurgylea Road Dungannon BT70 2NW The Owner / Occupier 2 Kildrum Lurgylea Road Dungannon BT70 2NW The Owner / Occupier 34A Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 34 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 36 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 3 Kildrum Lurgylea Road Dungannon BT70 2NW The Owner / Occupier 5 Kildrum Lurgylea Road Dungannon BT70 2NW The Owner / Occupier 9 Kildrum Lurgylea Road Dungannon BT70 2NW The Owner / Occupier Galbally Community Association 42 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 41 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 43 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 47 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 45 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX The Owner / Occupier 49 Lurgylea Road Galbally Dungannon Tyrone BT70 2NX	
<b>Date of Last Neighbour Notification</b>	9 February 2023

<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR NI Water - Strategic Applications-Substantive: YResponseType: FR -Substantive: TBCResponseType: IR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR Rivers Agency-Substantive: YResponseType: FR Shared Environmental Services-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council- DFI Roads - Enniskillen Office-18-10-2022.docx Environmental Health Mid Ulster Council- Rivers Agency-591532 - Final Response.pdf DFI Roads - Enniskillen Office-13-10-2022.docx Environmental Health Mid Ulster Council-LA09-21-1758 O Lands adjacent to Galbally.doc NIEA-PRT LA09-2021-1758-O ADV.PDF Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council- Rivers Agency-57962 - Final Response.pdf Rivers Agency- Rivers Agency-30775 - Final Response.pdf Rivers Agency-	
<b>Drawing Numbers and Title</b>  Site Layout or Block Plan Plan Ref: 02 Site Location Plan Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2021/1791/F	<b>Target Date:</b> 11 February 2022
<b>Proposal:</b> Retrospective application for the retention of 4no containers currently being used for storage purposes, a covered area and the retention of the extended site curtilage. (amended description and plans)	<b>Location:</b> 20M SW Of 137 Lisacclare Road Stewartstown BT71 5QJ.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Sean Campbell 137 Lisacclare Road Stewartstown BT71 5QJ	<b>Agent Name and Address:</b> Eamonn Moore 10 Knockmoyle Cookstown BT80 8XS
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads development offer no objection to application.

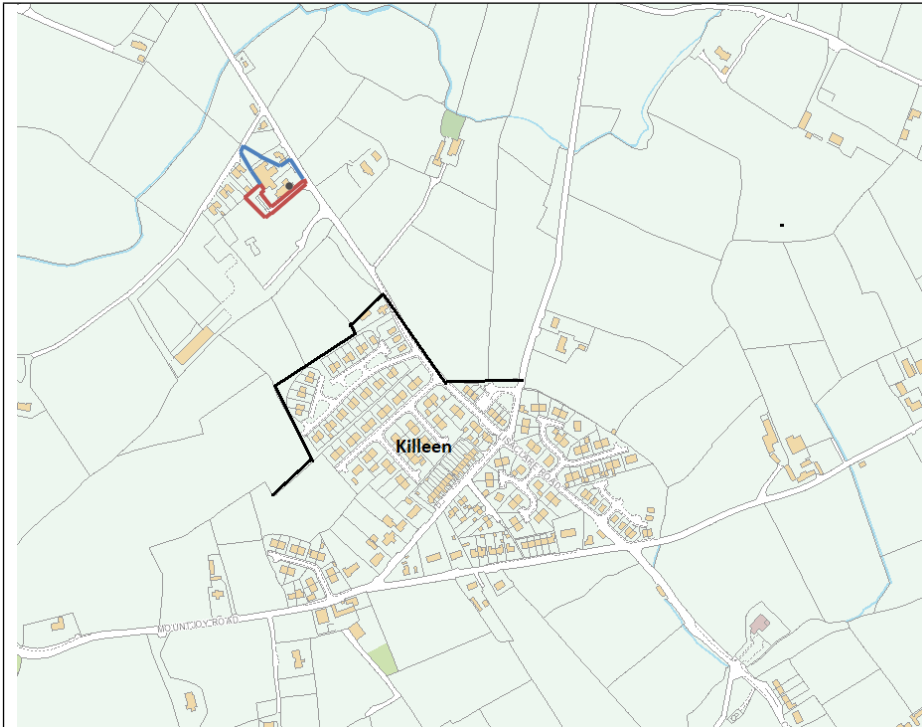
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	3
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies within the open countryside just a short distance to the North West of the settlement limits of Killeen and outside all other areas of constraint as depicted by the DSTAP 2010. The site lies to the rear of number 137 Lisacclare Road, the main road linking Killeen and neighbouring Stewartstown.



The red line of the site includes an existing access off the lisaclare road which leads to the rear of number 137 and the yard to its rear. The site includes a strip of ground in the back garden of number 137 as well as an open yard area which also includes a portion of the front garden of a recently approved and under construction dwelling.



The below image shows the site overlapping into the existing dwelling to the front and the dwelling

under construction to the rear.



At the time of site visit the four containers were evident on the ground however had the appearance of two units, one red and one green. There was a considerable amount of materials and machinery being stored on the ground around the site. The site was unbounded between the dwelling under construction to the rear and there was a small wooden shed on the line where the boundary is shown on the drawings.



The site boundaries remain undefined to the rear south west, with 2 metre high fencing along the north and east and a mix of metal fencing and wooden fence along the north west.

## **Description of Proposal**

The proposal seeks full planning permission for the retention of 4 no containers currently being used for production & storage purposes and the retention of the extended site curtilage.

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

### **Policy Consideration**

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

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

- ¿ Regional Development Strategy 2030
- ¿ Strategic Planning Policy Statement for Northern Ireland
- ¿ Dungannon and South Tyrone Area Plan 2010
- ¿ Planning Policy Statement 21: Sustainable Development in the Countryside
- ¿ Planning Policy Statement 3: Access, Movement and Parking
- ¿ Planning Policy Statement 4: Planning and Economic Development

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

### **Representations**

Press advertisement and neighbour notification has been carried out in line with the Council's statutory duty.

At the time of writing, there has been one third party objector who has made a number of representations detailing concerns below.

The main concerns included;

-Impact on residential amenity via noise from chain sawing or use of forklift trucks, via smell from regular



bonfires.

- Operational hours, noise nuisance from out of hours deliveries, lorries and forklift usage
- Intensification of access
- Need for expansion
- Usage as storage and production
- Unlawful shed linking existing

The agent responded with a number of amended drawings, amended supporting statement and further correspondence.

Consideration of concerns raised.

With regards to the main concerns of loss of residential amenity, there are a number of issues, namely noise and smells. The noise concerns raised disturbance from delivery lorries, fork lift trucks and chain sawing. These concerns were put to the applicant and they have responded with a statement detailing that no cutting or manufacturing shall take place in this part of the site as it is for storage only, they also state that there may have been one off chain saw use for cutting sticks for firewood. With regards to the deliveries and noise from forklift trucks, it is to be expected that there will be some level of fork lift truck usage for loading, unloading and moving of raw materials. EHO were consulted and were content that subject to operational hours this would not be unacceptable. I would agree. On the second part regarding smells and dust, the applicant detailed smoke, dust and ash blowing into their property, again EHO were consulted and did not raise any concerns surrounding this issue. From my inspection the yard area was relatively clean and tidy state and there were no signs of any fires having been burnt in the proximity. Any cutting takes place within the main building to the front of the site and it is fitted with a dust extractor.

With regards to the concerns of the site being operational in evening times and into the night, it is my opinion that this is not acceptable practice in an area with residential properties so close by. EHO have suggested the standard hours of operation condition and the council would agree.

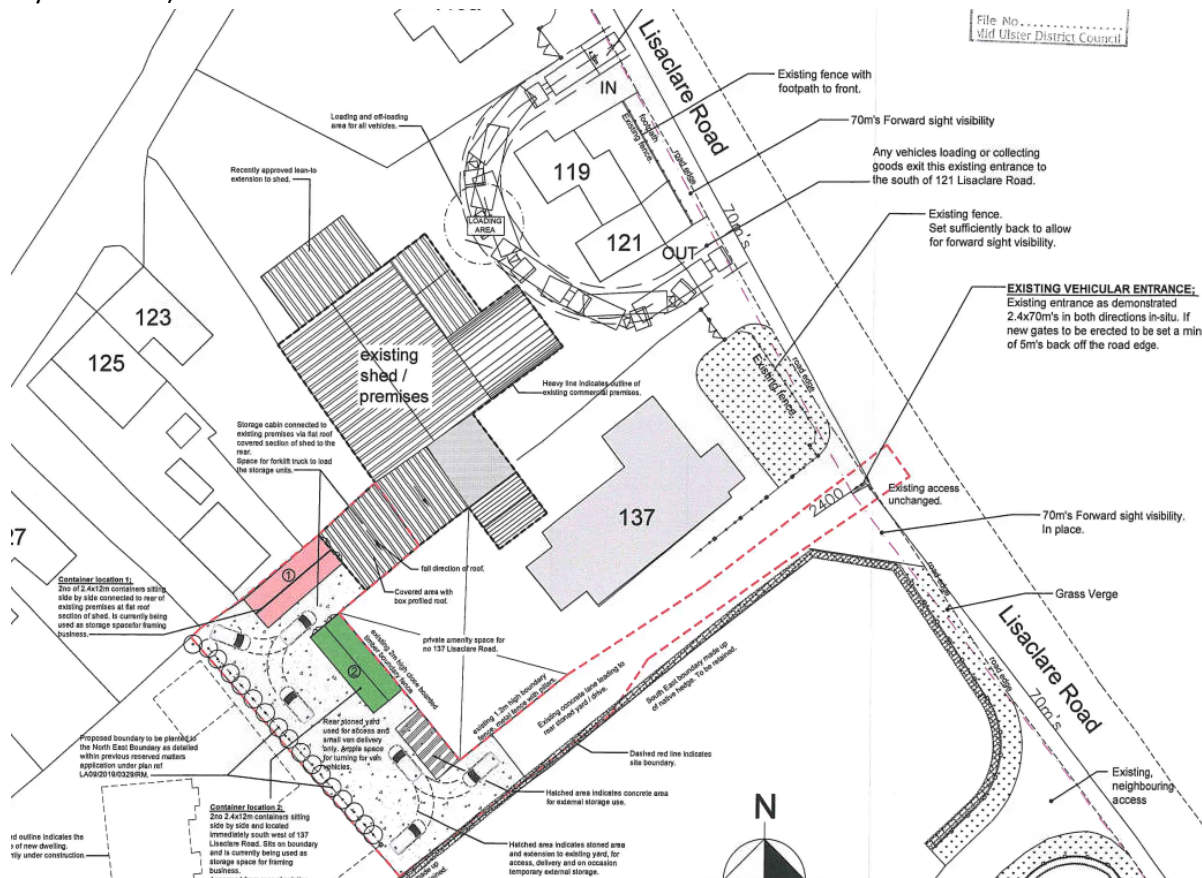
With regards to the intensification of the access concern, the applicant states that the retention of these units will not increase the intensification in terms of PPS 3 and access movement and parking. DFI roads were also consulted and responded with no concerns subject to conditions.

The objector has also questioned the need for the expansion and the applicant has detailed that the units are needed for the storage of raw materials to the rear of the commercial premise, to allow the existing business to function efficiently. The business is set up so that materials are loaded and stored to the rear and then moved to the front for manufacturing and distribution. It must also be noted that at the time of site visit both the existing commercial buildings to the front and the units to be retained were fully in use. They did not appear to have any other vacant building to be used and therefore the proposal would comply with the relevant policy PPS 4, PED 3 & 9.

The objector also questioned the description as 'production and storage', the applicant has responded by changing the proposal to reflect the storage use only.

Finally, with regards the small area linking the sheds, the objector raised concerns regarding the small link area between sheds being unlawful and not contained within this planning application. The agent

was made aware of these concerns and amended the proposal to include the said linkage area. (see layout below)



## History on Site

M/2003/0358/F - Retention of Existing Offices/Workshop/Storage Facilities – GRANTED 23.05.03

## Key Policy Considerations/Assessment

DSTAP 2010 - The site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

The production and storage use on site has been established through the previously granted application M/2003/0358/F for the retention of Existing Offices/Workshop/Storage Facilities which determined there was sufficient evidence to demonstrate that the business use and operational development of the existing buildings at the front portion of the site. The proposal is for the extension of an established economic use in the countryside therefore PED3 of PPS4 applies.

PPS4 - Policy PED 3 Expansion of an Established Economic Development Use in the Countryside states permission will be granted 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 of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that;

- relocation of the enterprise is not possible for particular operational or employment reasons;
- the proposal would make a significant contribution to the local economy; and
- the development would not undermine rural character.

The application seeks retrospective permission for 4 no. containers for storage use only in association with the existing picture framing business, and in total it has a combined floor space of approx. 57m<sup>2</sup>. This part of the applicants ground was not part of the original established curtilage and therefore it will involve the curtilage expanding slightly SW. It is noted the proposed buildings and increase in curtilage subject to this application has been completed without the benefit of planning permission. The increase is solely to the rear and it is considered the siting of the new building consolidates and integrates with the existing built form on site; and is in proportion to existing buildings. It is considered the proposed extension of the established business will have economic benefits and is acceptable in this instance and would not constitute a major expansion.

In terms of impact on rural character the assessment is twofold. Consideration is given to impacts on visual and residential amenity. In my view the proposal will group with the existing established buildings on site. The proposal site is a roadside plot in the rural countryside, however in proximity to the settlement limits of Killeen. The proposed buildings are of a similar design and scale and will not be incongruous when viewed in the context of the existing buildings on site and their position to the rear. Given the existing landscaping, and built form surrounding the site it is considered the proposed development will integrate without significant visual impact. Given the application relates to an existing manufacturing works and the proximity to third party dwellings, Environmental Health Department were consulted on this proposal. EHD noted the proximity receptors, the letter of objection and the letters of support and advised they have no objections subject to conditions namely operating hours.

As well as the policy requirements of Policy PED 3, it is also necessary for the proposed development to comply with Policy PED 9.

Policy PED9: General Criteria for all Economic Development lists 13 criteria proposals should meet;

- a) the proposal is compatible with surrounding land use;

An manufacturing firm is established on this site. The proposed expansion will be for storage purposes in connection with the existing business, as reflected in the P1 form. The proposed extension extends to the rear of the site, it is considered given the existing use which has a certificate of lawful development, the proposal is compatible for this site and locality.

b) it does not harm the amenities of nearby residents;

Environmental Health have not raised any objections with respect to detrimental impact on nearby neighbours subject to conditions. There is one third party objector whose concerns have been assessed in the report above. I consider it appropriate and necessary to attach a condition restricting the buildings to be used for storage use only, with no production to take place to protect nearby amenity and control the size and scale of the development. It is also considered appropriate to attach a condition regarding the hours of operation.

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

No built or natural heritage designations have been identified in close proximity of the site. I am content natural or built heritage features will not be harmed by this proposal.

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

The site is not located in on near an area of flood plain and therefore it was not deemed necessary to consult DfI Rivers. The proposal will not exacerbate flooding and I am content the application is in compliance with PPS15.

e) it does not create a noise nuisance;

Environmental Health have considered the proposal in terms of noise nuisance and have not raised any objections subject to conditions regarding hours of operation attached to any forthcoming approval to ensure no unacceptable noise outside of the main working hours. In light of this, I am content that the proposal will not significantly increase the existing noise within the locality and therefore will not create a noise nuisance to nearby residents.

f) it is capable of dealing satisfactorily with any emission or effluent;

Environmental Health have raised no concern that the proposal will not deal satisfactorily with any emission or effluent.

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

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

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

DfI Roads were consulted on this application and have responded with no objections subject to conditions. It was noted from the site layout plan and on the date of the site inspection that an area of adequate parking is available. In light of DfI Roads response and my observations on site it is considered there is adequate access, parking and space for manoeuvring of vehicles. Due to its countryside location, access to this site is usually by private car or HGV. Therefore, there is little scope to provide a movement pattern of walking, cycling or convenient access to public transport. It is the responsibility of the developer to respect existing public rights of way and to provide for people whose mobility is impaired.

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

The site layout, building design, associated infrastructure and landscape arrangements are acceptable for this site and locality given the existing established business on site. It is considered the building design

and associated infrastructure respects the existing built form.

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

Existing boundaries including the existing buildings will provide an adequate degree of enclosure.

i) is designed to deter crime and promote personal safety; and

It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety. There is an existing security fencing surrounding the site.

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

Due to its position to the rear of the existing roadside buildings, it is my opinion that the proposal will satisfactorily integrate into the countryside as it will read with existing buildings.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

Reason: This is a retrospective application.

#### **Condition 2**

There shall be no deliveries (including forklift use) and or external activity (including the use of a chainsaw) associated with the hereby approved outside the hours of 08:00 hours and 18:30 hours Monday to Friday and 08:00 hours to 12:00 hours on Saturdays. There shall be no site activity on Sunday.

Reason: To protect the amenity of residents from excessive noise

#### **Condition 3**

The development hereby approved shall be used for storage purposes in connection with the existing business only.

Reason: To protect neighbouring amenity.

#### **Condition 4**

No construction or manufacture of products shall be undertaken in the external yard

areas of the business, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect residential amenity from noise.

**Signature(s):** Peter Hughes

**Date:** 17 February 2023

ANNEX	
<b>Date Valid</b>	17 December 2021
<b>Date First Advertised</b>	31 January 2023
<b>Date Last Advertised</b>	11 January 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 137 Lisaclore Road, Stewartstown, Tyrone, BT71 5QJ  The Owner / Occupier 137A , Lisaclore Road, Stewartstown, Tyrone, BT71 5QJ  The Owner / Occupier 119A Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 119 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 117 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 121 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 123 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 125 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 127 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 128 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 129 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 131 Lisaclore Road Stewartstown Tyrone BT71 5QJ The Owner / Occupier 133 Lisaclore Road Stewartstown Tyrone BT71 5QJ	
<b>Date of Last Neighbour Notification</b>	24 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DFI Roads - Enniskillen Office-Roads Consultation full approval.docx DFI Roads - Enniskillen Office-DFI Roads development offer no objection to application.	
<b>Drawing Numbers and Title</b>  Site Layout or Block Plan    Plan Ref: 21-135-SP-01 rev d Proposed Elevations        Plan Ref: 21-135-pd-03 Proposed Elevations        Plan Ref: 21-135-pd-04 Site Location Plan    Plan Ref: 01 Proposed Plans        Plan Ref: 02 Proposed Plans        Plan Ref: 03 Site Layout or Block Plan    Plan Ref: 21-135-SP-01 rev B	
<b>Notification to Department (if relevant)</b>  Not Applicable	





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2022/0126/O	<b>Target Date:</b> 25 March 2022
<b>Proposal:</b> Proposed Industrial Unit	<b>Location:</b> 20 M North Of Unit 5K Shivers Business Park 21 Hillhead Road Toomebridge
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> James Alexander 88 Gloverstown Road Moneynick Randalstown BT41 3HY	<b>Agent Name and Address:</b> Karen Mallaghan 89 Main Street Garvagh BT51 5AB
<b>Executive Summary:</b>	

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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	NI Water - Strategic Applications	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	NIEA	Substantive: TBCResponseType: FR
Statutory Consultee	NIEA	PRT LA09 2022 0126 O.pdfPRT LA09-2022-0126-O.PDF

**Representations:**

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

and signatures

## **Summary of Issues**

No representations have been received in relation to this application.

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

The site, which comprises a low lying, relatively flat field, is in the rural area, extending to 0.999ha and is located to the south western side of a large field which extends between the Hillhead Road and the Toome By-pass. The south-eastern boundary is defined by an open drain alongside a concrete laneway which is the former Old Bann Road. The north western boundary is defined by a paladin security fence whilst the north eastern boundary is undefined.

Shivers Business Park is located immediately adjacent to the north-western boundary. There are critical views on approach along the Toome By-pass, from the northern corner of Shivers Business Park when travelling southwards and from the northern end of the Old Bann Road where it meets the Toome By-pass, when travelling northwards. There are also critical views of the site from approximately 150m northwest and 250m south east of the site, when travelling along the Hillhead Road.

## **Description of Proposal**

The proposal is an outline application for a site for an industrial unit. However, the indicative site plan shows the site containing two distinct and separate units, one unit to the east of the site and a second unit to the west, with an area of car parking and turning/circulating in the centre. The site would be accessed directly off the Hillhead Road. New boundary planting is indicated along the north-eastern, south-eastern and south-western boundaries. Indicative finished floor levels are also indicated as being in the region of 0.3m lower than the nearest adjacent building within the existing business park to the north west. However, the suggested finished floor levels would require site levels to be raised between 1.0m and 1.4m above the existing ground levels.

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

### **Policy Consideration**

Planning Assessment of Policy and other Material Considerations

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

- o Strategic Planning Policy Statement (SPPS)
  - o Magherafelt Area Plan 2015
  - o Planning Policy Statement 15 (PPS15) Planning and Flood Risk
  - o Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside
- Planning History

There is no relevant planning history on this site.

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.

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

#### Magherafelt Area Plan 2015

The site is set within the rural area and in a field immediately adjacent to and to the south east of an existing commercial business park. The site is located within an area designated as COU1 West Lough Neagh Shores Area of High Scenic Value. The area extends along the western shores of Lough Neagh from Tradd Point, through the flat pastures, bog and wet woodland on the fringes of Lough Neagh and Lough Beg to the woodlands of Portglenone Forest. Development within this area is subject to control under Policy CON 1 of the Magherafelt Area Plan.

Policy CON 1 states that 'Within Designated areas of High Scenic Value planning permission will not be granted for development that would adversely affect the quality and character of the landscape. A Landscape Analysis must accompany development proposals in these areas to indicate the likely effects of the proposals on the landscape. Planting and retention of indigenous trees species must be an integral part of these proposals and the site must be large enough to accommodate any mitigation measures

identified. Where feasible the reuse of traditional buildings will be required.

The proposal did not include a landscape analysis. The landscape analysis is required to allow consideration to be given to how the proposal will conserve and enhance the landscape of the Area of High Scenic Value. Particular regard needs to be given to the siting, massing, scale and design, materials, finishes and landscaping of the proposal in order to ensure that the proposed development will integrate well into the topography and landscape. Consequently without the required landscape analysis, the required assessment cannot be properly assessed and therefore the proposal is contrary to the Magherafelt Area Plan.

#### PPS 15 Planning and Flood Risk

DfI Rivers advised that the site lies within the strategic fluvial flood plain, however the Lower Bann is a controlled river, which means the sluice gates at Toome control the flow into the Lower Bann from Lough Neagh.

As the Lower Bann is a controlled river system, DfI Rivers considers that the floodplain should be defined as the flood extent emanating from the highest recorded flood, in this case the January 2016 event. The level of this flood was 13.67m OD. The return period for this flooding event is unknown. It would be prudent to only build on land above this level. DfI Rivers would consider that development within the flood plain is contrary to revised PPS 15, Planning and Flood Risk, FLD 1.

Development within the flood plain would require the Planning Authority to deem the application an exception. Then, to allow proper consideration of flood risk to the site, DfI Rivers would recommend that the applicant undertakes a Flood Risk Assessment (FRA) appropriate to the scale of development. However, the proposed development is not one of the exceptions listed under Policy FLD 1. Therefore, in my opinion to request the applicant to submit a flood risk assessment is unreasonable as the proposed development is clearly contrary to policy. The agent suggested submitting justification for the proposed development to be located within the floodplain, however no such justification was submitted.

The Policy also states that certain flood protection and management measures proposed as

part of the planning application, in order to facilitate development within flood plains, will not be acceptable. Land raising (infilling) to elevate a site above the flood level within the undefended fluvial flood plain is specifically identified as one of those unacceptable measures and the proposal is therefore contrary to this policy.

PPS 21 advises that approval will be granted for industry and business proposals in the countryside in accordance with PPS 4 and therefore the overarching criteria for considering industrial development in the countryside would normally be PPS 4 Policy PED 2 - Economic Development in the Countryside. Policy PED 2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

- o The Expansion of an Established Economic Development Use - Policy PED 3
- o The Redevelopment of an Established Economic Development Use - Policy PED 4
- o Major Industrial Development - Policy PED 5
- o Small Rural Projects - Policy PED 6

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

The proposed development is not considered to be either an expansion of an established economic development use, the redevelopment of an established economic development use, nor a major industrial development. Therefore the only policy which the proposed development can be considered under is PED 6 for a small rural project.

Policy PED 6 - Small Rural Projects advises that a firm proposal to develop a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller rural settlement will be permitted where it is demonstrated that all the following criteria are met:

- (a) there is no suitable site within the settlement;
- (b) the proposal would benefit the local economy or contribute to community regeneration; and
- (c) the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl.

No supporting evidence has been provided to justify the proposal under this policy in terms of the lack of a suitable site within a settlement, the economic benefits of the proposal, how the development is considered to be associated with the settlement or how it will affect the landscape without contributing to urban sprawl.

The proposed development is therefore considered to be contrary to Policy PED 6.

Policy PED 9 General Criteria for Economic Development states that a proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

- (a) it is compatible with surrounding land uses;

The proposed use would be compatible with the surrounding uses in the adjacent business park as those uses are mainly commercial business uses.

- (b) it does not harm the amenities of nearby residents;

The proposal is located approximately 230m from the nearest dwelling and therefore is not anticipated to have the potential to cause harm to residential amenity.

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

The proposal will not adversely affect features of the natural or built heritage.

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

As detailed above, the site is located within an area of fluvial flooding. The proposed site levels indicate that the site would be infilled by as much as 1.2m with the finished floor levels being up to 1.4m above the existing ground levels. To infill the site to the proposed extent would undoubtedly cause a displacement of the flood waters. The proposed development is therefore clearly contrary to this policy.

- (e) it does not create a noise nuisance;

Environmental Health did not raise any objections in respect of noise nuisance.

- (f) it is capable of dealing satisfactorily with any emission or effluent;

The proposal is for an industrial unit and it is not anticipated that there will be any emissions or effluent. Environmental Health did not raise any concerns in this respect.

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

Roads did not raise any issues.

(h) adequate access arrangements, parking and manoeuvring areas are provided;  
The proposal is acceptable in terms of access, movement and parking.

(i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;  
The proposal is located within the rural areas and around 500m from the settlement of Toomebridge. The proposal is not served by public transport and would rely on private transport or cycling to get to the site. Although there is a hard shoulder along the side of the Hillhead Road towards Toomebridge, there is no public footpath between the site and public footpath close to the junction with the Creagh Road, a distance of approximately 220m

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

As this is an outline application, details of the site layout, building design, associated infrastructure and landscaping have not been provided.

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

Although this is an outline application, the indicative site plan suggests that there would be new boundary hedgerows along the northeast, southeast and south western boundaries. These hedgerows would take considerable time to grow to such a mature height, such as would enable them to reduce the visual impact of the proposed development and provide a sense of enclosure. The indicative site plan does not indicate any areas of outside storage.

(l) is designed to deter crime and promote personal safety;

As this is an outline application, full details of the site boundaries have not been provided. Therefore it can only be anticipated that the applicant will take all necessary measures to ensure the site is safe and secure.

and

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

As detailed above, this is an outline application and therefore full details of the proposed boundary treatment have not been provided. Whilst any potential approval could condition the boundaries to be planted and landscaped to an acceptable degree, any such new boundaries would take considerable time to provide an acceptable degree of integration for an industrial building.

PPS 21 - Policy CTY 8 Ribbon Development 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.

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 certain circumstances it may also be acceptable to consider the infilling of such a small gap site with an appropriate economic development proposal including light industry where this is of a scale in keeping with adjoining development, is of a high standard of design, would not impact adversely on the amenities of neighbouring residents and meets other planning and environmental requirements.

This proposal does not meet the criteria above for being considered as a gap site and consequently is contrary to policy as it would result in an extension to a ribbon of development.

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. The proposal would not be prominent as it is sited in a low lying area of the field set below road level. However, the site does not contain sufficient or adequate vegetation to enable the site to provide an acceptable degree of enclosure. If the proposed building were viewed from the critical points along the Toome By-pass (Hillhead Road) the development would suffer from a lack of integration as the boundaries are either undefined (north eastern) or have little or no vegetation. Due to the size and scale of an industrial building on the proposed site, it would be highly visible as the building would rely heavily on proposed boundary hedgerows and landscaping to achieve an acceptable level of integration. The proposal is therefore contrary to 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. However, a new building will be unacceptable where it creates or adds to a ribbon of development or the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character. The proposal, as discussed above would have a detrimental impact on rural character as it would add to a ribbon of development when viewed from either the old Hillhead Road or from the new Toome By-pass. Furthermore, the ancillary works required to infill the site by around 1.4m would also have a detrimental impact on rural character by creating an artificial plateau along the south-western part of the larger field. This would be most obvious when viewed from the Toome By-pass thereby requiring extensive landscaping to disguise the infilling.

#### Recommendation

In taking the above into consideration, it is my opinion that the proposed development involves substantial infilling of a site which lies within the floodplain in order to accommodate the proposal. This is clearly contrary to policy and the application should therefore be refused for the following reasons:-

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal and ancillary works are contrary to Policy FLD1 of Planning Policy Statement 15 - Planning and Flood Risk in that the development is located within a Fluvial Flood Plain and would if permitted be at risk from flooding and would be likely to increase the risk of flooding elsewhere.



As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information in the form of a landscape analysis and a flood risk assessment to enable Mid Ulster District Council to determine this proposal, in respect of the likely effects of the proposals on the landscape and to ensure that all flood risks to and from the proposed development have been identified and there are adequate measures to manage and mitigate any increase in flood risk arising from the development.

#### Reason 2

The proposal is contrary to the Magherafelt Area Plan 2015 Policy CON 1 in that it has not been satisfactorily demonstrated that the proposed development would not adversely affect the quality and character of the landscape within a Designated areas of High Scenic Value.

#### Reason 3

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

#### Reason 4

The proposed development is contrary to Policies PED 2 and PED 6 of Planning Policy Statement 4 Planning and Economic Development in that it is not an economic development use which should be provided in the countryside and no justification has been provided for the proposal to be treated as an exception.

#### Reason 5

The proposal is contrary to Policy PED 6 of Planning Policy Statement 4 in that it has not been satisfactorily demonstrated that;  
there is no suitable site within a settlement;  
the proposal would benefit the local economy or contribute to community regeneration;  
and  
the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl.

#### Reason 6

The proposal is contrary to Policy PED 9 General Criteria for Economic Development of Planning Policy Statement 4 in that;  
the site is located within an area at flood risk and it may cause or exacerbate flooding elsewhere;  
the site fails to provide a satisfactory means of enclosure; and  
there are unsatisfactory measures to assist integration into the landscape as the proposal relies heavily on proposed landscaping.

**Case Officer:** Malachy McCrystal

**Date:** 20 February 2023

ANNEX	
<b>Date Valid</b>	28 January 2022
<b>Date First Advertised</b>	8 February 2022
<b>Date Last Advertised</b>	8 February 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier Ambar Systems, 21 Hillhead Road, Toomebridge, Toome, Londonderry, BT41 3SF The Owner / Occupier Shivers Bathrooms, 21 Hillhead Road, Toomebridge, Toome, Londonderry, BT41 3SF The Owner / Occupier Abc Nursery, 21 Hillhead Road, Toomebridge, Toome, Londonderry, BT41 3SF The Owner / Occupier Copper Industries, 21 Hillhead Road, Toomebridge, Toome, Londonderry, BT41 3SF The Owner / Occupier Prestige Plates, 21 Hillhead Road, Toomebridge, Toome, Londonderry, BT41 3SF	
<b>Date of Last Neighbour Notification</b>	25 February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC NI Water - Strategic Applications-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR NIEA-Substantive: TBCResponseType: FR NIEA-PRT LA09 2022 0126 O.pdfPRT LA09-2022-0126-O.PDF	

**Drawing Numbers and Title**

Block/Site Survey Plans    Plan Ref: 02

Site Location Plan    Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

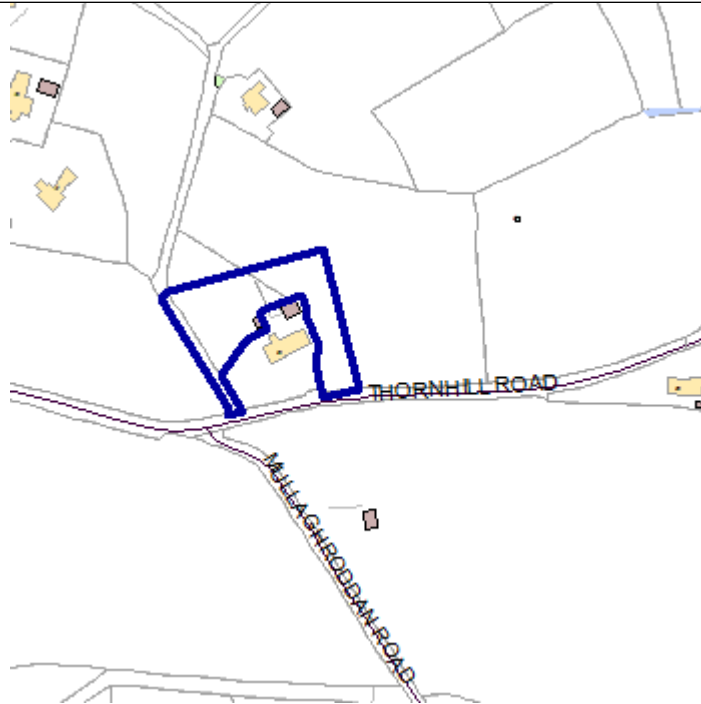


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2022/0476/F	<b>Target Date:</b> 6 June 2022
<b>Proposal:</b> Erection of agricultural building above existing tank/ slatted floor (to be retained) and associated site works	<b>Location:</b> Lands Approximately 15M North West Of 29 Thornhill Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Cyril Montgomery 29 Thornhill Road Dungannon	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>  As the proposal is for a new cattle shed with underground slurry tank Shared Environmental Services were consulted as there is the potential for ammonia. SES responded stating the site is within 7.5km of a Ramsar and SAC so land spreading information is required. So far this information has not been received.  The applicant has groups of farm buildings in Magherafelt, Lisnagleer Road, Lisnagowan Road and across the road from No.29 Thornhill Road. No. 29 is a domestic dwelling. domestic garage and one other shed which is stated to house calves. A supporting statement has been provided which states 48 cattle are housed in a shed in Magherafelt but this is difficult in the winter months as the applicant lives at No. 29. I consider no cases has been provided why there are no other suitable buildings on the farm holding and the proposed shed is not sited beside existing farm buildings.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DAERA - Omagh	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
Statutory Consultee	NIEA	PRT LA09-2022-0476-F.PDF
Statutory Consultee	Shared Environmental Services	LA09-2022-0476-F FIR1.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response 2.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.docAdvice provided.Roads Consultation.docx

### Representations:

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

and signatures	
<b>Summary of Issues</b>	
<b>Characteristics of the Site and Area</b>  <p>The site is in the countryside and outside any settlement limits but is 2.64km north of the settlement of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and rural dwellings on single plots. Within the immediate area there is minimal pressure from the construction of single dwellings. To the south of the site at No.29 Thornhill Road is a one and half storey dwelling with a frontage to the road. The site is accessed off a private lane and there are 3no other dwellings along the lane. The site comprises slats for tanks under the proposed shed.</p>	
<b>Description of Proposal</b>  <p>This is a full application for erection of agricultural building above existing tank/ slatted floor (to be retained) and associated site works at Lands Approximately 15M North West Of 29 Thornhill Road, Dungannon.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b>  <b><u>Policy Consideration</u></b>  <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <b>Representations</b>  <p>Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, three third-party objections have been received.</p> <p>An objection letter was received on the 26<sup>th</sup> July 2022 from Eamonn and Helen Hamill who lives at No.33a Thornhill Road which is 90m from the northern boundary of the site to the nearest wall of their dwelling. Another objection letter from the owners/occupiers of No. 33 Thornhill Road which is 170m north of the application site along the lane.</p> <p>The following issues have been raised –</p>	

No.33 have stated they wish to be included in neighbour notification letters and amended notifications. No.33 were not initially neighbour notified as they were not an occupied building within 90m and abutting the application site. As an objector No.33 have been acknowledged and will be notified about any additional information or amended plans submitted. I am content the statutory requirement for neighbour notification has been met.

The description 'building to be retained above existing/slatted tank which will be retained'. The objector states these works took place in August 2021 and asks the question is planning permission needed for the slurry tanks. In the Planning (General Permitted Development) Order (Northern Ireland) 2015 in Part 7 Class A there are permitted development rights for agricultural buildings. Within these PD rights an applicant is allowed up to 500sqm for an agricultural building/shed including yard every two years. Under Article 3(1) of the GPDO a Habitats Regulation Assessment is required but this does not remove permitted development rights. At this stage I cannot ascertain if the slatted tanks are permitted development as I do not have information what other works the applicant may have done on the farm holding in the preceding two years.

A detailed description has not been provided and in rebuttal I am content the description covers all existing and proposed works at the application site.

How will foul sewage will be disposed of as it had been stated as N/A in the P1 form. There are existing slurry tanks currently on site and the agent has confirmed in an email dated 29<sup>th</sup> September 2022 that the tanks are approximately 1.6m in depth. I am content the waste from cattle housed in the shed will be stored in the slurry tank beneath.

The applicant has stated the building will be used to house cattle. The objector would like clarification if livestock buildings or buildings with slurry must be over 400m from any other residence other than the individual's own. Environmental Health stated in their consultation response dated 22<sup>nd</sup> November 2022 that it is recommended that agricultural sheds used for the housing of cattle and with underground slurry tanks be a minimum of 75m from non-associated residential dwellings to protect them from odour, noise and pests. Environmental Health state the nearest dwelling not on the farm holding is approximately 104m from the proposed shed and therefore have no objections.

Initially, the applicant had not submitted a P1C form but this was subsequently rectified and a P1C form and farm boundary maps were submitted.

A second objection letter was received from Mr and Mrs Hamill of 33a Thornhill Road on the 14<sup>th</sup> September 2022. The following issues have been raised –

The wrong Environmental Health response has been uploaded. Initially on the 13<sup>th</sup> June 2022 EH uploaded a response which stated the land use is storage and parking only which was wrong. Subsequently the correct response has been uploaded.

No response has been received from NIEA. NIEA responded on the 8<sup>th</sup> August 2022 and were content there are no ecological issues at the site but at the time of the 2<sup>nd</sup> objection



letter being submitted Shared Environmental Services had not yet responded.

It is referred to previous comments about the existing tanks and whether they need planning permission. I have already rebutted these issues previously in this assessment and any works an applicant undertakes without planning permission is at his own risk.

It is stated in section 4 that the present use of the land is agricultural lands and buildings. The objector contests this and the application site is Mr Montgomery's domestic home. There are field surroundings the domestic home but there are no agricultural buildings that have been used as a farm holding. In rebuttal when I completed my site visit, I observed a dwelling, double domestic garage and another building which I consider may be agricultural. There were no animals in this building at the time of my site visit.

It is stated Mr Montgomery has not filled in Q3 on the P1C form and provided any relevant information about his active farm business. The objector stated he also has a farm business at 29 Lisnagowan Road and the application site is his domestic home.

The objector has indicated that he intends to house cattle in the shed that are usually housed in Magherafelt. It is queried why this new shed is needed now to accommodate this now after 17 years. Has Mr Montgomery no other suitable buildings on his holdings and why does he need this building. In rebuttal, this is a criterion in CTY 10 and is considered in the policy consideration section of this assessment.

The objector states that in August 2015 that Mr Montgomery established poultry and built a number of chicken sheds across the road from his domestic home. He also has farm land at Lisnagleer Road so why can he not built his proposed sheds beside other farm buildings. Again, this is a consideration in CTY 10 and will be assessed in the policy consideration.

The objector states that herself and her husband are most concerned about the impact this proposed building will have on the access to their home. The objector seeks clarification on the distance livestock buildings and slurry tanks have to be from the curtilage of other dwellings not on the farm holding. As stated previously Environmental Health were consulted and had no objections about the distance as it was over 75m. Any issues that relate to access rights to a private laneway are third party matters and not a material planning consideration.

The objector states that having reviewed CTY 12 in PPS 21 she does not believe the proposal meets all the tests in CTY 12 and seeks clarification on the exceptional circumstances that enable Mr Montgomery to be allowed to build an agricultural building on a domestic site. In rebuttal, this will be considered in the policy consideration section.

### **Planning History**

There is no planning history at the application site.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in

assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations as defined in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

### **Planning Policy Statement 21**

#### **Policy CTY 12 – Agricultural and Forestry Development**

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside PPS21 is the overarching policy for development in the countryside. Policy CTY 12 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore, it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years. DAERA have confirmed that the farm business stated on the P1C has been established for more than 6 years and that it has claimed payments in each of the last 6 years including for the land subject to this application. Therefore, I am satisfied the farm business is both active and established for the required time.

Subsequently it is necessary to assess the proposal against each of the policy tests as follows: -

The applicant has provided a supporting statement to demonstrate why the proposed shed is necessary for the farm businesses efficient use. It is stated the applicant currently uses a building behind his dwelling at No.29 for agricultural purposes as shown in figure 1 below. It is stated this building is used for the housing of cattle, but I consider one building appears to be a domestic garage and the other building does not appear to be used for cattle. The objectors have raised the issue about the necessity of the shed as Mr Montgomery has housed cattle in Magherafelt for the past 17 years so why does he need the shed now.

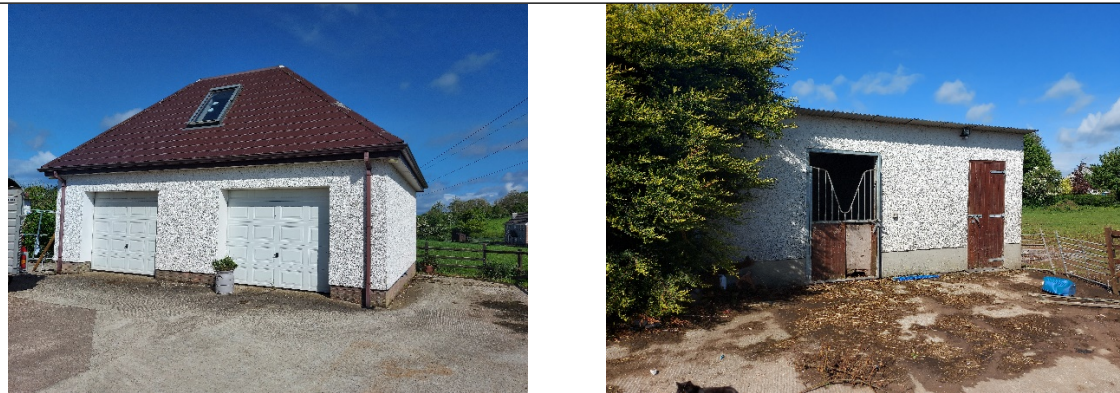


Figure 1 – Buildings within the curtilage of No.29

The applicant states the majority of his cattle are normally located in a shed in Magherafelt and he keeps approximately 48 cattle. It is proposed the new shed at this site will accommodate up to 25 of these cattle and the remainder at the sheds in Magherafelt. The applicant states it is not convenient in the winter months to travel approximately 20 miles between his house at No.29 and the shed in Magherafelt. I accept the argument that the applicant has farm holdings in different locations within Mid Ulster and his domestic home is at No.29 Thornhill Road and he needs to be closer to his animals. Especially as the majority of his cattle are at the farm buildings in Magherafelt and it is difficult to look after livestock in different locations. I agree that the proposed shed is necessary for the efficient use of the agricultural holding.

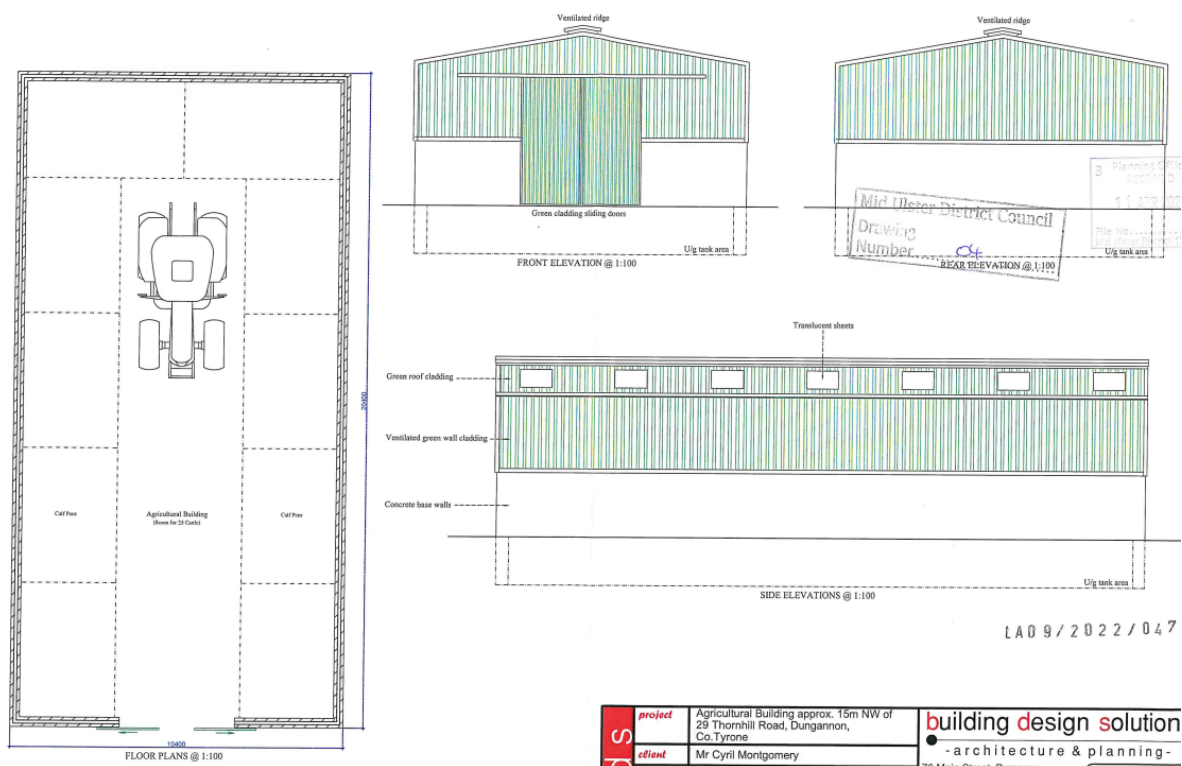


Figure 3 – Image from the proposed elevation and floor plans of the shed

As shown about in figure 3, I am content the proposed shed is characteristic of an agricultural building with green sheeting finishes and blockwork lower floor. In terms of character and scale I am content the building is acceptable in the countryside.

The proposed shed will be situated behind the existing dwelling at No.29 Thornhill Road and I am content it will integrate into the landscape. There will be minimal critical views from the western direction travelling towards the site. There will be critical views of the shed in the east direction due to the long flat portion of the Thornhill Road in this direction but it will sit with existing buildings which will provide a backdrop.

There are no built heritage interests within the immediate vicinity of the site. In terms of natural heritage, the proposal is for an agricultural shed to house cattle and the applicant has shown there will be no increase in numbers of the overall herd. NIEA were consulted and had no concerns about the proposal. But as the shed will house cattle and create the potential for ammonia Shared Environmental Services were consulted who stated the site was within 7.6km of Curran Bog SAC and Ballynahone Bog Ramsar Site. SES in their consultation response asked for land spreading locations associated with the proposal. At the time of writing this information has not been received.

The objectors at No.33 and No.33a had raised concerns about the impact on the proposed shed on their residential amenity. Environmental Health were consulted and responded with no concerns as the nearest dwelling was over 75m from the proposed shed. I am content due to separation distances there will not be unacceptable loss of amenity of noise, smells or pollution.

As this proposal is for a new building the applicant is required to provide evidence why existing buildings on the holding cannot be used. The only evidence provided is that the current herd of 48 cattle are housed in a shed in Magherafelt and it is difficult in the winter months as the applicant lives 20 miles away on Thornhill Road.

I have no concerns about the design of the proposed shed as it is characteristic of an agricultural building and is appropriate to its locality.

In an email dated 16 JAN 2023 the agent was asked were there any other buildings on the farm the shed could be located beside and at the time of writing no response was received. As shown in figure 2 below Mr Montgomery was granted planning approval LA09/2015/0768/F for a poultry shed and this has subsequently been built. Also shown on the farm boundary maps the applicant owns land around these buildings. I consider no justification has been provided why this new shed cannot be located beside these farm buildings.



Figure 2 - LA09/2015/0768/F – poultry shed which is under the control of Cyril Montgomery and land is owned around the shed.

The applicant also has farm sheds at Land Approx 100M NW of 12 Lisnagleer Road and Lisnagowan Road and has provided no justification why another shed cannot be located beside these existing farm buildings.

The last criteria in CTY 12 states that exceptionally consideration will be given to an alternative site away from existing farm or forestry buildings provided there are no other sites available at another group of buildings on the holding. The applicant has provided no evidence that there are no other sites on the farm holding that the proposed shed could cluster with. Also, in these criteria the new building has to be essential for the functioning of the farm holding or there are demonstrable health and safety reasons. The applicant has stated that the new shed is necessary as all the cattle are currently housed in Magherafelt and it is difficult to look after cattle as the applicant lives 20 miles away. I agree the new shed may be necessary for the efficient functioning of the business. No demonstrable health and safety reasons have been provided.

Overall, I do not consider the proposal meets all the criteria in CTY 12.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The proposed shed has a ridge height of 5.3m from finished floor level and a length of 20m. The shed will sit behind the dwelling at No. 29, double garage and another shed. The site has a flat topography and there are limited critical views from the public road. I am content the proposal will not be a prominent feature in the landscape. There is a new

hardcore yard area around the shed and the applicant has proposed to retain existing hedging and natural screenings. Overall, I am content the proposal will integrate into the landscape.

#### **CTY 14 – Rural Character**

I am content an agricultural building in this location will not have a detrimental impact on rural character and it will be sited beside other buildings.

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

##### **AMP 2 – Access to public roads**

The new shed and yard will be accessed from an existing agricultural access onto a private but DFI roads were consulted as I consider there is intensification of the access. Roads responded with no concerns subject to visibility splays of 2.4m x 60m to the west and 2.4m x 80m to the east and 60m forward sight distance. Roads consider the existing entrance to the road is substandard.

#### **Other Considerations**

I completed checks on the statutory map viewers and I am content there are no other issues with the proposal.

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

Refuse is recommended

I recommend the proposal for refusal as it does not meet all the criteria in CTY 1 and CTY 12 in PPS 21.

#### **Refusal Reasons**

##### **Reason 1**

Contrary CTY 1 in PPS 21 in that no overriding reason has been provided why the development cannot be located within a settlement.

##### **Reason 2**

Contrary to CTY 12 - Agricultural and Forestry Development in PPS 21 in that the applicant has provided no evidence that there are no suitable existing buildings on the farm olding that can be used and the proposal is not sited beside existing farm buildings.

**Signature(s):** Gillian Beattie

**Date:** 20 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	11 April 2022
<b>Date First Advertised</b>	3 May 2022
<b>Date Last Advertised</b>	3 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 33A Thornhill Road Lisnagleer Dungannon BT70 3LW	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DAERA - Omagh-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC NIEA-PRT LA09-2022-0476-F.PDF Shared Environmental Services-LA09-2022-0476-F FIR1.pdf Environmental Health Mid Ulster Council-Planning response 2.pdf DFI Roads - Enniskillen Office-DC Checklist 1.docAdvice provided.Roads Consultation.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 Proposed Plans Plan Ref: 04 Site Layout or Block Plan Plan Ref: 03 Site Location Plan Plan Ref: 02	



**Notification to Department (if relevant)**

Not Applicable

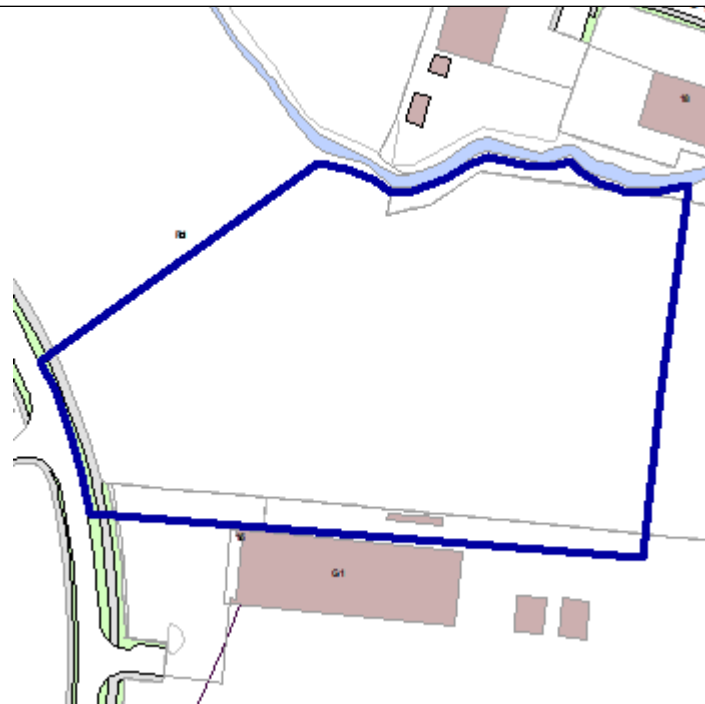


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2022/0612/F	<b>Target Date:</b> 6 July 2022
<b>Proposal:</b> Erection of 32 business/storage units and required car parking and commercial spaces with all associated site works	<b>Location:</b> Kilcronagh Business Park Cookstown BT80 9HJ
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Coleman Construction 14 Brigh Road Stewartstown	<b>Agent Name and Address:</b> Arcen 3A Killycolp Road Cookstown BT80 9AD
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2022-0612-F.pdf
Statutory Consultee	Rivers Agency	704646 - Final Response.pdf
Statutory Consultee	NI Water - Multiple Units West	This planning proposal is not for Multi-Units West. Please consult and resend under Strategic Applications.
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Statutory Consultee	NIEA	PRT LA09-2022-0612-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-0612 F Kilcronagh Business Park Cookstown BT80 9HJ.doc
Non Statutory Consultee	Shared Environmental Services	LA0920220612F_FI_19082 022.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template 2 nov 2022.docx
Statutory Consultee	Rivers Agency	

Statutory Consultee	NIEA	
Non Statutory Consultee	Shared Environmental Services	LA0920220612F_Stage2_0 2022023.pdf
<b>Representations:</b>		
Letters of Support	0	
Letters Non Committal	0	
Letters of Objection	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>  <p>The site is located with Kilcronagh Business Park, located approximately one and a half miles southwest of Cookstown Town Centre. Land northeast of the application site within the industrial park remains undeveloped, however to the south and west development is in place and operational. The application site is within Cookstown settlement limits and zoned for industry/mixed use business (Zoning I1). Kilcronagh Business Park is accessed off the Sandholes Road and an internal estate road network is in place. The application site is currently vacant however there are existing industrial buildings in proximity of the site including TES Group and K-Cabins.</p>		
<b>Description of Proposal</b>  <p>This application seeks full planning permission for the erection of 32 business/storage units and associated car parking, commercial spaces and associated site works within Kilcronagh Business Park, Cookstown.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>  <b><u>Policy Consideration</u></b>  <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p><b>The following documents provide the primary policy context for the determination of this application:</b></p>		

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development
- Planning Policy Statement 15: Flood Risk

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

### **Representations**

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

### **History on Site**

LA09/2021/1712/PAD - Proposed mixed use development comprising of light industrial, small business units with associated car/lorry parking and landscaping – PAD Concluded

LA09/2022/0467/PAN - Mixed use development comprising of light industrial, small business units with associated car/lorry parking & landscaping – PAN Accepted

LA09/2018/1371/NMC - Reduction in verge width from 3m to 1m adjacent to main carriageway on one side – Consent Granted 24/10/18

I/2004/1190/F - New access (service road) and earthworks and land levelling to facilitate the development of industrial land (amended plans) – Permission Granted 27/06/05

LA09/2021/0190/F - Proposed fabrication and manufacturing of steel and timber portable buildings and all associated site works – Permission Granted 11/11/21

LA09/2016/1250/F - The proposal includes the provision of offices, warehousing/distribution and facilities for the storage, maintenance and repair of hire portacabins and other plant and equipment – Permission Granted 07/02/17

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2010 – The site is located within Kilcronagh Business Park on land zoned for industry/mixed use business within the development limits of Cookstown. The proposal is a mixed-use scheme incorporating 14 Class B1 Office Units; 6 Class B2 Light Industrial Uses; and 12 Class B4 Storage Units. Plan Policy IND 1 Industry and Mixed Business Use states planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses where the development

meets the key site requirements. The introduction of inappropriate non-conforming uses will not normally be permitted. The uses proposed are considered to be appropriate to the site and compliant with Plan Policy IND1. The key site requirements for Zoning I1 Land west of Sandholes Road, adjacent to Derryloran Industrial Estate are as follows –

- adequate sewerage should be provided. This may include pumping of foul sewage to the gravity sewer on the Sandholes Road or alternatively, a link to the sewer serving the Derryloran Industrial Estate;
- an extension to the main water supply of 320 metres is required to serve the site;
- extensive landscaping and buffer planting of indigenous trees and shrubs should be provided to the road frontages and the western and northern site boundaries;
- a cycle way should be provided to link with an existing scheme on Sandholes Road; and a pedestrian/cycle link with Derryloran Industrial Estate should be provided.

NI Water have been consulted and have responded with a recommendation to approve therefore I have no concerns with respect the first two key site requirements. Drawing 02 Rev 3 details landscaping to the industrial estate road frontage western boundary and the northern site boundary which is considered satisfactory. The proposed access has an internal footpath into the development which will allow both cycle and pedestrian linkages with the industrial estate and Sandholes Road. Overall, it is considered the key site requirements have been met and the proposal satisfies Policy IND1.

The Strategic Planning Policy Statement for Northern Ireland encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

PPS4 – In accordance with the criteria of Policy PED 1, (Economic development in Settlement), of PPS 4, the site is located within an area of existing industry and the settlement development limit of Cookstown as defined within the Cookstown Area Plan 2010. It is considered the proposed development is of a scale, nature and form appropriate to the location and respects the opportunities and constraints of the site and the surroundings. The proposal is sited within an existing business park with similar uses in proximity therefore I do not consider there will be a significant visual impact or change in character of the area. The proposal comprises 32 units with a mix of storage, office and light industrial uses. The 6 light industrial units have a floor space of approx. 68m<sup>2</sup> and all but one of the storage and office units have a floor space of 170m<sup>2</sup> with one larger proposed office unit with a floor space of 673m<sup>2</sup>. The proposed finishes include blue/grey cladding and grey doors and windows. The proposed design and finishes are considered in keeping with the existing built form and acceptable in this instance.

Policy PED9: General Criteria for all Economic Development is the relevant policy to this proposal and lists 13 criteria proposals should meet;

*a) It is compatible with surrounding land uses.*

The proposal is for 32 business units located within Kilcronagh Business Park, an area zoned for industry and mixed use business with existing and operational office, storage and industrial uses surrounding the site. The proposal is considered compatible with surrounding land uses.

*b) It does not harm the amenities of nearby residents.*

There are no residential dwellings in close proximity to the application site. I do not consider the proposed development will significantly impact residential amenity by way of unacceptable noise, nuisances or odours.

*c) It does not adversely affect features of natural or built heritage.*

No features of built heritage have been identified which would be adversely affected by the proposed development. It is noted that the application site is in close proximity to national, European and international designated sites: Lough Neagh and Lough Beg SPA; Upper Ballinderry River SAC; Lough Neagh ASSI; Ballysudden ASSI and Upper Ballinderry River ASSI. NIEA (NED) and Shared Environmental Services have considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, have no objections subject to conditions which will be attached to any forthcoming approval.

*d) It is not located in an area of flood risk and will not cause or exacerbate flooding*

A small portion of the north of the site is within the 1 in 100 year fluvial flood plain. The 1 in 100 year flood level at this location is approximately 52.63mOD. DFI Rivers have been consulted and have responded advising the site layout plan shows the proposed development location is on elevated ground and out of the floodplain with a suitable freeboard. However, they have noted the Flood Hazard Map (NI) shows the predicted 1 in 100 year climate change flood level to be 52.81mOD. Therefore, in order to future proof the site from climate change a note has been included on Drawing 02 Rev 3 to include an additional freeboard of 200mm. DFI Rivers have recommended a condition attached to any forthcoming planning approval to ensure that the area of floodplain, if designated as open space by Planning Service under FLD 1(f) of Revised Planning Policy Statement 15, should not be raised or the flood storage capacity and flood conveyance route reduced by unsuitable planting or obstructions. The site is bound to the north by the 'Fairy Burn' watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973. DFI Rivers have requested the retention of a suitable working strip protected from impediments, land raising or any future development. It is considered this can be secured by a planning condition to any forthcoming approval. The applicant submitted a Drainage Assessment with this application and following consultation with Rivers Agency, no concern has been raised about drainage subject to a condition.

*e) It does not create a noise nuisance*

The proposal is within an existing, established industrial area. The proposed uses are light industrial, office and storage use. Environmental Health have been consulted and have raised no concerns subject to a condition limiting the uses to that proposed. There are no residential properties located in close proximity to the site therefore no concerns have been identified in this regard.

*f) It is capable of dealing satisfactorily with any emission or effluent*

Foul sewage will be disposed via mains and surface water via an existing storm system. The proposal does not make reference to the production of any emissions or effluent.

*g) The existing road network can safely handle any extra traffic.*

The proposal is for 32 units with an expected 123 visitors to the site each day. DFI Roads have been consulted and have raised no objections or concerns regarding access, parking and manoeuvring of vehicles within the site or when entering and exiting the site therefore I am content with the road safety aspect of this proposal. The parking provision is considered acceptable.

*h) A movement pattern is provided that supports walking and cycling, and meets the needs of people whose mobility is impaired.*

The site is located within the settlement limits of Cookstown. The site can be accessed via existing footpaths with the provision of internal footpaths within the site which supports walking and cycling. It is considered there is adequate space and parking within the site to meet the needs of people whose mobility is impaired.

*i) The site layout, building design, associated infrastructure and landscaping arrangements are of a high quality and assist the promotion of sustainability and biodiversity.*

I have no concern with the site layout or design of the proposed building given the location and type of use.

*j) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view*

The proposal includes adequate landscaping and vegetation and no areas of outside storage have been proposed.

*k) Is designed to deter crime and promote personal safety.*

The proposal is located within an existing business park. It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety.

### **Recommendation**

The proposal is in accordance with guidance contained within the Area Plan and prevailing planning policy. It is my view that the scale, nature and form of the proposal is appropriate to the location therefore, I recommend approval.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**



**Condition 1**

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

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

**Condition 2**

During the first available planting season after the commencement of development on site, all trees and hedges indicated in drawing No 02 Rev 3, shall be planted as shown and be permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity and to ensure the development integrates into the countryside.

**Condition 3**

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

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

**Condition 4**

No 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 Drawing 02 Rev 3 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

**Condition 5**

The area of floodplain, as identified on Flood Hazard Map (NI), along the northern portion of the site should not be raised or the flood storage capacity and flood conveyance route reduced by unsuitable planting or obstructions.

Reason: To reduce flood risk.

**Condition 6**

No development hereby permitted shall take place until a working maintenance strip of minimum 5m is provided and permanently retained along the northern boundary of the site to be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or any future development. Access to and from the maintenance strip shall be available at all times.

Reason: To ensure access is available to the watercourse for maintenance purposes.

**Condition 7**

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event.

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

**Condition 8**

No development activity, including vegetation clearance, infilling, disturbance by machinery, dumping or storage of materials, shall take place within 10 metres of the Fairy Burn, present along the northern boundary of the site.

Reason: To protect the biodiversity value of the Fairy Burn and minimise the potential significance of impacts to a NI Priority Habitat.

**Condition 9**

No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

**Condition 10**

An oil interceptor must be installed to any proposed site drainage layout and through which all storm water must pass prior to discharge to the adjacent watercourse.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

**Condition 11**

The proposed units hereby approved shall be used only for the use detailed on Drawing 02 Rev 3, and for no other purpose specified in the Schedule to the Planning (Use Classes) Order (NI) 2015.

Reason: To prohibit a change to an unacceptable use.

**Signature(s):** Grace Heron

**Date:** 22 February 2023



ANNEX	
Date Valid	11 May 2022
Date First Advertised	24 May 2022
Date Last Advertised	24 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier She Said Club 28 Cookstown Enterprise Centre BT80 9LU The Owner / Occupier Excel Plumbing Products Ltd Kilcronagh Business Park Kilcronagh Rd, Cookstown BT80 9HG The Owner / Occupier TES Group Unit D1 Kilcronagh Business Park Cookstown Tyrone BT80 9HJ  The Owner / Occupier R&M Greenkeepers Kilcronagh Business Park Cookstown Tyrone BT80 9HJ The Owner / Occupier RM Services Unit C2 Kilcronagh Business Park Cookstown Tyrone BT80 9HJ The Owner / Occupier K Cabin Unit G1 Kilcronagh Business Park Cookstown Tyrone BT80 9HJ The Owner / Occupier 15 Sandholes Road Cookstown Tyrone BT80 9AR The Owner / Occupier Motorola Ltd Derryloran Industrial Estate Cookstown BT80 9LU The Owner / Occupier Enisca Derryloran Industrial Estate Cookstown BT80 9LU The Owner / Occupier Profitec Solutions Ltd Derryloran Industrial Estate Cookstown BT80 9LU	
Date of Last Neighbour Notification	14 September 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>	

**Summary of Consultee Responses**

NI Water - Strategic Applications-LA09-2022-0612-F.pdf  
Rivers Agency-704646 - Final Response.pdf  
NI Water - Multiple Units West-This planning proposal is not for Multi-Units West. Please consult and resend under Strategic Applications.  
DFI Roads - Enniskillen Office-Response Template.docx  
NIEA-PRT LA09-2022-0612-F.PDF  
Environmental Health Mid Ulster Council-LA09-22-0612 F Kilcronagh Business Park Cookstown BT80 9HJ.doc  
Shared Environmental Services-LA0920220612F\_FI\_19082022.pdf  
DFI Roads - Enniskillen Office-Response Template 2 nov 2022.docx  
Rivers Agency-  
NIEA-  
Shared Environmental Services-LA0920220612F\_Stage2\_02022023.pdf

**Drawing Numbers and Title**

Site Layout or Block Plan  
Site Layout or Block Plan Plan Ref: 02Rev2  
Site Layout or Block Plan Plan Ref: P02D

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2022/0654/O	<b>Target Date:</b> 5 September 2022
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> Lands 40 Metres South West Of 50 Battery Road Coagh
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Joanne Devlin 5 Ballinderry Bridge Drive Ballinderry Coagh	<b>Agent Name and Address:</b> CMI PLanners LTD 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	DAERA - Omagh	See uploaded document LA09-2022-0654-O.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0654-O.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to Policy CTY 1, CTY 10 & CTY 13 of Planning Policy Statement 21. The proposed site does not visually link with or cluster with an established group of buildings on the farm.

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

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The red line of the application site is a front portion of a larger agricultural field which extends north. All sides of the site are bound by mature hedges and trees apart from the northern boundary which is currently undefined with approximately 18m of this boundary defined by the dwelling identified as 50 Battery Road. The surrounding area is a mix of land uses with agricultural lands surrounding and single dwellings located sporadically throughout.

### **Representations**

No third-party representations have been received.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling and garage on a farm.

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

#### **Policy Consideration**

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development 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 into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations



including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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 and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

The applicant provided a farm business ID but DAERA have confirmed this was only allocated in January 2022, as such this is not enough to satisfy the criteria. DAERA did comment on the consultation response that the site is located on land claimed by another farm business and when this was queried with the agent a lease agreement between the applicant and a third party was provided in which a tenant rents the land from the applicant for farming purposes. The date of the lease agreement is from May 2016 until May 2026. Following internal group discussions it was agreed this was acceptable evidence to show the farm has been active and established for more than 6 years and meets criteria A.

Following a search on the planning system I am content that 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.

With regards criteria C which states that the new building is visually linked or sited to cluster with an established group of buildings on the farm. From the farm maps and the information provided from the agent and applicant, there is not an established group of buildings on the farm, rather one single dwelling directly north and adjacent to the site. Since the application was submitted a shed was erected to the north of the dwelling, outside the domestic curtilage (shown below) which would appear unlawful in that it does not meet permitted development rights or have any planning permission for, so cannot be considered as part of an established group of buildings.



Therefore, as the policy relates to an established group of buildings on the farm, a new dwelling will not cluster or visually link as there is not an established group of buildings on the farm to do so. As such, the proposal fails to meet criteria C.

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. As this is an outline application, no design details have been provided however, I am content the site could take a single storey dwelling limited to a ridge height of 6m above finished floor level. Planting should be retained on the existing boundaries which would ensure a dwelling would not be a prominent feature in the landscape and would integrate into the landscape. However, criteria (g) of CTY 13 requires it to visually link with or be sited to cluster with an established group of buildings on the farm and for this reason it fails to comply with CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. I am content a dwelling at this location would not result in a detrimental change to or erode the rural character of the area.

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

The proposal is to create a new access. DfI Roads advised that they have no objection to the proposed development subject to conditions.

#### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

<b>Summary of Recommendation:</b>
Refuse is recommended
<b>Refusal Reasons</b>  Reason 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  Reason 2 The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.
<b>Signature(s):</b> Ciaran Devlin  <b>Date:</b> 21 February 2023

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Ciaran Devlin

**Date:** 21 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 May 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 43 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 44 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 45 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 50 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 52 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 54 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 58 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 51 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 60 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 62 Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 52A Battery Road Cookstown Tyrone BT80 0HH The Owner / Occupier 54A Battery Road Cookstown Tyrone BT80 0HH	
<b>Date of Last Neighbour Notification</b>	29 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/2006/0246/F Type: F Status: PG	

Ref: I/1991/0139

Type: F

Status: PCO

Ref: I/1992/0274

Type: O

Status: PCO

Ref: I/1993/0022

Type: F

Status: PCO

Ref: LA09/2022/0654/O

Type: O

Status: PCO

Ref: LA09/2019/0137/O

Type: O

Status: PG

Ref: I/2000/0753/O

Type: O

Status: PG

Ref: I/2001/0490/RM

Type: RM

Status: PG

Ref: I/1988/0434

Type: F

Status: PCO

Ref: I/2005/0088

Type: O

Status: APPRET

Ref: I/2006/0726/RM

Type: RM

Status: PG

Ref: I/1988/0164

Type: H13

Status: PG

Ref: I/1992/0139

Type: F  
Status: PCO

Ref: LA09/2020/0261/RM  
Type: RM  
Status: PG

Ref: I/2003/0753/F  
Type: F  
Status: APPRET

Ref: I/2005/0695/O  
Type: O  
Status: PG

Ref: I/1995/0108  
Type: O  
Status: PCO

Ref: I/1978/035301  
Type: H13  
Status: PG

Ref: I/1978/0353  
Type: H13  
Status: PG

Ref: I/2010/0360/F  
Type: F  
Status: PG

Ref: I/2000/0229/F  
Type: F  
Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-  
DAERA - Omagh-See uploaded documentLA09-2022-0654-O.docx  
NI Water - Single Units West-LA09-2022-0654-O.pdf  
DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads  
outline.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Farm Boundary Map

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2022/0670/F	<b>Target Date:</b> 7 September 2022
<b>Proposal:</b> Proposed dwelling and garage on a farm	<b>Location:</b> 151M N Of 36 Keady Road Swatragh BT46 5SA
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Declan McNicholl 23 Glen Gardens, Maghera, BT46 5GN	<b>Agent Name and Address:</b> OJQ Architecture The Gadda Building 89 Main Street Garvagh, Coleraine, BT51 5AB
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-0670-F.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Full & RM Resp.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to Policy CTY 1, CTY 10 & CTY 13 of Planning Policy Statement 21. The proposed site does not visually link with or cluster with an established group of buildings on the farm.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site includes the roadside portion of a larger agricultural field which extends further south east. The site rises in a south eastern direction from the road and then levels out. The site is bound on three sides with existing trees and hedges with the south eastern boundary currently undefined. There is an existing, single agricultural shed located adjacent to the site accessed via an existing farm gate and rough laneway that runs along the northern boundary. The surrounding area is mainly agricultural land with single dwellings located throughout.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is a full planning application for a proposed dwelling and garage on a farm.

### **Site History**

LA09/2020/1260/F- Erection of proposed agricultural buildings. 193M North Of 36 Keady Road, Swatragh. Permission Granted 23rd March 2021.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development 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 into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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:

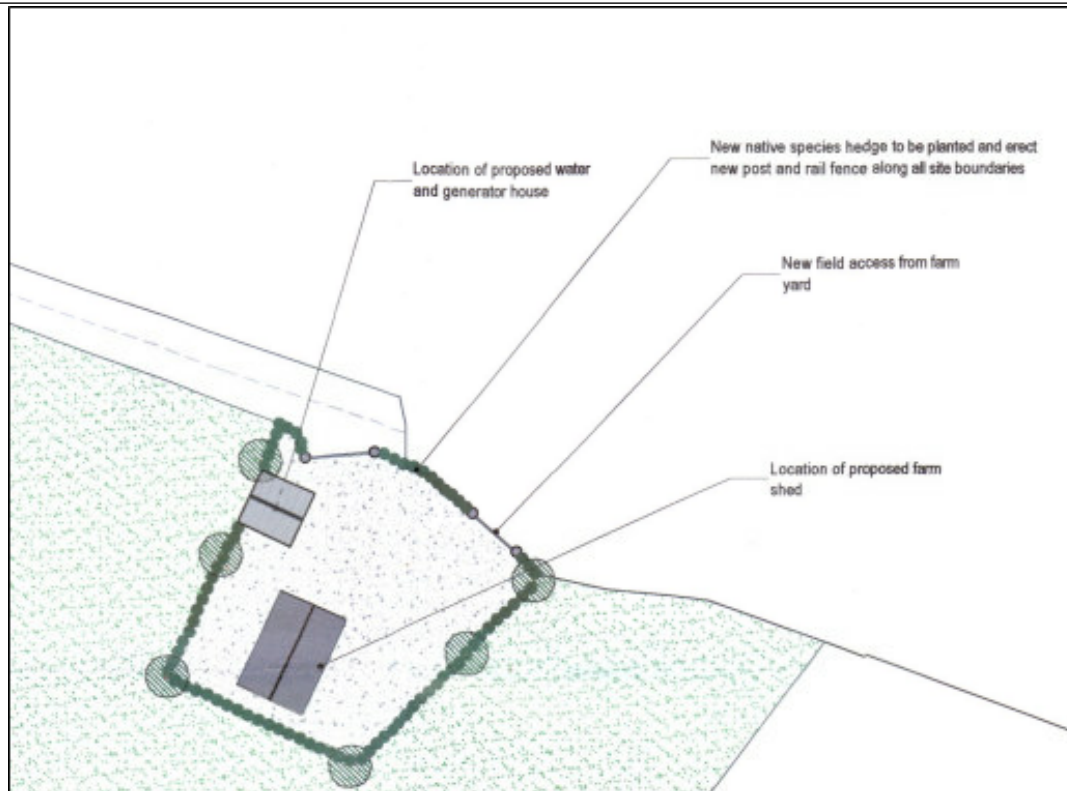
(a) the farm business is currently active and has been established for at least 6 years;  
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and  
(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

The applicant is using a third party farmers business ID and the P1c form has been signed by both the applicant and owner of the farm business. DAERA were consulted and confirmed the farm business has been active and established for more than 6 years, therefore I am content that criteria A has been met.

Following a search on the planning system I am content that 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.

With regards criteria C which states that the new building is visually linked or sited to cluster with an established group of buildings on the farm. On the initial site inspection there was no farm building erected on or adjacent to the site as identified by the agent however, the agent then advised the shed was in place as per the approval of LA09/2020/1260/F. Below is a snippet from the approved drawing which shows two buildings were approved. However, at the latest site visit only one building was in place, the approved water and generator house had not been erected.



From this, there is only one farm building and not an established group of buildings on the farm at this location where a dwelling would visually link or cluster with and as such, the proposal fails to fully comply with this policy criteria C. I am content however that the access is taken off the existing laneway approved under application LA09/2020/1260/F.

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. I am content that the proposed dwelling is of high quality design and although the site is elevated above the road level the ridge height of 7m from finished floor level and the retention of existing roadside boundaries would ensure it is not a prominent feature in the landscape. I am content that ancillary works integrate into the landscape and the dwelling will blend with the landform and slopes. However, criteria (g) of CTY 13 requires it to visually link with or be sited to cluster with an established group of buildings on the farm and for this reason it fails to comply with CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content a dwelling at this location would not result in a detrimental change to or erode the rural character of the area or be a prominent feature in the landscape.

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

The proposal is to create a new access. DfI Roads advised that they have no objection to the proposed development subject to conditions.

#### **Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Ciaran Devlin

**Date:** 21 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	25 May 2022
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2020/1260/F Type: F Status: PG  Ref: LA09/2017/0306/RM Type: RM Status: PG  Ref: LA09/2016/1169/O Type: O Status: PG  Ref: LA09/2022/0670/F Type: F Status: PCO	
<b>Summary of Consultee Responses</b>  DAERA - Coleraine-Consultee Response - LA09-2022-0670-F.DOCX DFI Roads - Enniskillen Office-Full & RM Resp.docx	

**Drawing Numbers and Title**

Garage Plans            Plan Ref: 04  
Site Location Plan   Plan Ref: 01  
Site Layout or Block Plan   Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03

**Notification to Department (if relevant)**

Not Applicable



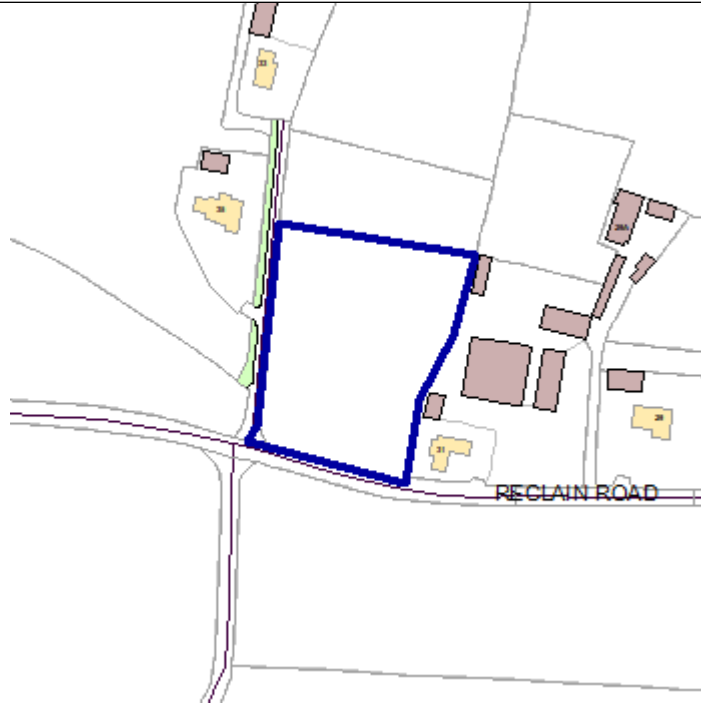
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2022/0681/O	<b>Target Date:</b> 9 September 2022
<b>Proposal:</b> Proposed Dwelling on infill site in compliance with CTY 8	<b>Location:</b> Lands Situated Between House Numbers 31 And 35 Reclain Road, Galbally, Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Plunkett McCrory 33 Reclain Road Galbally Dungannon BT70 3BR	<b>Agent Name and Address:</b> McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b>  The proposal does not meet the case for CTY 8 as No.35 Reclain Road to the west of the site does not have a frontage to the public road. The garden area to No.35 is set back from the road by an agricultural field.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	LA09-2022-0681-O - 35 Reclain Road Dungannon - Response.docx LA09-2022-0681-O - 35 Reclain Road Dungannon - RS1 Form.doc

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area from the construction of single dwellings. To the east of the site is a single storey dwelling and behind this is a small converted dwelling and several sheds. The application site is an agricultural field and the adjacent Reclain Road rises up steeply from east to west. There is established hedging along all boundaries of the site.

### **Description of Proposal**

This is an outline application for Proposed Dwelling on infill site in compliance with CTY 8 at Lands Situated Between House Numbers 31 And 35 Reclain Road, Galbally, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

There are no planning histories at the application site.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination,

In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations.

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. As this proposal is for an infill dwelling CTY 8 is the relevant policy in the assessment.

### **CTY 8 – Infill Dwellings**

The site is an agricultural field with a roadside frontage onto Reclain Road. To the east of the site is a dwelling at No. 31 and there is a garden area that fronts onto Reclain Road. Behind No.31 is a smaller dwelling at No.29B and associated sheds and yard area. I am content No.31 and No.29B have a frontage to the road. To the west of the site is a laneway to dwellings at No.33 and No.35. No.35 as shown in figure 1 does not have a garden area which is a direct frontage to the public road, instead there is an agricultural field. I consider there is not a substantial frontage of three or more buildings along the public road and consequently this proposal would add to a ribbon of development.



Figure 1 – Image from the site visit showing No. 35



Figure 2 – Image from Spatial NI showing site and surrounding area.

The application site has a frontage of 64m, No. 31 has a frontage of 29m and No. 29B

has a frontage of 38m. No. 29 has a frontage of 44m and No.35 has no frontage to the road. The proposal is for only one dwelling at the site and I am reasonably content the proposed site has a frontage which is in character with the surrounding frontages and is capable of accommodating not more than two dwellings. The plot size is larger than adjacent plot but the curtilage is a consideration that could be conditioned.

No.35 is a two storey dwelling but the other dwellings to the east of the site are all single storey. The site is elevated, and the land rises up along the public road. The design of the dwelling can be considered at the reserved matters stage but as the site is elevated there will be critical views in both directions.

Overall, I consider the proposal not does meet the criteria in CTY 8 and No. 35 to the west does not have a garden area or yard with a frontage to the road.

In terms of CTY2a there is no case for a cluster dwelling at this site as there is no focal point or crossroads.

In terms of CTY3 there is no case for a replacement dwelling.

In terms of CTY10, I emailed the agent on the 29<sup>th</sup> September 2022 to state that we considered the proposal did not meet the case for an infill dwelling and was there a farming case. The agent responded on the 22<sup>nd</sup> November 2022 stating they considered there was an infill case as No.35 extended to the main road with a timber post and wire fence and they wanted the case to be considered as an infill dwelling. At the time of writing no further information has been received for a farming case.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The topography at the site is elevated in comparison with the road level and is at higher ground level than surrounding plots to the east. The road level rises up from east to west. I consider there is the potential for the proposed dwelling to be prominent at the site depending on the ridge height. There are established boundaries on all four sides at the site but if one dwelling was placed at the site I would recommend a curtilage restriction. Overall, I consider a suitably sized dwelling would integrate at the site and it would sit beside a row of existing dwellings to the east in critical views.

### **CTY 14 – Rural Character**

As there is no frontage at the dwelling at No.35 I consider the proposal will add to a ribbon of development which is detrimental to rural character.

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

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

The site does not access onto a protected route so I have no concerns.

The applicant has proposed a new access onto Reclain Road so DFI Roads were consulted as the statutory authority. Roads have no concerns subject to visibility splays of 2.4m x 70m to the west and 2.4m x 70m to the east.

### **Other Considerations**

I completed checks on the statutory map viewers and I am satisfied there are no other ecological, historical or flooding issues at the site.

### **Summary of Recommendation:**

Refuse is recommended

Refusal is recommended as the proposal does not meet all the criteria in CTY 8 and CTY 14 in PPS 21.

### **Refusal Reasons**

#### **Reason 1**

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement.

#### **Reason 2**

Contrary to CTY 8 - Ribbon Development in PPS 21 Sustainable Development in the Countryside in that the development if permitted would add to a ribbon of development.

#### **Reason 3**

Contrary to CTY 14 - Rural Character in PPS 21 Sustainable Development in the Countryside in that the development if permitted would add to a ribbon of development which is detrimental to rural character.

**Signature(s):** Gillian Beattie

**Date:** 8 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	27 May 2022
<b>Date First Advertised</b>	30 June 2022
<b>Date Last Advertised</b>	30 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 31 Reclain Road Dungannon Tyrone BT70 3BR The Owner / Occupier 33 Reclain Road Dungannon Tyrone BT70 3BR The Owner / Occupier 35 Reclain Road Dungannon Tyrone BT70 3BR The Owner / Occupier 29B Reclain Road Dungannon Tyrone BT70 3BR	
<b>Date of Last Neighbour Notification</b>	16 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1996/0561 Type: F Status: PCO  Ref: M/1981/0054 Type: H13 Status: PG  Ref: M/1991/0617 Type: F Status: PCO  Ref: LA09/2017/0861/F Type: F Status: PG  Ref: LA09/2022/0681/O Type: O	

Status: PCO

Ref: M/1976/0240

Type: H13

Status: PG

Ref: M/2006/0467/O

Type: O

Status: PR

Ref: LA09/2017/1350/O

Type: O

Status: APPRET

Ref: M/2009/0644/F

Type: F

Status: PG

Ref: M/2011/0495/F

Type: F

Status: PG

Ref: M/2013/0337/O

Type: O

Status: PR

Ref: M/1981/0362

Type: H13

Status: PG

Ref: M/1982/0394

Type: H13

Status: PG

Ref: M/1979/020501

Type: H13

Status: PG

Ref: M/1979/0205

Type: H13

Status: PG

Ref: M/1977/0257

Type: H13

Status: PG



Ref: M/1977/0638

Type: H13

Status: PG

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-LA09-2022-0681-O - 35 Reclaim Road Dungannon - Response.docx  
LA09-2022-0681-O - 35 Reclaim Road Dungannon - RS1 Form.doc

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2022/0687/O	<b>Target Date:</b> 9 September 2022
<b>Proposal:</b> Proposed dwelling on a farm	<b>Location:</b> Adjacent To 28 Syerla Road Dungannon BT71 7EP
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Andrew Haydock 28 Syerla Road, Dungannon, BT71 7EP	<b>Agent Name and Address:</b> Prestige Homes 1 Lismore Road, Ballygawley
<b>Executive Summary:</b>  There has been a sell off from the farm holding within the past 10 years from the date of the previous 2013 approval which was for a dwelling on a farm. The sell off was the transfer of the 2013 approval from the applicant's dad to the applicant's brother within the same farm holding.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	LA09-2022-0687-O - 28 Syerla Road Dungannon - RS1 Form.doc LA09-2022-0687-O - 28 Syerla Road Dungannon - Response.docx
Non Statutory Consultee	DAERA - Omagh	See uploaded document LA09-2022-687-O.DOCX

### Representations:

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

### Summary of Issues

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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area from the construction of single dwellings. To the north and adjacent is a two storey dwelling at No.26 and to the east is No.28 which is the main group of farm buildings. The site is a cut-out of a larger agricultural field and is between 26 and 28 Sylera Road. The site has a flat topography and there is established hedging on three boundaries.

## **Description of Proposal**

This is an outline application for proposed dwelling on a farm at land adjacent To 28 Syerla Road, Dungannon.

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

### **Policy Consideration**

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

### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, no third-party objections have been received. No.26 is shown on Spatial NI as the address to the north and as shown in figure 1 No.26 and No.28 is on the laneway. The neighbour letter to No.26 was returned as no such address but I consider this is the correct address. Land Registry checks stated the property as No.26.



Figure 1 – Image of address on laneway

### **Planning History**

M/2013/0200/O - Proposed additional dwelling on established farm under policy CTY10 of PPS21 - Lands At 28 Syerla Road, Dungannon – permission granted 31<sup>st</sup> July 2013

M/2013/0547/RM - Proposed dwelling and associated site works - Lands At 28 Syerla Road, Dungannon – permission granted 5<sup>th</sup> February 2014

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

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

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations as defined in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS

1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes farm dwelling opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA confirmed the farm business ID as stated on the P1C form has been in existence for over 6 years and the applicant is a category 1 farmer and the farmer has claimed farm subsidies for the past 6 years. I am content the farm business is currently active and established for the past six years.

The applicant submitted 2022 DAERA farm boundary maps and I completed checks on the land and farm business number. M/2013/0200/O was granted for a dwelling on a farm for the site to the north of the application site and this was granted on the 31<sup>st</sup> July 2013. The applicant for the 2013 approval was Mr William E Haydock who lives at No.28 Syerla Road which is the main group of farm buildings. The land in M/2013/0200/O was registered to Mr William James Haydock in land registry documents who is the applicant’s father and stated on the P1C form as the owner of the active farm business. He transferred the site to Mr William E Haydock and Ms Lovett on the 6<sup>th</sup> March 2015. Then on the 20<sup>th</sup> April 2016 the site passed solely to Mr William E Haydock who is the applicant’s brother.

This new application for a dwelling on a farm has been submitted within 10 years from the 31<sup>st</sup> July 2013 which is the approval date for the last CTY 10 approval on this farm holding. This current application was submitted on the 27<sup>th</sup> May 2022. I emailed DAERA on the 9<sup>th</sup> February 2023 who confirmed the sole name on the active farm business number provided is Mr William James Haydock which is the applicant’s dad. The agent stated in an email dated 14<sup>th</sup> November 2022 that both sons do work on the farm but as they are not registered on the farm business this is a sell-off within a farm holding. Paragraph 5.40 of CTY 10 also states that sold off includes the disposal of sites to any other person including a member of a family. The transfer of the site at M/2013/0200/O was transferred from Mr William James Haydock to Mr William E Haydock in 2015 so there has been a sell off within the past 10 years and the current proposal fails this criteria.

The applicant is Mr Andrew Haydock who lives at No.28 Syerla Road which comprises a

two storey dwelling and a number of agricultural buildings. I am content there is an established group of buildings on the farm as the same buildings were used in the 2013 approval. The proposed dwelling will sit in a portion of land south of No.26 and adjacent to No.28 so I am content the proposal will cluster with an established group of buildings on the farm. The proposal will use an existing laneway which is in accordance with the policy.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The application site is the northern portion of a larger agricultural field with a frontage to the Sylera Road. The topography at the site is relatively flat and the proposed dwelling will sit beside existing dwellings and other farm buildings which will create a sense of enclosure and aid integration. There are already three established boundaries at the site so I have no concerns about integration. I am of the opinion either a single or two storey dwelling would fit at the site.

### **CTY 14 – Rural Character**

As stated earlier in the assessment, I am content the proposal will not be unduly prominent in the landscape as it has established boundary treatment and will sit with other buildings in critical views. I consider a dwelling in this location will not be detrimental to rural character.

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

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

The site does not access onto a protected route so I have no concerns about this criteria.

DFI roads were consulted as the statutory authority and had no concerns subject to visibility splays of 2.4m x 65m to the north and 2.4m x 80m to the south. The applicant is under control of land in both directions so I have no concerns.

### **Other Considerations**

I have checked the statutory map viewers and there are no ecological, built heritage, flooding or residential amenity concerns.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it fails to meet criteria b in CTY 10 – dwelling on a farm as a development opportunity has been sold off from the farm holding within the past 10 years.

## Refusal Reasons

### Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement.

### Reason 2

Contrary to CTY 10 - Dwelling on a Farm in PPS 21 Sustainable Development in the Countryside in that there has been a sell-off from the farm holding to a member of the family within the past 10 years.

**Signature(s):** Gillian Beattie

**Date:** 10 February 2023



<b>ANNEX</b>	
<b>Date Valid</b>	27 May 2022
<b>Date First Advertised</b>	30 June 2022
<b>Date Last Advertised</b>	30 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 26 Syerla Road Dungannon Tyrone BT71 7EP	
<b>Date of Last Neighbour Notification</b>	4 July 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1978/0705 Proposals: IMPROVEMENTS TO EXISTING DWELLING HOUSE Decision: PG Decision Date:  Ref: M/1979/0339 Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING Decision: PG Decision Date:  Ref: M/2013/0547/RM Proposals: Proposed dwelling and associated site works Decision: PG Decision Date: 05-FEB-14  Ref: LA09/2022/0687/O Proposals: Proposed dwelling on a farm Decision: Decision Date:  Ref: M/2013/0200/O Proposals: Proposed additional dwelling on established farm under policy CTY10 of	

PPS21

Decision: PG

Decision Date: 02-AUG-13

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-LA09-2022-0687-O - 28 Syerla Road Dungannon - RS1  
Form.docLA09-2022-0687-O - 28 Syerla Road Dungannon - Response.docx  
DAERA - Omagh-See uploaded documentLA09-2022-687-O.DOCX

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

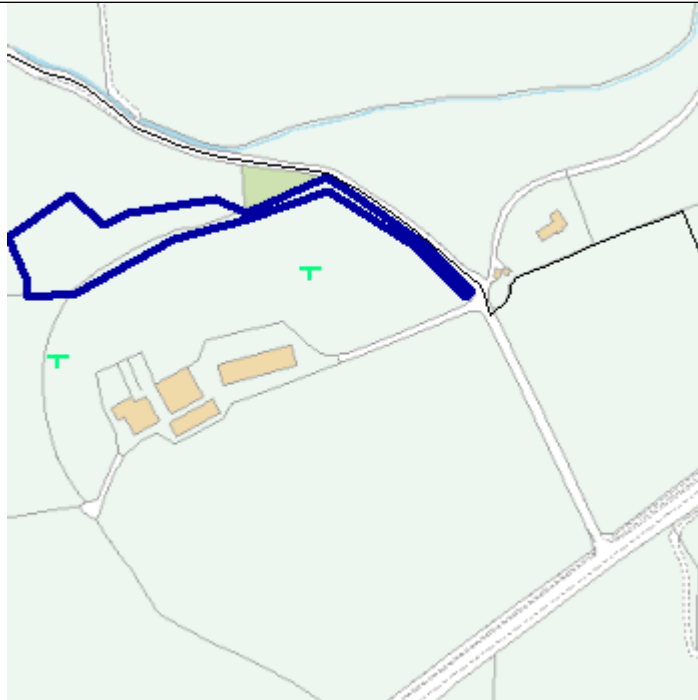


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2022/0689/O	<b>Target Date:</b> 12 September 2022
<b>Proposal:</b> Dwelling on a farm in accordance with PPS 21 Policy CTY10	<b>Location:</b> Proposed Site 350M West Of No.5 Corick Road Clogher BT77 0BY
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Edwin Boyd Killyfaddy Manor 209 Aghadfad Road Clogher BT76 0XR	<b>Agent Name and Address:</b> Jim Ireland Architects LTD 18 Moss Road Banbridge BT3 3NZ
<b>Executive Summary:</b>  The proposal in it's current siting does not cluster or visually link with the established group of farm buildings on the farm to the south. The agent was asked was there other groups of buildings on the farm which may cluster with and to date no information has been received. There are no health and safety reasons or verifiable plans to expand at the group of buildings to demonstrate why the proposal cannot be sited closer to the group of farm buildings.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	LA09-2022-0689-O - 16 Corick Road Augher - Response.docx LA09-2022-0689-O - 16 Corick Road Augher - RS1 Form.doc
Non Statutory Consultee	DAERA - Omagh	LA09-2022-0689-O.DOCX See uploaded document
Statutory Consultee	Historic Environment Division (HED)	HED is unable to provide comment at this time as the correct map has not been provided via the planning portal workqueue. To enable HED to make an appropriate response under the relevant planning legislation, please resubmit this consultation with associated map, drawings

		and documents.
<b>Representations:</b>		
Letters of Support	0	
Letters Non Committal	0	
Letters of Objection	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, dwellings on single plots and groups of farm buildings. There is minimal development pressure from the construction of single dwellings within the immediate area. To the south of the site is a group of agricultural buildings which serve as a feed business. The application site is a cut-out of an agricultural field to the north of this feed business and is separated by a row of established trees along the southern boundary. The site itself has an elevated topography from the road level and the remaining boundaries are undefined.</p>		
<b>Description of Proposal</b>		
<p>This is an outline application for dwelling on a farm in accordance with PPS 21 Policy CTY10 at Proposed Site 350M West Of No.5 Corick Road, Clogher.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<b><u>Policy Consideration</u></b>		
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p>		
<b>Representations</b>		
<p>Press advertisement and neighbour notification have been carried out in line with the</p>		

Council's statutory duty. At the time of writing 2no. third-party objections have been submitted. With both objections no name and address has been provided.

The first objection was received by letter on the 11<sup>th</sup> July 2022 and the objector stated they wished to object as they believed under planning policy the dwelling should be grouped with the farm business. It is stated the farm business is separated by a hedgerow and is a long distance away. Also, there is an animal meal business at the farm building as there are many large vehicles travelling daily to it. The objector also stated other factors to consider are the impact on the environment and poor design of the house.

A further objection was received by letter on the 19<sup>th</sup> July 2022 and the objector raised a number of issues similar to the first objection letter.

- The proposed dwelling is sited a considerable distance away from the established group of buildings on the farm.
- No evidence has been provided why the dwelling should be sited at an alternative site away from the farm group.
- A row of trees and hedging separates the dwelling from the farm cluster.
- The proposed dwelling sits on an exposed site.
- The design is not appropriate to a rural setting.
- The proposal is an intensification of an existing access and DFI Roads will require improved visibility splays.

In rebuttal the siting of the proposed dwelling will be considered in the assessment in CTY 10, and the design will be considered at the reserved matters stage. Also DFI roads will be consulted as the statutory authority on roads.

### **Planning History**

There are no planning histories at the application site.

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

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

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations as defined in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP

has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes farm dwelling opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA confirmed the farm business ID as stated on the P1C form has been in existence for over 6 years and the applicant is a category 1 farmer and the farmer has claimed farm subsidies for the past 6 years. I am content the farm business is currently active and established for the past six years.

The applicant submitted 2022 DAERA farm boundary maps and I completed checks on the land and farm business number. I am content no dwellings or development opportunities have been sold off from the farm holding within the past 10 years.

The applicant is Mr Edwin Boyd who lives at Killyfaddy Manor, 209 Aghafad Road and this is shown on the farm maps. There is a cluster of agricultural buildings within the farm holding along Corick Road and the buildings are currently used as a farm feed business. I checked the planning histories and I could find no planning approvals for the sheds but a check on Spatial NI shows the shed have been on site since at least 2004. I am content there is established group of buildings on the farm. The proposal is to site the proposed dwelling in a field to the north of the buildings in front of a row of trees and hedging. I am of the opinion the proposal will not cluster or visually link with these group of farm sheds in critical views as shown in figure 1 below.



Figure 1 – Image from the site visit showing the proposed siting of the dwelling in relation to the group of farm buildings

In a concept statement dated 27 May 2022 the agent states that the proposed siting was chosen as the group of farm buildings have an elevated site and the siting to the north the land levels fall away. There are critical views of the group of farm buildings from Crossowen Road which is a heavily trafficked main road between Augher and Clogher. In discussions at other sites, I consider a revised siting to the south of the buildings would not be acceptable as the land is elevated and there would be prominent views from the main road. On the 19<sup>th</sup> Dec 2022 and 17<sup>th</sup> January 2023 further information was provided by the agent to support the case for the proposed siting as shown in figure 2 below





### Visual appraisal of the site by agent

Criteria c in CTY 10 states that an alternative site elsewhere on the farm may be considered where it has been shown there are no other groups of buildings on the farm, or health and safety reasons or verifiable plans to expand. At the time of writing no further information has been submitted by the agent to demonstrate that there are no other more acceptable sites at other groups of buildings on the farm.

The policy in CTY 10 states that where practicable the existing lane to the farm buildings should be used for the dwelling. The proposal will use the same access point at the road but the access will run along the southern boundary and along the boundary of the field at the application site. As the access will run alongside hedging, I have no concerns as this will assist with integration.

Overall, I consider the proposal fails criteria c in CTY10.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The application site is a cut-out of a larger agricultural and the topography rises up from the roadside to the site. The land slopes downwards from the southern boundary to the undefined north boundary at the site. There are critical views of the site from the minor Corick Road but as shown in figure 2 below there are no views of the proposed siting from Crossowen Road which sites behind the group of farm buildings.



Figure 2 – Images from Google Maps October 2022

The applicant has submitted a concept plan to demonstrate a potential single storey dwelling at the site which I consider would not be prominent in the landscape. There is a row of established trees along the southern boundary which are within the applicant's ownership and have shown will be retained. I consider the proposal fails criteria g in CTY 13 as the application is for a dwelling on a farm and does not cluster or visually link with an established group of buildings on the farm.

### **CTY 14 – Rural Character**

As stated previously in the assessment I am content the proposal will not be a prominent feature in the landscape. The proposed dwelling is set back from the road and the applicant has shown a single storey dwelling with additional planting. I am content a dwelling in this location would not be detrimental to rural character.

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

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

The proposal does not access onto a protected route so I have no concerns on this regard.

As the applicant is proposing a new access I consulted DFI roads as the statutory authority. Roads have no concerns subject to visibility splays of 2.4m x 45m in both directions and 45m forward sight distance. I am content the applicant can achieve a safe access onto the road.

### **Other Considerations**

I completed checks on the statutory map viewers and I am content there are no ecological or flooding issues at the site.

HED were consulted as there are two historic monuments in the field to the south of the site and HED historic monuments responded with no concerns.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it fails to meet all the criteria in CTY 1, CTY 10, and CTY 13 in PPS 21.

### **Refusal Reasons**

#### **Reason 1**

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement.

#### **Reason 2**

Contrary to criteria c in CTY 10 - Dwelling on a Farm in PPS 21 Sustainable Development in the Countryside in that the development if permitted would not cluster or visually link with an established group of buildings on the farm.

#### **Reason 3**

Contrary to criteria g in CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 Sustainable Development in the Countryside in that the development if permitted would not cluster or visually link with an established group of buildings on the farm.

**Signature(s):** Gillian Beattie

**Date:** 10 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	30 May 2022
<b>Date First Advertised</b>	1 September 2022
<b>Date Last Advertised</b>	30 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 5B Corick Road Augher Tyrone BT77 0BY The Owner / Occupier 5 Corick Road Augher Tyrone BT77 0BY	
<b>Date of Last Neighbour Notification</b>	16 August 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1978/0020 Appl Type: H13 Decision: PG Decision Date:  Ref: M/1977/029501 Appl Type: H13 Decision: PG Decision Date:  Ref: M/1977/0295 Appl Type: H13 Decision: PG Decision Date:  Ref: LA09/2022/0689/O Appl Type: O Decision: Decision Date:  Ref: M/2005/2187/F Appl Type: F	

Decision:  
Decision Date:

Ref: M/2006/0083/F  
Appl Type: F  
Decision: PG  
Decision Date: 17-FEB-06

### **Summary of Consultee Responses**

Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-LA09-2022-0689-O - 16 Corick Road Augher - Response.docx  
LA09-2022-0689-O - 16 Corick Road Augher - RS1 Form.doc  
DAERA - Omagh-LA09-2022-0689-O.DOCXSee uploaded document  
Historic Environment Division (HED)-HED is unable to provide comment at this time as the correct map has not been provided via the planning portal workqueue. To enable HED to make an appropriate response under the relevant planning legislation, please resubmit this consultation with associated map, drawings and documents.

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



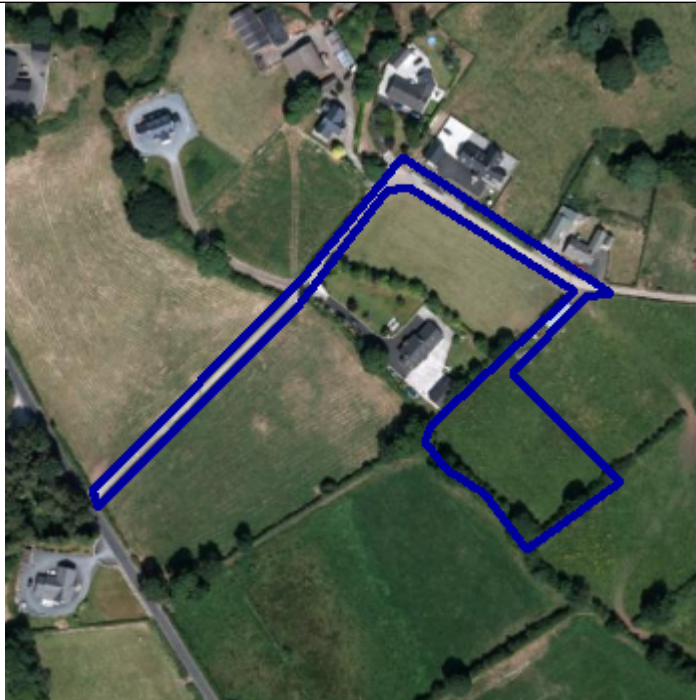


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2022/0714/O	<b>Target Date:</b> 19 September 2022
<b>Proposal:</b> Dwelling and domestic garage	<b>Location:</b> 120M SW Of 119 Mullaghboy Road Bellaghy BT45 8JH
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Peter Doherty 22 Viewfort Dungannon BT71 6LP	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-0714-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docxThere is no drawings attached with this application. Upload drawings.

### Representations:

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

### Summary of Issues

The proposal is contrary to Policy CTY 1, CTY 10 & CTY 13 of Planning Policy Statement 21. The proposed site does not visually link with or cluster with an established group of buildings on the farm.



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

The site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The red line of the application site includes a corner portion of a larger agricultural field. Access is taken from a shared laneway with the land rising from the public road in a north eastern direction with the laneway then turning in an eastern direction with the site located south of the laneway. The site itself fall gently in a southern direction. There are strong boundaries on both the northern and southern boundaries with mature trees providing strong screening of the site. The surrounding area is a mix of agricultural land uses with a number of residential dwellings located on this laneway.

## **Representations**

No third party representations have been received in relation to this application.

## **Description of Proposal**

This is an outline planning application for a dwelling and domestic garage

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

### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development 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 into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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 and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

DAERA were consulted and confirmed the farm business has been active and established for more than 6 years, therefore I am content that criteria A has been met.

Following a search on the planning system I am content that 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.

With regards criteria C which states that the new building is visually linked or sited to cluster with an established group of buildings on the farm. From the farm maps provided, there is an established group of farm buildings located in and around the dwelling at 119 Mullaghboy Road shown outlined in yellow in the image below which are approximately 116m north east of the application site. There is one single agricultural building, owned by the farm business which is shown highlighted in orange.



The policy relates to an established group of buildings on the farm, and it is clear the established group is located at 119 Mullaghboy Road which a new dwelling should visually link with or be sited to cluster with. Given the topography of the land and the separation distance between this established group and the application site I do not believe there is any visual linkage between the two sites. The buildings outlined in yellow sit at a level lower than the field to the south west, with the land then falling back behind a hill where the proposed site is, therefore there is no visual link between the two sites. When viewed on the laneway there is no clear visual link between the proposed site and the established group.

There is land available within the applicants ownership as shown in blue on the site location map where a site would visually link with the established group of buildings on the farm. No justification has been provided for the alternative site in accordance with policy CTY 10. The agent contends the site visually links with the farm building highlighted in orange and that it is wasn't for the strong mature tree line on the southern boundary of the site, the visual linkage would be there between a dwelling on the proposed site and the established group of buildings shown in yellow. As mentioned given the topography of the site I do not believe there is a visual linkage and the proposed site does not cluster with the established group of buildings on the farm and therefore fails to comply with CTY 10.

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. As this is an outline application, no design details have been provided however, I am content the site could take a single storey dwelling limited to a

ridge height of 6m above finished floor level. Planting should be retained on the existing boundaries which would ensure a dwelling would not be a prominent feature in the landscape and would integrate into the landscape. However, criteria (g) of CTY 13 requires it to visually link with or be sited to cluster with an established group of buildings on the farm and for this reason it fails to comply with CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. I am content a dwelling at this location would not result in a detrimental change to or erode the rural character of the area.

PPS 3 - Access, Movement and Parking:

DfI Roads advised that they have no objection to the proposed development subject to conditions. They also advised that the developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The DfI Roads has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. Responsibility for the access way and parking areas rests solely with the developer.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually

linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Ciaran Devlin

**Date:** 22 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	6 June 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 113 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 111 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 115 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 117 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 110 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 109 Mullaghboy Road Bellaghy Londonderry BT45 8JH	
<b>Date of Last Neighbour Notification</b>	27 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/1993/6054 Proposals: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR BELLAGHY MAGHERAFELT Decision: QL Decision Date:  Ref: LA09/2022/1623/F Proposals: Proposed change of house type and relocation of extant planning approved (REF: LA09/2018/1657/F) Two storey dwelling. Curtilage to be extended with garage to remain as previously approved. Decision: PG Decision Date: 17-FEB-23  Ref: LA09/2022/0714/O	

Proposals: Dwelling and domestic garage

Decision:

Decision Date:

Ref: H/1994/0432

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1996/0144

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: H/1992/6123

Proposals: SITE OF DWELLING McKENNAS LANE BELLAGHY

Decision: QL

Decision Date:

Ref: LA09/2020/1601/F

Proposals: New dwelling

Decision: PG

Decision Date: 10-MAR-21

Ref: LA09/2020/0501/O

Proposals: Proposed Site for Dwelling and Garage Under CTY 10

Decision: PG

Decision Date: 04-SEP-20

Ref: H/2005/0661/F

Proposals: Replacement two storey dwelling & detached garage

Decision: PG

Decision Date: 19-OCT-05

Ref: H/1978/0245

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1996/6006

Proposals: SITE OF DWELLING MULLAGHBOY ROAD BELLAGHY

Decision: QL

Decision Date:

Ref: H/1987/0399

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG  
Decision Date:

Ref: H/1984/0373  
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

Ref: H/1980/0139  
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

Ref: H/2014/0378/F  
Proposals: Replacement dwelling  
Decision: PG  
Decision Date: 19-JAN-15

Ref: H/2013/0143/F  
Proposals: Two storey extensions to the front of existing dwelling and single storey side extension  
Decision: PG  
Decision Date: 01-JUL-13

Ref: LA09/2016/1380/F  
Proposals: Proposed 2 storey farm dwelling  
Decision: PG  
Decision Date: 09-MAR-17

Ref: LA09/2018/1657/F  
Proposals: Proposed two storey dwelling and garage (on a farm)  
Decision: PG  
Decision Date: 17-MAY-19

Ref: H/1996/0333  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: LA09/2019/0670/RM  
Proposals: Proposed dwelling and garage.  
Decision: PG  
Decision Date: 25-SEP-19

Ref: H/2004/0403/RM  
Proposals: Erection of one no. bungalow and detached garage. (Outline



Ref:H/2001/0188).

Decision: PG

Decision Date: 24-MAY-04

Ref: H/2003/0973/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 04-AUG-04

Ref: H/2003/0211/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 16-APR-03

Ref: H/2003/0238/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 17-SEP-03

Ref: H/2003/0643/O

Proposals: Site of a Chalet - Type dwelling.

Decision: PG

Decision Date: 31-JAN-05

Ref: H/2005/0211/F

Proposals: Dwelling and garage

Decision: PG

Decision Date: 27-JUN-05

Ref: H/2003/0883/O

Proposals: Site of dwelling.

Decision:

Decision Date:

Ref: H/2004/0552/F

Proposals: Extension to sides and rear of dwelling

Decision: PG

Decision Date: 02-JUL-04

Ref: H/2012/0062/O

Proposals: Proposed two storey farm dwelling with domestic garage

Decision: PG

Decision Date: 01-MAY-12

Ref: H/2011/0364/F

Proposals: Replacement of Existing Two Storied Vacant Dwelling with new 1 1/2 Storey

Dwelling House with Associated Carport and Garage

Decision: PG

Decision Date: 14-NOV-11

Ref: H/1998/0578

Proposals: DWELLING AND GARAGE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2022-0714-O.DOCX

DFI Roads - Enniskillen Office-Outline resp.docxThere is no drawings attached with this application.

Upload drawings.

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable

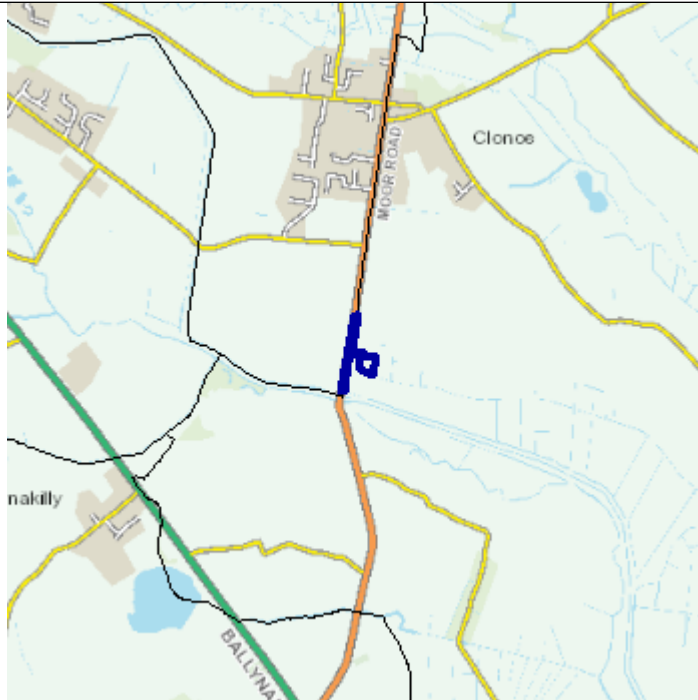


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2022/1065/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> 50 Metres South Of 37 Moor Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Niall And Mary Kilpatrick 37 Moor Road Coalisland BT71 4QB	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



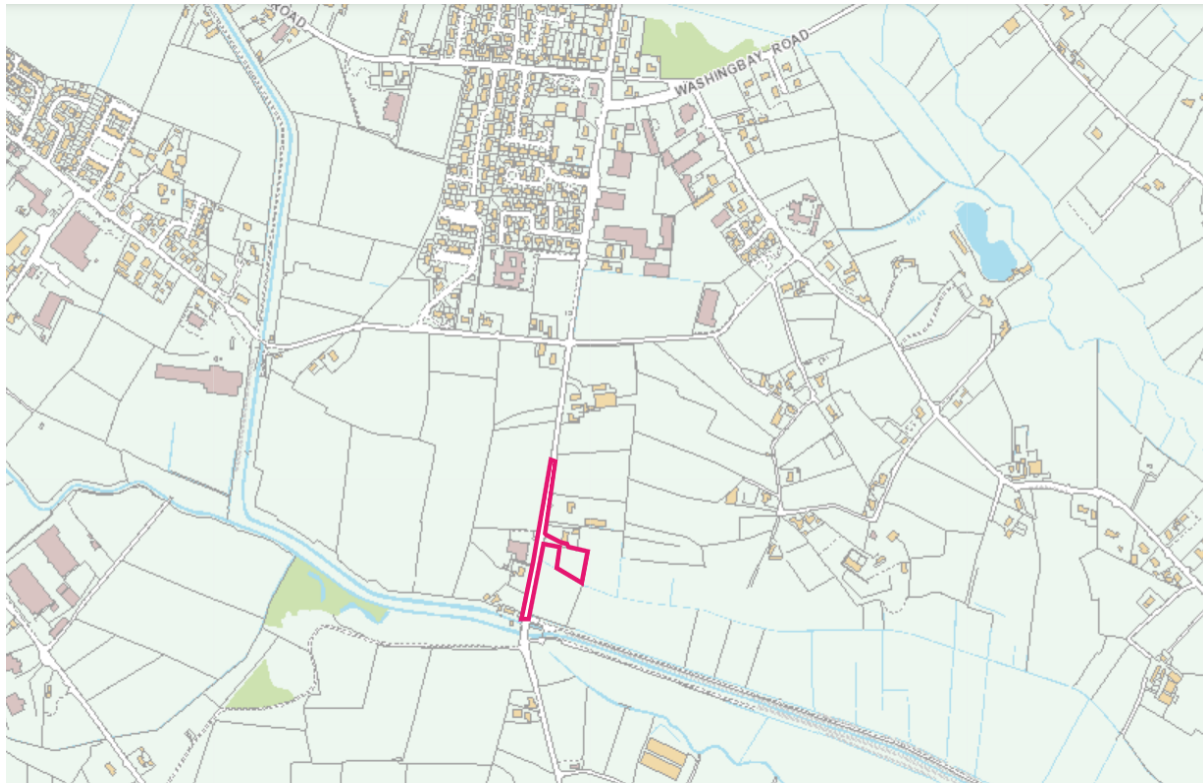
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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT - LA09-2022-1065-O.PDF
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1502-F HRA.pdf
Non Statutory Consultee	DAERA - Omagh	See uploaded document LA09-2022-1065-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	Rivers Agency	496681 FINAL.pdf
Non Statutory Consultee	Shared Environmental Services	LA11-2022-1065-O Reconsult request letter.pdf
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1065-O - HRA.pdf
Non Statutory Consultee	Shared Environmental Services	

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0

Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site lies in the rural countryside approx. 370 metres south of the settlement limits of Annaghmore as depicted by the Dungannon and South Tyrone Area plan 2010; and approx. 100m north of Coalisland canal.</p> 	
<p>Fig 1: Site outlined red</p>	

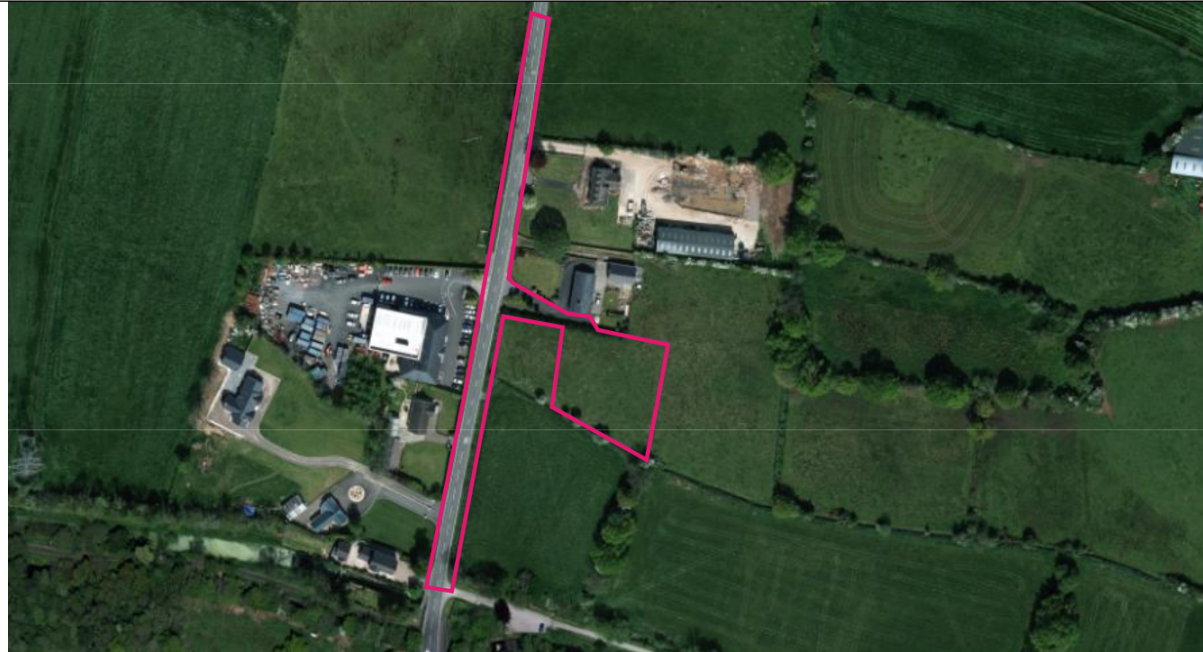


Fig 2: Site outlined red

The site is a relatively flat square shaped plot cut from a much larger agricultural field that runs along the south side and to the rear / east side of the applicant's home no. 37 Moor Rd, an existing single storey detached roadside dwelling with ancillary detached garage and large domestic store.

It is cut from the middle of the host field to the south side of no. 37. Whilst the host field has a frontage onto the public Moor Rd the site is set back approx. 30 metres from the Moor Rd, which it is to be accessed off via the existing access and driveway serving no. 37 Moor with alteration.

The site lacks long established boundaries and is open on all sides with the exception of its party northern party boundary with no. 37 Moor Rd defined by a line of trees and a few trees along the southern boundary. The roadside frontage of the host field is also undefined.

Critical views of the site are open from the Moor Rd on the southern approach to it from the Moor Bridge over the Coalisland Canal and passing along its roadside frontage. Views of the site are screened on the northern approach along Moor Rd by existing development immediately to its north including no. 37 Moor Rd and no. 39 Moor Rd a large two storey hipped roofed dwelling with large sheds to its rear / east side.

Whilst the surrounding area is primarily rural in nature with agricultural lands running to the south and east of the site in addition to the development immediately north of the site some further development, namely detached dwelling but including GEDA Construction, Civil Engineering, and Development company, in existence to the opposite side of the road to the site running towards Moor Bridge.

## Description of Proposal

This is an outline application for a proposed dwelling and garage under Policy CTY10 of PPS21 to be located on lands 50 Metres South of 37 Moor Road Coalisland.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 2: Natural Heritage  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 15: Planning and Flood Risk  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Planning History**

- M/1982/00220 - Erection of bungalow - Moor Road Coalisland - Granted
- M/1982/002201 - Erection of bungalow - Moor Road Coalisland - Granted
- M/1998/0475 - Domestic garage general purpose store for domestic purposes only - 37 Moor Road Coalisland - Granted
- LA09/2020/1089/F - Proposed domestic store - To the rear of 37 Moor Road Coalisland - Granted 4<sup>th</sup> March 2021

### **Consultees**

1. DfI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and advised the farm business stipulated on the P1C Form accompanying the application has not been in existence for more than 6 years. It was established on the 31/03/2022 and has a category 3 status that is not entitled to claim land payments. Furthermore, no payments on this site have been claimed by any business in the current year.
3. River's Agency (River's) were consulted as Flood Maps NI indicated the site was located within the fluvial floodplain and bound by a watercourse. River's responded as follows from a drainage and flood risk aspect under PPS15 (Revised) Planning and Flood Risk, Policy:
  - *FLD1 Development in Fluvial Flood and Coastal Plains* - The Strategic Flood Map indicates the site lies entirely within the 1 in 100year fluvial flood plain. The policy states 'Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy. Where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test', the applicant is required to submit a Flood Risk Assessment (FRA) for all proposals. Planning permission will only be granted if the FRA demonstrates that: a) All sources of flood risk to and from the proposed development have been identified; and b) There are adequate measures to manage and mitigate any increase in flood risk arising from the development.
  - *FLD2 Protection of Flood Defence and Drainage Infrastructure* – the application is affected by a designated open watercourse. Policy requires a 5m to 10m level maintenance strip along the watercourse. The applicant MUST contact the relevant local DFI Rivers area office to establish their maintenance needs and then mark the agreed maintenance strip on a drawing along with cross sections to demonstrate that it is level, free from obstructions and has access and egress points etc.
  - *FLD3 Development and Surface Water* - A Drainage Assessment isn't triggered by the policy but the development is located within a predicted flooded area as indicated on the Surface Water Flood Map. In such cases the policy states that it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

With regard to the above, specifically bullet point 1, Planning does not deem this proposal an exception under Policy FLD 1 of PPS15 therefore it is contrary to Policy FLD 1 of PPS15 and the additional information required i.e. FRA has not been requested. The principle of this development has not been established.

4. Shared Environmental Services were consulted on this application as the site is



located within a floodplain and bound by a watercourse therefore there could be a potential hydrological link to Lough Neagh and Lough Beg Ramsar Site/Lough Neagh and Lough Beg SPA. SES considered the proposal in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) on behalf of Mid Ulster District Council. Following an appropriate Habitats Regulations Assessment (HRA) in accordance with the Regulations SES advised having considered the nature, scale, timing, duration and location of the project it would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects subject to the following mitigation measures being conditioned in any approval:

- A suitable and clearly defined buffer of at least 10m must be maintained between the location of all refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and all identified open field drains/watercourses within/surrounding the application site.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site.

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by SES. The mitigation measures considered reasonable could be conditioned.

5. NIEA – were consulted further to consultation with Shared Environmental Services who advised the proposal is hydrologically connected to Lough Neagh and Lough Beg Ramsar Site/Lough Neagh and Lough Beg SPA and a likely significant effect on these sites cannot be discounted. NIEA responded as follows: *Water Management Unit* - raised no objections to the proposal referring to DAERA Standing Advice for single dwellings containing standard conditions and informatives.

*Natural Environment Division (NED)* - considered the impacts of the proposal on designated sites and raised no concerns subject to the conditions below to ensure there is no degradation of the adjacent aquatic environment from contaminated runoff resulting during construction and operational works, which I consider reasonable:

- A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and the watercourse.
- There must be no discharges from the septic tank or soakaway towards the any watercourse; a buffer of 10m must be maintained between the septic tank and soakaway and any watercourse.

NED also provided preliminary ecological advice in relation to other natural heritage concerns including that a Biodiversity Checklist be used to establish if any ecological surveys are required for a complete application and to enable NED to carry out a more detailed assessment.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required in relation to other natural heritage (Biodiversity Checklist) has not been requested.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 'Development in the Countryside'. The applicant has applied under one of these instances a dwelling on a farm under Policy CTY 10 of PPS 21.

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

- the farm business is currently active and has been established for at least 6 years,

As detailed further above Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and advised the farm business stipulated on the P1C Form accompanying the application has not been in existence for more than 6 years. It was established on the 31/03/2022 and has a category 3 status that is not entitled to claim land payments and no payments on this site have been claimed by any business in the current year.

The above said alongside this application the agent submitted a letter from DEARA dated 22<sup>nd</sup> April 2022 to the applicant advising they had been allocated a sheep flock number. A number of invoices and receipts ranging from 2015 through every year until 2022 when DEARA advised the business was established but not entitled to claim lands payments and the sheep flock number was allocated. The invoices to the applicant include for works such as hedge cutting, sowing fertiliser, bailing and wrapping hay, slurry spreading, and for fencing materials. Receipts from the applicant were for the sale of bales. Accordingly, I am reasonably content that it has been demonstrated that the farm business has been active and established for over 6 years. Criterion (1) of CTY 10 has been met.

- 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 or since PPS 21 was introduced on 25th November 2008,

I have checked the farm maps associated with the application and there is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the applicant's farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

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

A dwelling on this site would visually link and cluster with the applicant's home no. 37 Moor Rd, a single storey detached dwelling with ancillary detached garage and large domestic store located immediately to the north of the site. And as such Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character. I am not content that a dwelling on the site would visually integrate into the surrounding landscape without causing a detrimental change to the rural character of an area in accordance with CTY 13 and 14. I consider the site lacks sufficient long established natural boundaries to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape. I consider a dwelling and garage on this relatively open and exposed site would if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside. Whilst the vegetation and development to the north of the site will provide a backdrop to views on the southern approach along Moor Rd, when passing the frontage of the host field the building will have no substantial backdrop to aid its integration.

This proposal in my opinion would also be contrary to Policy CTY 8 of PPS 21 in that when travelling along the Moor Rd it would extend an existing ribbon of development with a common frontage onto the road further south. The existing ribbon of development immediately to the north of the site includes no. 37 Moor Rd, an existing single storey detached roadside dwelling with ancillary detached garage and large domestic store located to its rear; and no. 39 Moor Rd a large two storey hipped roofed dwelling with large sheds to its rear / east side.

Bearing in mind all of the above. As the principle of this development has not been established under Policy FLD 1 of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy, a FRA has not been requested. Additional information to demonstrate a dwelling could integrate on the site without causing a detrimental change to the rural character of the area has also not been requested. Nor has any additional information to address the issues raised by NIEA or SES (see 'Consultees' above).

#### Additional considerations

I had some concerns regarding the shared access arrangements impacting the amenity of the neighbouring property to the north in terms of overlooking however this is the

applicant's home and I consider these concerns could have been overcome through careful design had the site been acceptable in principle.

In addition to checks on the planning portal Historic Environment Map (HED) map viewer available online has been checked and identified no built heritage assets of interest on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

**Reason 2**

The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that proposal does not meet all the requirements of Policies CTY 13(a-f) and CTY 14.

**Reason 3**

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 therefore is unable to provide a suitable degree of enclosure for the new buildings to integrate into the landscape.

**Reason 4**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new buildings would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

**Reason 5**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the new buildings would, if permitted add to ribbon development along the Moor Rd.

**Signature(s):** Emma Richardson

**Date:** 22 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 June 2022
<b>Date First Advertised</b>	18 August 2022
<b>Date Last Advertised</b>	7 July 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 39 Moor Road Coalisland Tyrone BT71 4QB The Owner / Occupier 36 Moor Road Coalisland Tyrone BT71 4QB The Owner / Occupier 34A Moor Road Coalisland Tyrone BT71 4QB The Owner / Occupier 37 Moor Road Coalisland Tyrone BT71 4QB The Owner / Occupier 34 Moor Road Coalisland Tyrone BT71 4QB The Owner / Occupier 32 Moor Road Coalisland Tyrone BT71 4QB	
<b>Date of Last Neighbour Notification</b>	15 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1976/0324 Proposals: IMPROVEMENTS TO DWELLING Decision: PG Decision Date:  Ref: M/1975/0358 Proposals: IMPROVEMENTS TO DWELLING Decision: PG Decision Date:  Ref: M/1994/0142 Proposals: Extension to dwelling Decision: PG Decision Date:	

Ref: M/2001/1165/F

Proposals: Proposed extension and alterations to existing dwelling to provide two storey accomodation.

Decision: PG

Decision Date: 17-JAN-02

Ref: M/1978/0808

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: LA09/2021/0155/O

Proposals: Proposed infill dwelling

Decision: PG

Decision Date: 27-APR-21

Ref: LA09/2016/0902/F

Proposals: Proposed relocation of existing approval LA09/2015/0489/RM

Decision: PG

Decision Date: 27-OCT-16

Ref: M/1979/0577

Proposals: HOUSING DEVELOPMENT

Decision: PR

Decision Date:

Ref: M/2009/0688/F

Proposals: Retention of existing agricultural shed and retention of existing access.

Decision: PG

Decision Date: 27-JAN-10

Ref: M/1979/0772

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: M/2011/0198/F

Proposals: Additional electrical plant and equipment installation, control room inside the existing sub-station site. Overhead electrical transmission lines detailed in Form P1.

Decision: PG

Decision Date: 08-DEC-11

Ref: M/1984/050401

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: M/1984/0504

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: M/2001/1045/RM

Proposals: Proposed Industrial Unit/Offices/Carparking Facilities

Decision:

Decision Date:

Ref: M/2004/0873/F

Proposals: proposed erection of light engineering workshop & office accommodation

Decision: PG

Decision Date: 09-NOV-04

Ref: LA09/2020/1099/F

Proposals: Retention of 2.4m high security fence, hard standing & floodlighting.

Decision: PG

Decision Date: 28-JAN-21

Ref: LA09/2020/0124/LDP

Proposals: Proposed provision of an external fire escape from existing canteen

Decision: PG

Decision Date: 30-JUL-20

Ref: M/2001/0557/O

Proposals: Erection of Light Industrial Workshop

Decision: PG

Decision Date: 20-AUG-01

Ref: LA09/2015/0489/RM

Proposals: Proposed Dwelling and Domestic Garage on Infill Site

Decision: PG

Decision Date: 01-DEC-15

Ref: LA09/2021/1685/RM

Proposals: Proposal infill dwelling.

Decision: PG

Decision Date: 05-APR-22

Ref: M/2014/0106/PREAPP

Proposals: Proposed infill site for dwelling

Decision: ELR

Decision Date: 21-AUG-14



Ref: M/2014/0416/O

Proposals: Proposed dwelling and domestic garage on an infill site

Decision: PG

Decision Date: 21-JAN-15

Ref: M/2004/0652/F

Proposals: Proposed alterations to previously approved plan of warehouse and offices  
M/2002/1375/F

Decision:

Decision Date:

Ref: M/1998/0475

Proposals: Domestic Garage General Purpose Store for domestic  
purposes only

Decision: PG

Decision Date:

Ref: LA09/2020/1089/F

Proposals: Proposed domestic store

Decision: PG

Decision Date: 04-MAR-21

Ref: M/2008/0169/F

Proposals: Proposed replacement creche at 10m east of No 39 Moor Road, Coalisland

Decision: PR

Decision Date: 15-MAY-09

Ref: LA09/2022/1065/O

Proposals: Dwelling and Garage Under Cty 10

Decision:

Decision Date:

Ref: M/1977/0056

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: M/1980/0636

Proposals: ALTERATIONS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2018/0353/F

Proposals: Replacement dwelling

Decision: PG

Decision Date: 04-JUL-18

Ref: M/2002/1375/F

Proposals: Proposed change of access to previously approved application for light industrial unit.

Decision: PG

Decision Date: 27-FEB-03

Ref: M/1982/0022

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: M/1982/002201

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: M/1999/0863/O

Proposals: Dwelling House and Domestic Garage

Decision: PG

Decision Date: 18-FEB-00

Ref: M/1996/0771

Proposals: Egg Packing and Processing Unit

Decision: PG

Decision Date:

Ref: M/2002/0362/F

Proposals: Proposed industrial unit with ancillary offices/car parking facilities

Decision: PG

Decision Date: 10-OCT-02

### **Summary of Consultee Responses**

NIEA-PRT - LA09-2022-1065-O.PDF

Shared Environmental Services-LA09-2022-1502-F HRA.pdf

DAERA - Omagh-See uploaded documentLA09-2022-1065-O.DOCX

DFI Roads - Enniskillen Office-

Rivers Agency-496681 FINAL.pdf

Shared Environmental Services-LA11-2022-1065-O Reconsult request letter.pdf

Shared Environmental Services-LA09-2022-1065-O - HRA.pdf

Shared Environmental Services-

<b>Drawing Numbers and Title</b>
Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b>
Not Applicable

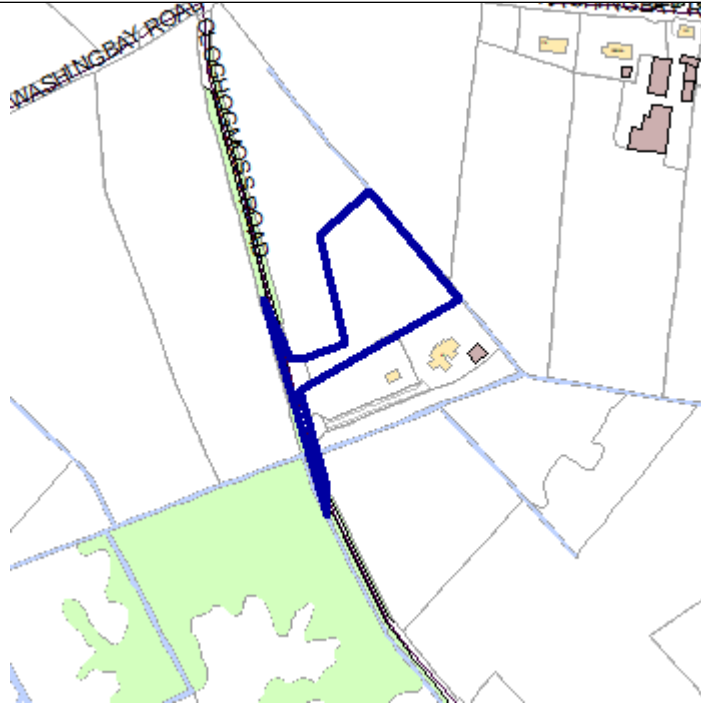


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2022/1095/F	<b>Target Date:</b> 13 October 2022
<b>Proposal:</b> Relocation of previously approved dwelling and domestic double garage due to ground conditions.	<b>Location:</b> Approx. 75M NW Of No 42 Drummurrer Lane Coalisland BT71 4QJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Declan McShane 202 Washingbay Road Coalisland BT71 5EG	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Geological Survey NI (DfE)	3143 MUDC Planning. Approx. 75m NW of No 42 Drummurrer Lane Coalisland BT71 4QJ.doc

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, outside any settlement limits defined in the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Annaghmore

and 2.4km west of Lough Neagh.

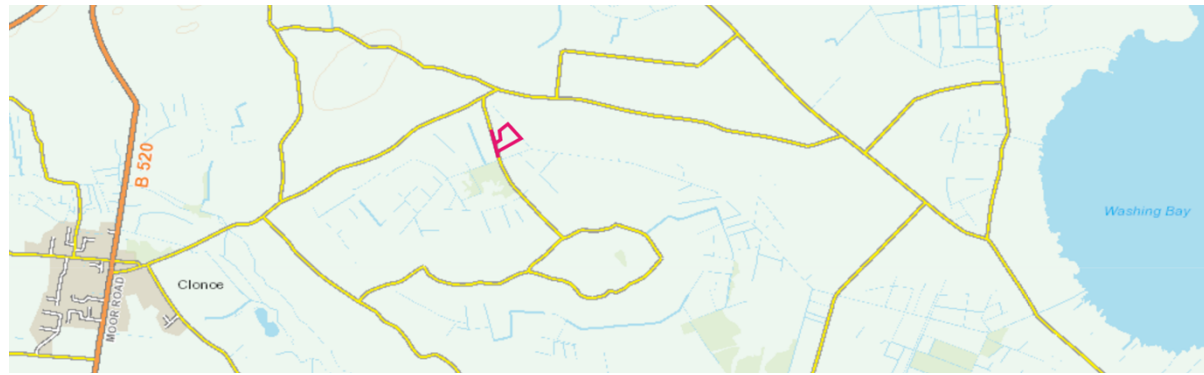


Fig 1: Site outlined red



Fig 2: Site outlined red

The application site is a flat irregular shaped plot cut from the south end of a much larger agricultural roadside field. The site is in effect divide into two plots, the southern and northern.



Fig 3: Google streetview showing southern plot highlighted green and northern plot outlined red. Whilst not shown in this image the northern plot as detailed below now contains the foundations of a dwelling and garage show in Fig 4 below.



Fig 4: Photograph showing foundations of dwelling and garage on northern plot

The southern plot is a long rectangular shaped strip of agricultural land accessed off Drummurrer Lane via recessed wooden gated entrance. A hardcore area exists to the front of the south plot just inside the access. A mix of d-rail and post and wire fencing bounds the southern plot on all four sides in addition to a mature hedgerow and trees bounding it to the east half of its southern / party boundary with no. 42 Drummurrer Lane, a neighbouring detached one and storey property on lands within the control of the applicant.

The northern plot is a relatively square piece of ground comprising the foundations of a dwelling and garage set back from and accessed off Drummurrer Lane via an existing



access and gravelled driveway off Drummurrer Lane. The boundaries of the northern plot are relatively open defined only by post and wire fencing with some vegetation along the eastern boundary. This plot also contains a mobile home situated just to the southeast of the foundations of the dwelling and garage.

Critical views of the site are from Drummurrer Lane on the northern approach to and passing along the roadside frontage of the site; and from the Washingbay Rd located further to the north of the site when travelling east to west and vice versa on the approach to its junction with Drummurrer Lane.

The immediate area surrounding the site is rural in nature with the site bound to the west, north and east by agricultural lands. As detailed above no. 42 Drummurrer Lane, a detached property on lands within the control of the applicant bounds the site to the south alongside a mobile home located immediately to its west, no 42a Drummurrer Lane, also within the control of the applicant.

## Description of Proposal

This is a full application for the relocation of a previously approved dwelling and domestic double garage due to ground conditions on lands approx. 75m NW of no. 42 Drummurrer Lane Coalisland.

The dwelling and garage sought to be relocated was approved under outline planning application LA09/2020/0993/O and reserved matter planning application LA09/2021/1067/RM respectively on the 10<sup>th</sup> May 2021 and 29<sup>th</sup> September 2021.



Figs 5 & 6: Site layout including location of dwelling and garage previously approved; and new site layout including relocation of the dwelling and garage sought, respectively.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration



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

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

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

**Representations**

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

**Planning History on Site**

- LA09/2020/0993/O - Proposed site for dwelling and domestic garage (Based on policy CTY10) - Approx 40m NW of 42 Drummurrer Lane Coalisland - Granted 10<sup>th</sup> May 2021
- LA09/2021/1067/RM - Proposed dwelling and domestic double garage - Approx 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021
- LA09/2021/1031/F - Retention of Existing Mobile Home for Period of 4 Years - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021 - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Granted 29<sup>th</sup> September 2021
- LA09/2022/0468/NMC - Relocation of dwelling & domestic double garage. Minor amendments to internal ground & 1st floor layouts & elevations - Approx. 40m NW of 42 Drummurrer Lane Coalisland - Withdrawn 1<sup>st</sup> July 2022

**Consultees**

1. DfI Roads were consulted in relation to the proposed access arrangements under

the previous application on site LA09/2021/1067/RM and had no objection subject to standard conditions and informatives. Accordingly, as there have been no significant changes on site or change in policy I am content as before that the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI’s “Shafts and Adits Database” indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in Policy CTY1 of PPS21.

The principle of the proposed development a dwelling and garage has already been established on this site under the previous applications LA09/2020/0993/O and LA09/2021/1067/RM respectively (see ‘Planning History’ further above), which granted permission for a dwelling on a farm under the provisions of Policy CTY 10 of PPS 21 ‘Dwellings on Farms’.

The key consideration here is whether the relocation of the dwelling and garage sought through increasing the red line of the previously approved site further north (see Figs 5 & 6 further above), which has already commenced on site in the form of foundations, is acceptable and in this instance I am not content that it is.

The dwelling and garage approved on this site was under the provisions of policy CTY10 ‘Dwellings on Farms’. The only buildings on the farm holding located immediately to the south of the site were the farm dwelling at no. 42 Drummurrer Lane and a small mobile no. 42a Drummurrer Lane to the west of the dwelling. Under the outline application it was considered necessary to attach a siting condition that the dwelling and garage approved, as was submitted at the reserved matters stage, be sited in the southeast corner of the site to cluster with the established group of buildings on the farm and aid integration on this open site by taking advantage of the only well-established vegetation bounding the site, along the party boundary of the site with no. 42 Drummurrer Lane.

I consider the siting condition attached to the outline application, adhered to under the subsequent reserved matters application, necessary to visually link the dwelling and garage with the associated farm holding and to integrate them on the site and into the surrounding landscape without significant impact to the character of the area. That pulling the dwelling and garage further north away from the applicant's farm group and the only well-established vegetation bounding the site will result in them having a significantly greater visual impact. This relocation will not only result in the dwelling and garage occupying a prominent position on a more open and exposed part of the host field owing to the lack of long-established vegetation bounding the site but it will also open up a gap field (see Fig 3) between the dwelling and garage and the applicant's farm group.

I consider the proposal is contrary to Policy CTY13 of PPS21 as site lacks long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape and Policy CTY14 of PPS21 in that the new building would, if permitted, would be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside. Furthermore, due to the gap created (see Fig 3), which could accommodate another dwelling, I consider the dwelling and garage would no longer cluster or visually link / read with farm holding in accordance with CTY 10 of PPS21.

The above said as it had been submitted that this relocation was sought due to poor ground conditions and in this instance the alternative location may be accepted I consulted with Mid Ulster Councils Building Control however they advised that they were are not aware of ground issues at this site and other construction methods could be used. According, in order to consider this proposal further justification / structural report outlining why the applicant cannot build at approved location was sought from the agent via email on the 6th February 2023.

The agent responded the same day via email with photos of the ground encountered and to advise it was peat and running soil. That foundations filled in as quickly as they were dug out. Trial holes showed better ground to the north of the approval and this is where the foundations were put in. That a house can be built on any ground if you have a never ending pot of money. In this case it would have taken in excess of 60k to pile the site approved. The common sense solution was to move it to its current location. In regard to leaving an infill opportunity this would be impossible as there is no common frontage. That he would like this application to go to Committee where he can ask members to visit the site and see the conditions for themselves.

Having taken account of the additional information submitted above I do not consider it has been demonstrated that the dwelling and garage could not be built at the approved location, albeit it may require additional works such as piling as suggested, accordingly my opinion remains as before and consider this proposal be presented to Committee as a refusal.

### **Other Policy/Considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked

and identified no built heritage assets or natural heritage interests of significance on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate a small amount of surface water flooding along the frontage of the site over the access however I am content this is on already developed and hardcore ground.

**Taking all of the above into consideration I would recommend the refusal of this application**

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated why this development is essential at this rural location and could not be located as previously approved.

**Reason 2**

The proposal is contrary to Policies CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that proposed new building will not be visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

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 therefore is unable to provide a suitable degree of enclosure for the new building to integrate into the landscape.

**Reason 4**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s):** Emma Richardson

**Date:** 20 February 2023

ANNEX	
Date Valid	30 June 2022
Date First Advertised	
Date Last Advertised	12 July 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 42A Drummurrer Lane, Coalisland BT71 4QJ The Owner / Occupier 42 Drummurrer Lane, Coalisland BT71 4QJ	
Date of Last Neighbour Notification	6 July 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1095/F Proposals: Relocation of previously approved dwelling and domestic double garage due to ground conditions. Decision: Decision Date:  Ref: M/2004/1511/O Proposals: Proposed dwelling Decision: Decision Date:  Ref: M/2005/2210/F Proposals: Proposed new storey and a half private dwelling and garage and septic tank Decision: PG Decision Date: 20-JUN-06  Ref: LA09/2021/1067/RM Proposals: Proposed dwelling and domestic double garage. Decision: PG Decision Date: 29-SEP-21  Ref: LA09/2020/0993/O	

Proposals: Proposed site for dwelling and domestic garage (Based on policy CTY10)

Decision: PG

Decision Date: 10-MAY-21

Ref: LA09/2022/0468/NMC

Proposals: Relocation of dwelling & domestic double garage. Minor amendments to internal ground & 1st floor layouts & elevations

Decision: WDN

Decision Date: 26-JUL-22

Ref: LA09/2021/1031/F

Proposals: Retention of Existing Mobile Home for Period of 4 Years

Decision: PG

Decision Date: 29-SEP-21

Ref: M/2005/0198/O

Proposals: Dwelling house

Decision:

Decision Date:

### **Summary of Consultee Responses**

Geological Survey NI (DfE)-3143 MUDC Planning. Approx. 75m NW of No 42 Drummurrer Lane Coalisland BT71 4QJ.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Garage Plans Plan Ref: 04

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

Not Applicable

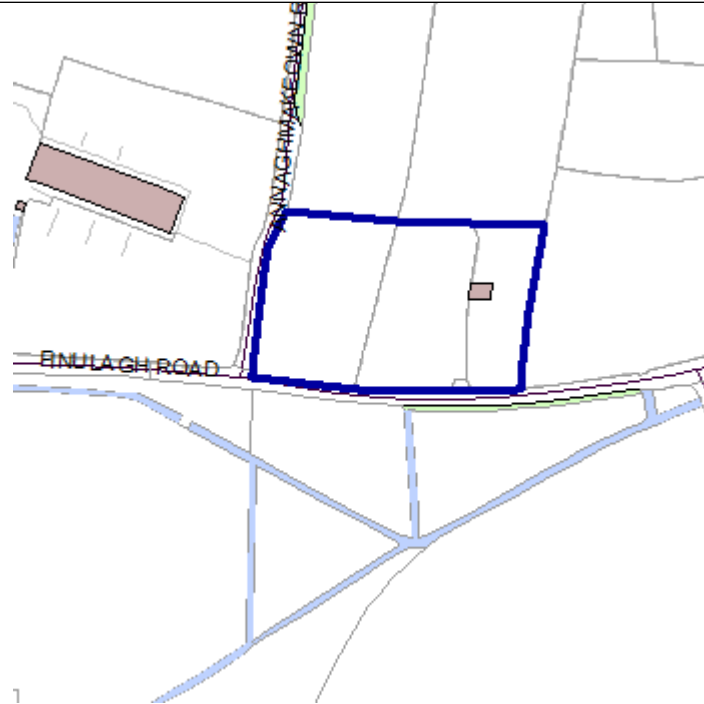


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2022/1288/O	<b>Target Date:</b> 2 December 2022
<b>Proposal:</b> Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site)	<b>Location:</b> 15 Finulagh Road Castlecaulfield
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ryan McGurk 25 Finulagh Road Castlecaulfield Dungannon	<b>Agent Name and Address:</b> McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b>  There is no dwelling on the site to be replaced and the dwelling was fire damaged over 20 years ago so does not meet CTY 3.  There are not three or more buildings along the road with a frontage to be considered an exception in CTY 8.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.doc Roads outline.docx Roads outline.docx FORM RS1 STANDARD.doc
Statutory Consultee	Rivers Agency	745051-06 Final Planning Authority reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues



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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is 0.67km northwest of the settlement of Castlecaulfield. The surrounding area is rural in character and the predominant land uses are agricultural fields, rural dwellings on single plots and groups of farm buildings. There is minimal development pressure in the immediate area along Finulagh Road from the construction of single dwellings. 82m west of the site are two poultry sheds. The application site are the lower portions of two agricultural fields and the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

## **Description of Proposal**

This is an outline application for Dwelling in Compliance with policy (CTY 8) ie, (Infill Gap Site) at 15 Finulagh Road, Castlecaulfield.

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

### **Policy Consideration**

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

### **Representations**

Press advertisement has been carried out in line with the Council's statutory duty and there are no notifiable neighbours abutting the site. At the time of writing, no third-party objections have been received.

### **Planning History**

M/1992/0652 - Replacement Dwelling – 15 Finulagh Road Castlecaulfield Dungannon – permission granted

M/1995/0450 - Replacement Dwelling – 15 Finulagh Road Castlecaulfield Dungannon – permission granted

LA09/2021/0160/O - Proposed farm dwelling - 15 Finulagh Road Castlecaulfield

Dungannon – application withdrawn

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

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

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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations.

### **SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that**

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. As this proposal is for an infill dwelling CTY 8 is the relevant policy in the assessment.

### **CTY 8 – Infill Dwellings**

The application site is the lower portion of two agricultural fields. At the time of my site visit there were three sheds and a concrete yard with access fronting to the road. On the concrete yard were silage round bales as shown in figure 2. As shown below on the google maps from April 2021 two of the sheds to the west were not in place. Also, the shed furthest west does not have a frontage to the road in the form of a concrete yard and I consider this as an agricultural field.



Figure 1 – Image from April 2021

I do not consider there is a substantial and built-up frontage with a line of three or more buildings. There are no buildings with a frontage to the road on either side of the sheds and concrete yard. Figure 3 shows that has been submitted in this application.



Figure 2 – Image from the site visit

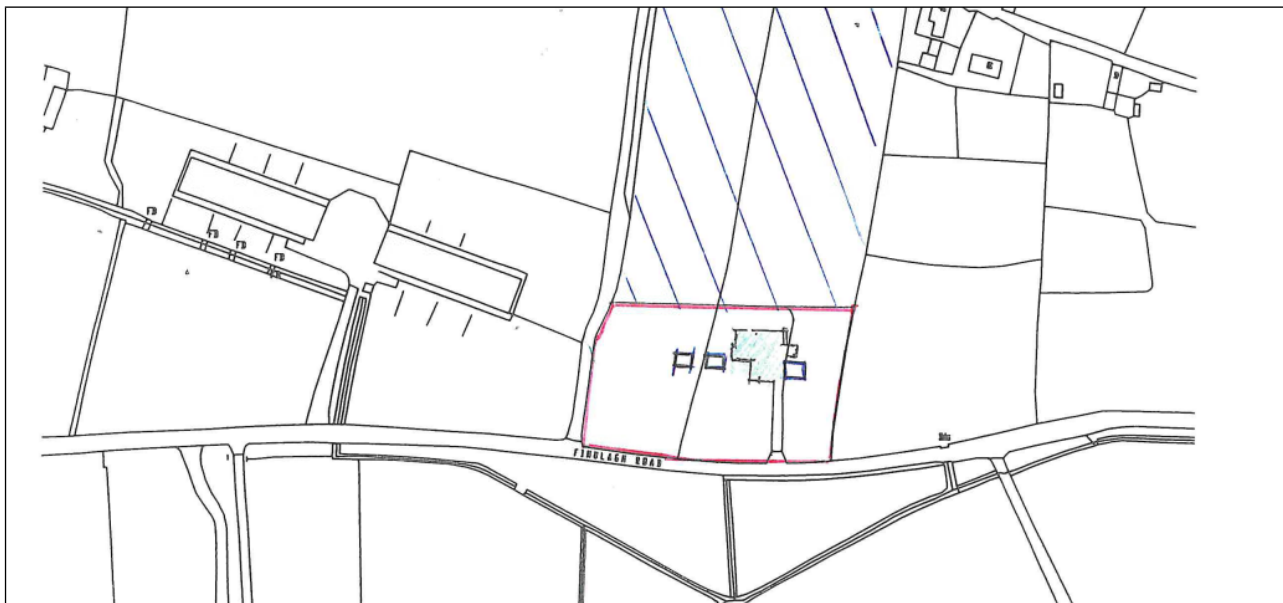


Figure 3 – snapshot from submitted plan

There are no other dwellings along this side of Finulagh Road but across the road from the poultry houses there are two dwellings at 16 and 18 Finulagh Road. The frontages of these dwellings are 58m at No.18 and 48m at No. 16. The total frontage of the application site is 106m so I am content the site will only accommodate two dwellings with the same frontages and plot sizes as across the road.

Overall, I consider the proposal does not meet CTY 8 as it is not an exception for a small gap site.

### **CTY 10 – Dwelling on a farm**

The agent was asked to consider was there a case for a dwelling on a farm as there were building and silage bales at the site. The agent stated that the applicant had already used their farm dwelling in the past 10 years. LA09/2018/0233/O granted approval for a dwelling on a farm on the 14<sup>th</sup> January 2019 and the applicant was Connor McGurk who had the same address as the applicant in this case. This application site is also shown on the farm boundary maps for the 2019 approval. A subsequent approval LA09/2021/1056/F in substitution of the 2019 permission was granted on the 21<sup>st</sup> October 2021. I consider a CTY 10 approval has already been granted on this farm holding within the past 10 years so the proposal does not meet this criteria.

### **CTY 3 – Replacement Dwelling**

In an email dated 8<sup>th</sup> Feb 2023 the agent asked that the proposal be considered under a fire damaged replacement dwelling as the dwelling on a farm and infill dwelling cases had previously been considered.

Currently on site there is no dwelling to be replaced in terms of CTY3.

M/1992/0652 previously granted permission for a replacement dwelling at this site on the 5<sup>th</sup> Feb 1993 but these approvals were never enacted and they have not lapsed. The agent confirmed through photographs that there was once a two-storey dwelling at this site, and it had burnt down. The policy in CTY 3 does state dwellings are eligible for replacement if they have recently been destroyed by fire. Policy states that evidence must be provided about the status and previous condition of the building and the extent of the damage must be provided. The agent was unable to provide a fire report and in a supporting email dated 8<sup>th</sup> Dec 2022 the agent states the dwelling was destroyed in the late 1990s and fire records only go back to the year 2000. I consider as the dwelling was not recently fire damaged and was destroyed over 20 years ago it does not meet this criterion in CTY 3.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The application site is the lower portion of two agricultural fields and the topography rises up to the back of the site. The site itself has a roadside frontage onto Finulagh Road which is a long straight road. There are buildings at the site, but these may have to be demolished to locate the dwelling in the upper portion of the site due to the flood plain. There is a limited sense of enclosure at the site but further west of the site opposite the poultry houses are 2 no. large two storey dwellings but these are set back from the road further. I am content a dwelling on this site would not be prominent.

### **CTY 14 – Rural Character**

As stated, earlier in the assessment I am content the proposal will not be a prominent feature in the landscape.

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

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

The site does not access onto a protected route, so I have no concerns.

DFI roads were consulted as the statutory authority as the applicant had proposed a new access. Roads responded with no concerns subject to visibility splays of 2.4m x 80m in both directions.

### **PPS 15 – Planning and Flood Risk**

#### **Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains**

As shown in figure 4 below the lower portion of the site is within a rivers flood plain. I consulted Rivers Agency who confirmed that half the site was within a 1 in 100 year flood plain and the applicant would need to demonstrate how the proposal was an exception to policy. I am content a flood risk assessment is not required as the proposed dwelling could be sited outside the flood plain.

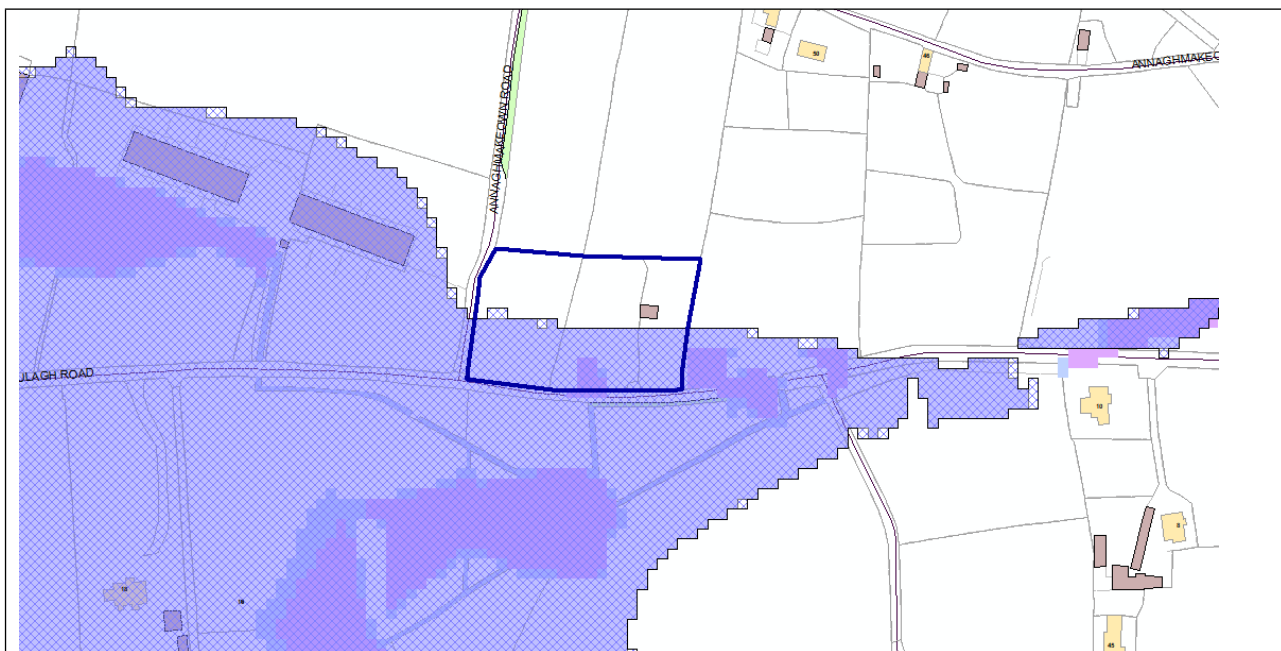


Figure 4 – Image showing the extent of the flood plain

### Other Considerations

I completed checks on the statutory map viewers and I am content there are no other ecological or built heritage issues at the site.

I consulted Environmental health due to the close proximity to poultry houses but at the time of writing no response has been received yet. But the principle of development cannot be established at the site as currently the proposal does not meet any of the policies in PPS 21.

### Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet the policies in CTY1, CTY3, and CTY8 in PPS 21 – Sustainable Development in the Countryside.

### Refusal Reasons

#### Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the

development cannot be located within a settlement.

**Reason 2**

Contrary to CTY 3 - Replacement Dwellings in PPS 21 Sustainable Development in the Countryside in that there is no dwelling to be replaced and the dwelling that was previously on site was not recently destroyed and no evidence about the extent of the fire damage has been provided.

**Reason 3**

Contrary to CTY 8 - Ribbon Development in PPS 21 Sustainable Development in the Countryside in that the development is not an exception within policy as there are not three or more buildings along a road frontage.

**Signature(s):** Gillian Beattie

**Date:** 9 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	19 August 2022
<b>Date First Advertised</b>	1 September 2022
<b>Date Last Advertised</b>	1 September 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1992/0652B Proposals: Replacement Dwelling Decision: WITHDR Decision Date:  Ref: M/1992/0652 Proposals: Replacement Dwelling Decision: PG Decision Date:  Ref: M/1995/0450 Proposals: Replacement Dwelling Decision: PG Decision Date:  Ref: LA09/2022/1288/O Proposals: Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site) Decision: Decision Date:  Ref: LA09/2021/0160/O Proposals: Proposed farm dwelling	



Decision: WDN  
Decision Date: 19-NOV-21

Ref: M/2004/1298/F  
Proposals: Two free range poultry houses each with a capacity of 9,600 birds.  
Decision: PG  
Decision Date: 22-NOV-04

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docxRoads outline.docxFORM RS1 STANDARD.doc  
Rivers Agency-745051-06 Final Planning Authority reply.pdf  
Environmental Health Mid Ulster Council-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable

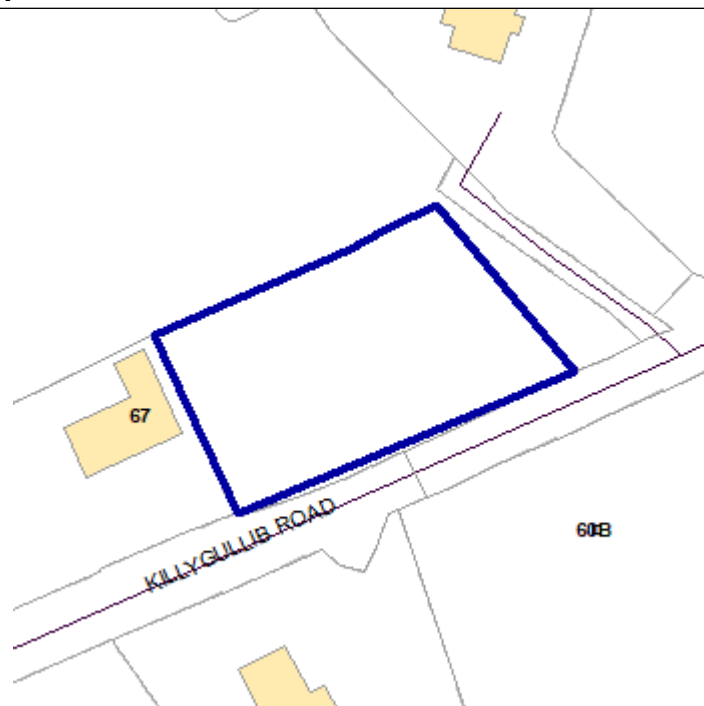


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2022/1340/O	<b>Target Date:</b> 16 December 2022
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> Between 65 & 67 (Adjacent And N.E. Of 67) Killygullib Road, Swatragh
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Damien Mc Atamney 61 Killygullib Road Swatragh Maghera BT46 5QR	<b>Agent Name and Address:</b> Mr Damien Kearney 2a Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b>  The current application is presented as an approval and is being presented at Committee as an exception to policy CTY 8 of PPS 21.	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is located between No. 65 and 67 Killygullib Road, Swatragh and falls outside any defined settlement limit as per the Magherafelt Area Plan 2015. The site rises slightly from the roadside towards the northern point.

The red line consists of a roadside portion of a much larger agricultural field with the northern and eastern and boundary undefined. The southern roadside boundary is

defined by a wire and post fence while the western boundary shared with No. 67 is defined by a high-level mature hedgerow and wire and post fence. The immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.



### **Consultations**

1. DfI Roads – responded advising they offer no objection subject to the inclusion of conditions.

### **Site History**

There is no relevant site history for this application site.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. This application was initially advertised in the local press on 13/09/2022. Four neighbouring properties were notified in relation to this application however no comments have been received to date.

### **Description of Proposal**

Outline planning permission is sought for a dwelling and garage at lands located between No. 65 and 67 Killygullib Road, Swatragh.

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

#### **Policy Consideration**

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

The site falls within the open countryside as defined in the Magherafelt Area Plan 2015.

The settlement limits of Swatragh lie approximately 1.7km to the southwest of the application site.

### **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

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 infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and 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'.

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

This application is to be considered under policy CTY 8 of PPS 21 which states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, 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.

In terms of the built-up frontage, I note that No. 67 and 71 sit to the west of the application site with both sites sharing a frontage onto the Killygullib Road. No. 65 sits to the east of the application site and is set back slightly from the road.

Policy CTY 8 allows for an exception to the creation or addition of a ribbon of development for the development of a small gap site within an otherwise substantial and continuously built up frontage, provided it respects the existing pattern reflected in CTY 8. Although No. 65 sits slightly back from the road, it does have a frontage to the road given the layout of the curtilage of the dwelling fronting onto the Killygullib Road. It is therefore considered the application site can be assessed as a gap site for the purposes of CTY 8.

It is considered that the proposal will not damage the rural character of the area. In terms of the gap between the existing dwellings, the proposed application site consumes approximately 58m of the total 70m available therefore I am content that only one house could comfortably be accommodated within this space. Policy holds that the gap should be sufficient only to accommodate up to a maximum of two houses, therefore I am content that this application complies under CTY 8.



Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. Given the surrounding development coupled with the existing landscape, I am content that a modest sized dwelling would be able to successfully integrate into the landscape. Additional landscaping may be required to aid integration and to plant out a new boundary, therefore a landscaping scheme will be required in any Reserved Matters application. Finally, I feel it necessary to restrict the ridge height to be no more than 6.5m above finished floor level given the surrounding development. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape wherein it will still be able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. Overall, I am content that the proposed development complies with CTY 14.

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

A consultation was issued to DfI Roads, and they have advised that they have no objections to the proposal subject to the inclusion of a condition. I am content that the proposed access is acceptable under PPS 3.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24<sup>th</sup> September 2020. The period for Counter

Representations closed on 18<sup>th</sup> December 2020. On the 28<sup>th</sup> of May 2021, the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination. In light of this, the Draft Plan Strategy does not yet carry determining weight.

I have no flooding or residential amenity concerns.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

The proposed dwelling shall exhibit the traditional elements of rural design particularly in form, proportion, and finishes, as set out in the Department of Environment Sustainable Design guide for the Northern Ireland countryside, 'Building on Tradition'.

Reason: To ensure the dwelling is in keeping with the character of the rural area.

**Condition 4**

The proposed dwelling shall have a ridge height of less than 6.5 metres above the finishes floor level of the site and a low angle roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.

**Condition 5**

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

**Condition 6**

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

Reason: To ensure the dwelling integrates into the landform.

**Condition 7**

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with Mid Ulster District Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the visibility splays. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

**Condition 8**

The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

**Condition 9**

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the 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):** Zoe Douglas



**Date:** 21 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	2 September 2022
<b>Date First Advertised</b>	13 September 2022
<b>Date Last Advertised</b>	13 September 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 67 Killygullib Road Maghera Londonderry BT46 5QR The Owner / Occupier 60A Killygullib Road Maghera Londonderry BT46 5QR The Owner / Occupier 60 Killygullib Road Maghera Londonderry BT46 5QR The Owner / Occupier 65 Killygullib Road Maghera Londonderry BT46 5QR	
<b>Date of Last Neighbour Notification</b>	15 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1340/O Proposals: Proposed site for dwelling and garage Decision: Decision Date:  Ref: H/2009/0153/F Proposals: Change of house type to previously approved H/2006/0935/F including construction of a new access. Decision: PG Decision Date: 12-JUN-09  Ref: H/2007/0963/RM Proposals: Dwelling & garage Decision: PG Decision Date: 18-MAR-08  Ref: H/2006/0935/F Proposals: Proposed replacement dwelling & detached garage	

Decision: PG  
Decision Date: 21-JUN-07

Ref: H/2005/0935/O  
Proposals: Site of Dwelling and Garage  
Decision: PG  
Decision Date: 11-NOV-05

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan   Plan Ref: 22-01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2022/1451/O	<b>Target Date:</b> 17 January 2023
<b>Proposal:</b> Proposed Dwelling & Garage	<b>Location:</b> 1 Sycamore Drive Maghera BT46 5HE
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mrs Claire Patterson 1 Sycamore Drive Maghera BT46 5HE	<b>Agent Name and Address:</b> Mr Ryan Dougan 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-22-1451.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-1451-O.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues

NI Water recommend the application be refused. MUDC Planning Department recommend approval.

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

The site is located within the settlement limits of Maghera, outside any other designations as per the Magherafelt Area Plan. The red line of the application site is a square portion of an existing garden located directly south of 1 Sycamore Drive. The boundary of the site is defined by a small laurel hedge on all sides with the existing garage and low-level wall of the adjacent dwelling on the northern boundary. The surrounding area is mainly residential in use with properties surrounding the site on all sides.

## **Representations**

No third party representations have been received in relation to this planning application.

## **Description of Proposal**

This is a full planning application for a proposed Dwelling & Garage.

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

### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 7: Quality Residential Environments  
PPS 3: Access, Movement and Parking  
PPS 11: Planning and Waste Management

The site is located within Maghera Settlement Limit and has no other zonings or designations within the Plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Policy QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. All proposals for residential development will be expected to conform with the criteria listed within this policy. As this is an outline planning application, no detailed design drawings have been submitted. However, I am content a dwelling at this location respects the surrounding context and the indicative block plan provided shows a dwelling respects the area. I am content there will be no impact on features of archaeological and built heritage or any landscape features. An appropriately designed dwelling will ensure there is adequate private space provided.

A dwelling at this location will be able to access existing local neighbourhood facilities, footpaths, public transport. At reserved matters stage further details will be provided to ensure the dwelling here provides adequate parking provision and the layout of the dwelling should not cause any issues with overlooking or loss of privacy.

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

DfI Roads were consulted on the proposal and offered no objection subject to a condition being applied.

#### PPS 11: Planning and Waste Management

Proposals involving the development of land in the vicinity of existing or approved waste management facilities and waste water treatment works (WWTWs), will only be permitted where all the following criteria are met:

- it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and
- it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.

The site is located approximately 406m north east of a Waste Water Treatment Works (WWTWs). I am content that the proposal will not prejudice or unduly restrict activities permitted to be carried out within the waste water treatment works.

NI Water were consulted on the proposal and recommend that this application for planning approval should be Refused as the proposed development may experience nuisance due to its proximity to the operations of the existing Wastewater Treatment Works. Following discussions with senior planners it was agreed to consult Environmental Health to determine if any of the number of dwellings (as shown below) that are located within closer proximity to the WWTW have raised complaints in terms of smell/nuisance.



Environmental Health responded to confirm they have no record of any complaints regarding odour from this WWTW. From this, as NI Water are recommending the application be refused, the view of the planning department is that the application should be approved as it is unnecessary for an Odour Encroachment Assessment to be carried out given the number of existing dwellings located within closer proximity.

### **Other Material Considerations**

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

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

Condition 1



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

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

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

**Condition 2**

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

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

**Condition 3**

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

Reason: To ensure the dwelling integrates into the landform.

**Condition 4**

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):** Ciaran Devlin

**Date:** 20 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 October 2022
<b>Date First Advertised</b>	18 October 2022
<b>Date Last Advertised</b>	18 October 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 5 Mullagh Close Maghera Londonderry BT46 5GA The Owner / Occupier 6 Mullagh Close Maghera Londonderry BT46 5GA The Owner / Occupier 7 Mullagh Close Maghera Londonderry BT46 5GA The Owner / Occupier 2A Sycamore Drive Maghera Londonderry BT46 5HE The Owner / Occupier 2 Sycamore Drive Maghera Londonderry BT46 5HE The Owner / Occupier 4 Sycamore Drive Maghera Londonderry BT46 5HE The Owner / Occupier 3 Sycamore Drive Maghera Londonderry BT46 5HE The Owner / Occupier 6 Carricknakielt Road Maghera Londonderry BT46 5EQ	
<b>Date of Last Neighbour Notification</b>	11 October 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/1996/0317 Proposals: EXTENSION TO DWELLING Decision: PG Decision Date:  Ref: LA09/2022/1451/O Proposals: Proposed Dwelling & Garage Decision: Decision Date:  Ref: H/2013/0134/F	

Proposals: ☐ Proposed ext, and alt. to include sun lounge, first floor master bedroom with en-suite, dressing area and external store

Decision: PG

Decision Date: 05-AUG-13

Ref: H/2007/0777/F

Proposals: Housing Development consisting of 3 no. detached dwellings and 2 semi-detached dwellings with associated parking and landscaping

Decision: PG

Decision Date: 17-JUL-09

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-Planning Response LA09-22-1451.pdf

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-1451-O.pdf

Environmental Health Mid Ulster Council-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

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

Not Applicable

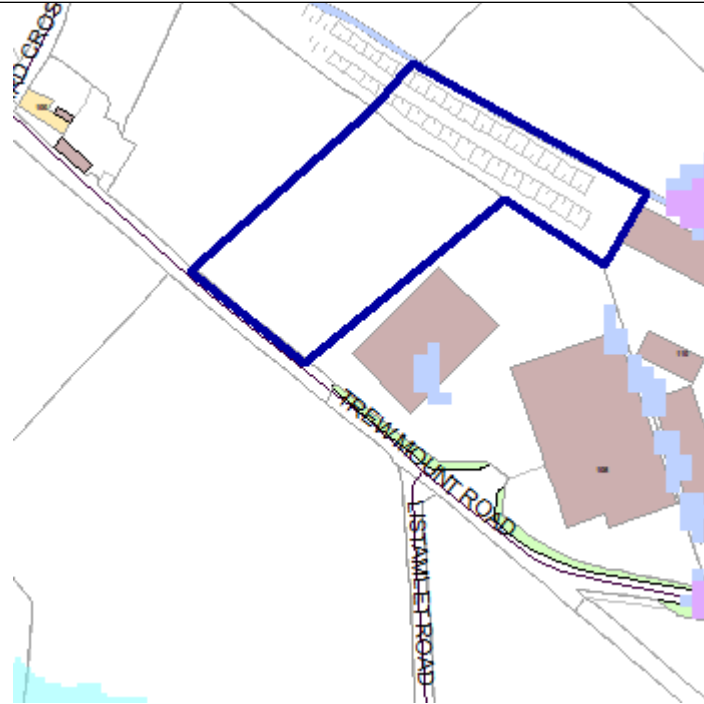


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2022/1513/O	<b>Target Date:</b> 2 February 2023
<b>Proposal:</b> Proposal is to develop this land to build a portal framed storage facility for agricultural and engineering machinery.	<b>Location:</b> Land 80M South East Of 100 Trewmount Road Killyman Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Briege O'Donnell 184 Ardboe Road Ardboe BT80	<b>Agent Name and Address:</b> Mr Aidan Coney 23 Tobin Park Moortown BT80 0JL
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Geological Survey NI (DfE)	3234 MUDC Planning. land 80m SE of 100 Trewmount Road Killyman Dungannon.doc
Statutory Consultee	DFI Roads - Enniskillen Office	22 1513 O Cover sheet.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf

### Representations:

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

### Summary of Issues

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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, dwellings on single plots and groups of farm buildings. To the northwest of the site is more rural but to the south and adjacent is light industrial businesses. The site to the southeast is bounded by DMAC Engineering leading to other industrial businesses and McCloskey's. The site is a portion of an agricultural field with a flat topography and there are established hedging along three boundaries at the site.

## **Description of Proposal**

This is an outline application for proposal is to develop this land to build a portal framed storage facility for agricultural and engineering machinery at land 80m South East Of 100 Trewmount Road, Killyman, Dungannon.

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

### **Policy Consideration**

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

### **Representations**

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

### **Planning History**

There are no planning histories at the application site.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council

submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

**PPS4 - Planning and Economic Development** is a retained policy document under SPPS and provides the appropriate policy context. The proposal involves the development of an industrial unit within an established industrial yard. Whilst the existing established business is located in the countryside, the proposed unit is located outside the settlement limits. Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) sets out the types of development considered acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

### **Policy PED 3 – Expansion of an established economic development use in the countryside**

Policy PED 3 of PPS 4 states the expansion of an established economic development use in the countryside 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 of the enterprise.

There are industrial sheds to the southeast of the application site at DMAC Engineering and these lands have not been shown in blue to demonstrate they are associated with this application. The agent responded in an email dated 18<sup>th</sup> January 2023 and was previously asked what is the proposed use of the building. In the email it was stated it was for the storage only of agricultural and engineering machinery. No further information has been provided about what other business this proposal is associated with. I am content the application is beside these existing industrial businesses but is not associated with them. I am of the opinion this proposal does not meet PED 3 as it is not an expansion of an established economic use in the countryside.

### **Policy PED 9 - General Criteria for Economic Development**

All proposals for economic development are required to meet the policy provisions of Policy PED 9 - General Criteria for Economic Development within PPS4. As stated previously the agent has failed to provide any information or supporting statement about

the proposal so it is difficult to assess against PED 9.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

CTY 13 states planning permission will be granted for a building in the countryside where it visually integrates into the landscape and is of an appropriate design. As shown in figure 1 below the site is an agricultural field with established hedging on three boundaries. To the southeast there is also the backdrop of a number of industrial units for DMAC Engineering and further around the bend along Trewmount Road is McCloskeys. I do not consider a building in this location would be visually prominent due to the land uses already in the immediate area. The design of the shed would be considered at the reserved matters stage.



Figure 1 – Photographs from the site visit of the site

### **CTY 14 – Rural Character**

As stated earlier in the assessment, I am content the proposal will not be a prominent feature in the landscape. I consider a building in this location would not be detrimental to rural character.



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

### **CTY 1 - Development in the Countryside**

I consider the proposal does not meet CTY 1 as no reason has been provided why the building cannot be located within a settlement. CTY 1 states industry and business uses will be acceptable in the countryside if they are in accordance with PPS 4. As this proposal fails the criteria in PED 3 it also fails CTY 1.

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

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

The site does not access onto a protected route so I have no concerns in this regard.

The proposal will create a new access off Trewmount Road and DFI Roads were consulted as the statutory authority. Roads responded with no concerns subject to visibility splays of 4.5m x 90m in both directions and a forward sight distance of 90m. The agent was asked in an email on the 16<sup>th</sup> January 2023 was this achievable and to look at Roads comments and at the time of writing no response has been received.

### **Other Considerations**

I completed checks on the statutory map viewers and I am content there are no ecological, built heritage or flooding issues at the site.

Environmental health were consulted and responded stating the nearest third party receptor is 85m northwest of the proposed development. Environmental Health consider the use should be restricted to storage and constricted opening times.

Geological Survey confirmed the site is not within the vicinity of any abandoned mines.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it fails to meet PED 3 in PPS 4 and CTY 1 in PPS 21.

### **Refusal Reasons**

#### **Reason 1**

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside as no overriding reason has been provided why the

development cannot be located within a settlement.

**Reason 2**

Contrary to PED 3 - Expansion of an established economic development use in the countryside in PPS 21 Sustainable Development in the Countryside as no information has been provided to demonstrate what associated business the proposal is expanding.

**Reason 3**

Contrary to PED 9 - General Criteria for Economic Development in PPS 21 Sustainable Development in the Countryside as no supporting information has been provided to enable an assessment to be made about the proposal.

**Signature(s):** Gillian Beattie

**Date:** 9 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	20 October 2022
<b>Date First Advertised</b>	3 November 2022
<b>Date Last Advertised</b>	3 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier Unit 4 110 Trewmount Road Moy Tyrone BT71 7EF The Owner / Occupier DMAC Engineering 108 Trewmount Road Moy Tyrone BT71 7EF	
<b>Date of Last Neighbour Notification</b>	8 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: M/1986/0524 Proposals: ECTENSION AND ALTERATIONS TO EXISTING CREAMERY FOR DAIRY PRODUCT, PRODUC Decision: PG Decision Date:  Ref: M/2008/0884/F Proposals: Proposed extension to existing workshop Decision: PG Decision Date: 17-FEB-09  Ref: M/2004/0744/F Proposals: Proposed office & engineering workshop Decision: PG Decision Date: 07-OCT-04  Ref: LA09/2022/1513/O Proposals: Proposal is to develop this land to build a portal framed storage facility for agricultural and engineering machinery. Decision: Decision Date:	

Ref: M/2014/0249/F

Proposals: Proposed offices and canteen to serve existing engineering works with associated car parking

Decision: PG

Decision Date: 23-JUL-14

Ref: M/2012/0640/F

Proposals: Extension to side and rear of existing industrial unit, including parking and turning area

Decision: PG

Decision Date: 21-FEB-13

Ref: M/2013/0105/F

Proposals: Extension to the side of existing building for industrial purposes, new office block and canteen area, and reduction of sight lines to South East

Decision: PG

Decision Date: 19-JUL-13

Ref: M/2013/0473/F

Proposals: Proposed new storage unit to serve existing engineering works with associated car parking

Decision: PG

Decision Date: 05-DEC-13

Ref: M/2004/0375/O

Proposals: Replacement of Existing Farm Buildings and Erection of New Industrial Unit, with access through existing Killyman Industrial Estate via existing access.

Decision: PG

Decision Date: 13-OCT-05

Ref: M/2007/1510/F

Proposals: Second access to industrial unit approved under file reference

M/2006/1265/RM

Decision: PG

Decision Date: 14-MAR-08

Ref: M/2007/0969/F

Proposals: Erection of industrial unit to replace previously approved scheme ( M/2006/1265)

Decision: PR

Decision Date: 11-JUN-09

Ref: M/1983/0403

Proposals: PRODUCTION FACILITIES FOR THE MANUFACTURE OF A NEW SILK BASED PRODUCTS

Decision: PG

Decision Date:

Ref: M/1977/0230

Proposals: SEWAGE DISPOSAL PLANT

Decision: PG

Decision Date:

Ref: M/2015/0106/F

Proposals: Proposed extension to existing manufacturing workshop

Decision: PG

Decision Date: 08-SEP-15

Ref: M/2004/1663/F

Proposals: Proposed office & workshop

Decision: PG

Decision Date: 07-JAN-05

Ref: M/2005/0591/F

Proposals: Proposed associated material store for existing approved workshop  
(M/2003/0916/F)

Decision: PG

Decision Date: 15-JUN-05

Ref: M/1987/0494

Proposals: PROVISION OF NEW FRONT SECURITY WALL WITH ASSOCIATED NEW  
ENTRANCE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

Geological Survey NI (DfE)-3234 MUDC Planning. land 80m SE of 100 Trewmount  
Road Killyman Dungannon.doc

DFI Roads - Enniskillen Office-22 1513 O Cover sheet.docx

Environmental Health Mid Ulster Council-Planning response.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

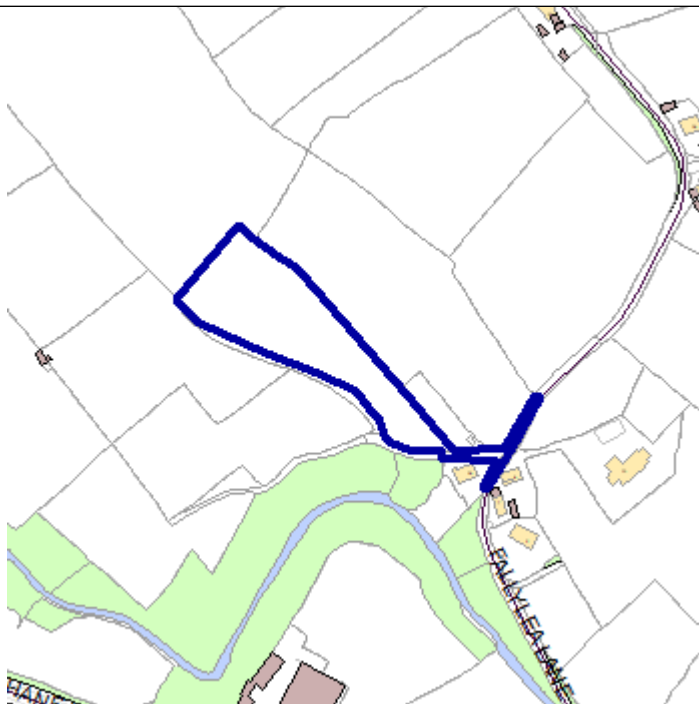


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2022/1571/F	<b>Target Date:</b> 17 February 2023
<b>Proposal:</b> Dwelling on farm with detached domestic garage	<b>Location:</b> Site 150M NW Of 10 Fallylea Lane Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> S Kelly 141 Fivemilestraight Maghera BT46 5JP	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>  This application is brought to the planning committee with a recommendation for refusal. The proposal does not comply with CTY 10 of PPS 21 in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm.  The application meets the requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21. Though the application does not meet the requirements of policy CTY 10, I am content that the proposed amounts to what is an excellent site for a dwelling, with no amenity concerns, strong natural boundaries and good screening from the public road.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	NI Water - Single Units West	LA09-2022-1571-F.pdf
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-1571-F.DOCX

### Representations:

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

### Summary of Issues

This application is brought to the planning committee with a recommendation for refusal. The proposal does not comply with CTY 10 of PPS 21 in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm. The application meets the requirements of policies



CTY 13, CTY 14 and CTY 16 of PPS 21. Though the application does not meet the requirements of policy CTY 10, I am content that the proposed amounts to what is an excellent site for a dwelling, with no amenity concerns, strong natural boundaries and good screening from the public road.

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

The site of the proposed development is located in the rural countryside approximately 1.7 miles west and outside of the Maghera settlement limit, as defined in the Magherafelt Area Plan 2015. The site is a 0.9 hectare area rectangular agricultural field with access via an existing laneway which adjoins the Fallylea Lane. The field slopes upwards from the road and is almost completely out of sight from both approaches along the Fallylea Lane due to its strong natural boundaries marked by mature trees and hedgerow. Neighbouring buildings consist of three dwellings (nos. 9, 10 and 11 Fallylea Lane) which are all located adjacent to the road, south and south west of the application area. The site is surrounded by agricultural fields along the western, northern and eastern boundaries. The wider surrounding environment consists mostly of agricultural fields with spread out scatterings of dwellings. The application site sits just 250m north east of the A6 Glenshane Rd.

### **Description of Proposal**

The proposed is a full application for a dwelling on farm with detached domestic garage.

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

#### **Policy Consideration**

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

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

The site of the proposed development is located in the rural countryside approximately 1.7 miles west and outside of the Maghera settlement limit, as defined in the Magherafelt Area Plan 2015.

#### **Relevant Histories**

None

#### **Other Constraints**

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

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

### Representations

No third party representation have been received to date.

### Mid Ulster District Council Draft Plan Strategy 2030

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

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

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

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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 and the access should be taken from an existing lane.
- Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group.

A consultation was issued to DAERA who confirmed the farm business ID has been active and established for more than 6 years and single farm payment has been claimed in each of the last 6 years.

Following a search on the planning portal it does not appear that any development opportunities have been gotten or sold off from the farm holding within 10 years of the date of the application.

The access of the proposed is taken from an existing lane. The proposed new dwelling is not visually linked or sited to cluster with an established group of farm buildings. Exceptional consideration is given to alternative siting elsewhere on the farm, provided there are no other sites available at another group of buildings, but in this case, the farm is without such agricultural buildings. The proposal fails to meet policy CTY 10.

Policy CTY 13 states 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. The proposed dwelling is a single storey dwelling with a ridge height of 6.5m from finished floor levels. Finished materials include weber monochouche render with Donegal slate natural stonework to parts of the front and side elevations. Both the proposed ridge height and external materials are deemed to be acceptable within the locality. The fact that the dwelling is proposed to be 130 metres back from the edge of the road and with the benefit of existing mature tree and hedge coverage to all of the site boundaries ensures the dwelling will integrate unobtrusively. I am satisfied that the proposal satisfies CTY 13.

Policy CTY 14 states 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. I do not believe the dwelling would be a prominent feature in the landscape and I am satisfied that the site and its environs are capable of encompassing the proposed dwelling. I am satisfied that the application is able to comply with CTY 14.

There is ample space within this site to provide package treatment plant provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. In my view, the proposal does not offend policy CTY16 of PPS21.

### Planning Policy Statement 3 – Access, Movement and Parking

The proposed access uses an existing laneway onto Fallylea Lane with the existing visibility splayed improved. DfI Roads have provided no objections to the proposed, subject to a condition.

Having considered all of the above, it is recommended that this application be refused on the basis that it does not meet the criteria for CTY 10 of PPS 21.

<b>Summary of Recommendation:</b>
Refuse is recommended
<b>Refusal Reasons</b>  Reason 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  Reason 2 The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm.
<b>Signature(s):</b> Benjamin Porter
<b>Date:</b> 17 February 2023

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm dwelling does not visually link or cluster with an established group of farm buildings. Consideration cannot be given to alternative siting at another group of buildings because in this case there are no farm buildings located on the farm.

**Signature(s):** Benjamin Porter

**Date:** 17 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 November 2022
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	15 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 10 Fallylea Lane Maghera Londonderry BT46 5JU The Owner / Occupier 9 Fallylea Lane Maghera Londonderry BT46 5JU The Owner / Occupier 11 Fallylea Lane Maghera Londonderry BT46 5JU	
<b>Date of Last Neighbour Notification</b>	9 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/1989/0260 Proposals: REPLACEMENT BUNGALOW Decision: PG Decision Date:  Ref: H/2007/0534/F Proposals: Garage. Decision: PG Decision Date: 15-FEB-08  Ref: H/1977/0127 Proposals: EXTENSION TO DWELLING Decision: PG Decision Date:  Ref: H/2005/0971/F Proposals: Bungalow & Garage Decision: PG Decision Date: 10-MAY-06	

Ref: H/2002/0884/O

Proposals: Site of bungalow and garage.

Decision: PG

Decision Date: 19-DEC-02

Ref: H/1988/0369

Proposals: SITE OF REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2022/1571/F

Proposals: Dwelling on farm with detached domestic garage

Decision:

Decision Date:

Ref: H/2004/0671/O

Proposals: Site of Dwelling.

Decision: PR

Decision Date: 03-JUL-06

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx

NI Water - Single Units West-LA09-2022-1571-F.pdf

DAERA - Coleraine-Consultee Response - LA09-2022-1571-F.DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Cross Sections Plan Ref: 05

Site Layout or Block Plan Plan Ref: 02

Proposed Elevations Plan Ref: 03

Roads Details Plan Ref: 04

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2022/1582/O	<b>Target Date:</b> 21 February 2023
<b>Proposal:</b> Proposed dwelling and garage on a farm.	<b>Location:</b> 60M NE Of 28 Cloughfin Road Killeenan Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Patrick Hegarty 28 Cloughfin Road Cookstown Tyrone BT80 9EN	<b>Agent Name and Address:</b> Mr Conor McElhone Unit 4 Mid Ulster Business Park Cookstown BT809LU
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2022-1582-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	RS1 Form a (1).doc Roads Consultation outline approval.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to Criteria C of policy CTY 10, CTY 13 & CTY 14 of PPS 21.

### Characteristics of the Site and Area



The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The red line of the application incorporates parts of two agricultural fields with a portion of a narrow field that runs in a south eastern direction and part of a larger field that travels north. There is a fence and low hedge which separates the two fields within the red line. There is a hedge row which defines part of the eastern boundary and a post and wire fence and low level shrubbery that defines the roadside boundary. The site sits below the road level slightly. The surrounding area is mainly agricultural in nature with single dwellings located sporadically throughout the countryside.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling and garage on a farm.

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

#### **Policy Consideration**

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development 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 into account of in the preparation of Mid Ulster' Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes dwellings on farms. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a

dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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 and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

The applicant has used a third party farm business ID and have confirmed on the application form they have permission to use the farm business ID for the purposes of this application. DAERA were consulted and confirmed that the farm business has been in existence for 6 years or more and that payments have been claimed on the lands for 6 or more years. From this I am content the farm business is currently active and has been established for at least 6 years.

Following a search on the planning system I am content that 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. There is planning history for a dwelling in February 2012, which is more than 10 years ago.

With regards criteria C which states that the new building is visually linked or sited to cluster with an established group of buildings on the farm, which is not the case in this instance. The site is an open site which is not located to any buildings on the farm holding. There are third party farm buildings located approximately 90m south east but these cannot be relied on for this application. The policy allows for an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the farm and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. On the application form when asked to provide justification if you are applying for an alternative site removed from the existing farm group the agent answered N/A. The address of the registered farm business is 29 Crancussy Road and having reviewed the farm maps and ortho images there is an established group of buildings on the farm at this location and land available here which a dwelling could site to cluster or visually link. No justification has been provided for an alternative site; therefore, the application fails to comply with criteria C.

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. As this is an outline application, no design details have been

provided however, I do not believe a dwelling at this proposed siting would visually integrated in the landscape as it does not have long established boundaries to provide a suitable degree of enclosure and it would rely on new landscaping for integration resulting in it being unduly prominent in the landscape. As previously mentioned the dwelling is not visually linked or sited to cluster with an established group of buildings on a farm and fails Policy CTY 13.

Policy CTY 14 states, planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, no design details were submitted. As stated, the proposed site lacks established boundaries resulting in it being unduly prominent in the landscape and would damage the rural character. As such, the proposal is contrary to this policy.

**PPS 3 - Access, Movement and Parking;**

The proposal is to create a new access. DfI Roads advised that they have no objection to the proposed development subject to conditions.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that the proposed building will be a prominent feature in the landscape and the site relies primarily on the use of new landscaping for integration.

**Reason 4**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape.

**Signature(s):** Ciaran Devlin

**Date:** 21 February 2023

ANNEX	
Date Valid	8 November 2022
Date First Advertised	22 November 2022
Date Last Advertised	22 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1582/O Proposals: Proposed dwelling and garage on a farm. Decision: Decision Date:  Ref: I/2001/0775/O Proposals: Proposed site for one and a half storey dwelling Decision: PR Decision Date: 05-SEP-02  Ref: I/2004/0843/O Proposals: Site for Dwelling & Repositioning of Existing Private Access Decision: Decision Date:  Ref: I/2002/0695/O Proposals: Proposed site for 2 storey dwelling and domestic garage Decision: Decision Date:  Ref: I/1978/0057 Proposals: 11 KV O/H LINE	

Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DAERA - Omagh-LA09-2022-1582-O.docx  
DFI Roads - Enniskillen Office-RS1 Form a (1).docRoads Consultation outline approval.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

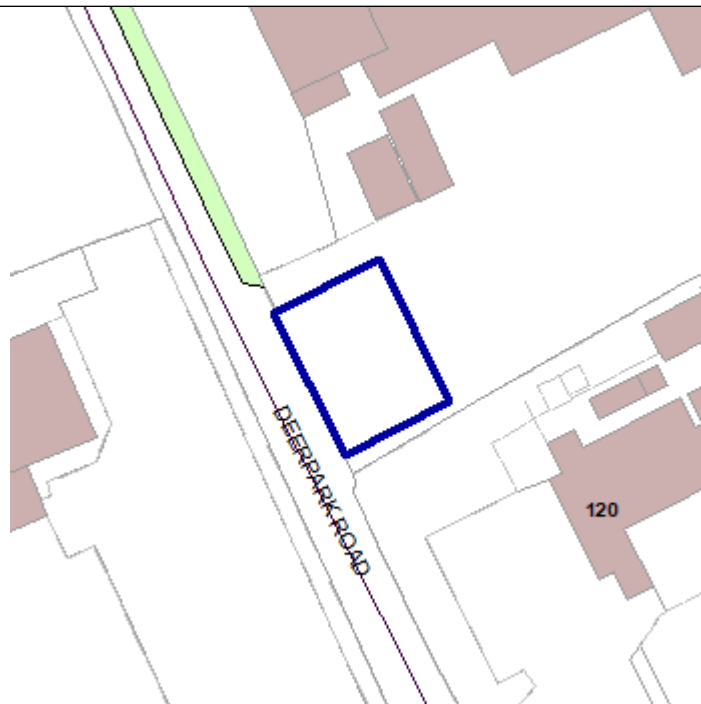


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2022/1625/F	<b>Target Date:</b> 2 March 2023
<b>Proposal:</b> Proposed alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory.	<b>Location:</b> 116 Deerpark Road Toomebridge BT41 3SS
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Neil Savage 116 Deerpark Road Toomebridge BT41 3SS	<b>Agent Name and Address:</b> Vision Design 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b>  The current application is presented as an approval; however, it is being presented at Committee following the receipt of an objection from the neighbouring Primary School.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docx
Statutory Consultee	DFI Roads - Enniskillen Office	previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Previously answered
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

Concerns raised by the objector are addressed below:

1. Complainant is concerned that the proximity of the proposal to the primary school is a health and safety risk given the volume of traffic entering and exiting the school throughout the day.



Dfl Roads have commented on this proposal and have raised no objections.

2. Anahorish Primary School intend to install a new entrance and are concerned the current application will negatively impact their future proposal.

As the application has not been received by Mid Ulster District Council to date, this cannot be considered in the determination of this application.

3. Concerns that the proposal uses site splays that encroach upon the school entrance.

Dfl Roads have commented on this proposal and have raised no objections.

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

The application site is located at No. 116 Deerpark Road, approximately 500m north of the village of Creagh. The site falls within the open countryside as defined in the Magherafelt Area Plan 2015. The red line encompasses a small portion of the front railing of the existing factory of SDC Trailers. The total area covered by SDC at this site measures approximately 45,000m<sup>2</sup> wherein the majority of the site is covered by industrial style buildings. Anahorish Primary School is located on land immediately to the south of the site and there are a number of dwellings in close proximity to the site.

### **Consultations**

1. Dfl Roads – responded advising they offer no objection to the proposal.

### **Site History**

LA09/2022/1628/F - 116 Deerpark Road Toomebridge BT41 3SS - Proposed cladding of existing gable to previously approved infill area (LA09/2018/0248/F) and new roller doors – Awaiting decision.

LA09/2018/0777/F - 116 Deerpark Road Toomebridge - Proposed new egress point to existing factory – Permission Granted 24/10/2018.

LA09/2018/0248/F - 116 Deerpark Road Toomebridge BT41 3SS - Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment - Permission Granted 16/09/2019.

LA09/2016/0587/F - 116 Deerpark Road Toomebridge BT41 3SS - Proposed Extension to existing light industrial shed to provide welding training area - Permission Granted 05/08/2016.

LA09/2016/0203/F - 116 Deerpark Road Toomebridge Co Antrim - Extension to existing chassis shelter - Permission Granted 11/07/2016.

LA09/2015/0903/F - 116 Deerpark Road Toomebridge BT41 3SS - Retrospective planning for a light industrial shed - Permission Granted – 13/05/2016.

H/2014/0099/F - 116 Deerpark Road Toomebridge - Proposed training room facilities – Permission Granted 18/08/2014.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. This application was initially advertised in the local press on 19/07/2022. Eleven neighbouring properties were notified in relation to this application and two objectors have submitted correspondence.

### **Description of Proposal**

This is a full application for a proposed alteration to a previously approved egress point (LA09/2018/0777/F) to include for access to the existing factory.

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

#### **Policy Consideration**

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

The site falls in the open countryside as defined in the Cookstown Area Plan 2010. The site is located within a designated area of 'high scenic value'.

#### **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

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.

The SPPS outlines the aims to providing sustainable development and with respect to that, should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting, and landscaping. It does not offer any change in policy direction regarding replacement dwellings.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

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

In terms of policy AMP 2 of PPS 3, the application proposes alterations to the previously approved egress point to include for access to the existing factory. The agent has confirmed through the submission of a Transport Assessment Form that there is no change in traffic generation resulting from this application. I am content that the proposed application is able to comply with AMP 2 of PPS 3.

Deerpark Road is not a Protected Route therefore there is no conflict with AMP 3 of PPS 3. For this reason, I am content that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic and complies under PPS 3.

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

I note that the application site falls within the open countryside, therefore PPS 21 applies, mainly CTY 13 and 14. However, it should be noted that although it falls in the open countryside, the rural character of the area has already been eroded due to the existing industrial development across the SDC site. From this, I am content that the current proposal will not cause a detrimental change of character of the area and is therefore able to comply under PPS 21.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

The development shall be carried out in accordance with Drawing No. 02 uploaded to Public Access on 10/11/2022.

Reason: To ensure that the development is carried out in accordance with the approved plans.

**Signature(s):** Zoe Douglas

**Date:** 20 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	17 November 2022
<b>Date First Advertised</b>	29 November 2022
<b>Date Last Advertised</b>	29 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 121 Deerpark Road Toome Londonderry BT41 3SS The Owner / Occupier 120 Deerpark Road Toome Londonderry BT41 3SS	
<b>Date of Last Neighbour Notification</b>	9 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2019/1010/F Proposals: Proposed conversion of existing outbuildings and yard to provide 5No. self-catering holiday lets and associated parking including internal and minor external alterations with small covered entrance to one building. Decision: PG Decision Date: 17-DEC-19  Ref: H/1999/0347 Proposals: DWELLING & GARAGE Decision: PG Decision Date:  Ref: H/1997/0264 Proposals: DWELLING & GARAGE Decision: PG Decision Date:  Ref: H/2004/1419/O Proposals: Site of dwelling and garage Decision: PR Decision Date: 13-FEB-06	

Ref: H/1999/0066  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:

Ref: H/2001/0612/F  
Proposals: Dwelling  
Decision: PG  
Decision Date: 21-NOV-01

Ref: H/2015/0076/F  
Proposals: Proposed Domestic Car Storage Garage  
Decision: PG  
Decision Date: 06-JUL-15

Ref: H/1998/0263  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1997/0605  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:

Ref: LA09/2020/0395/F  
Proposals: Proposed change of use - conversion from barn (old piggery) to 2 no residential units and associated ground works at site adjacent to Aughrim House, Creagh, Toomebridge, BT41 3ST  
Decision: PG  
Decision Date: 11-MAR-21

Ref: H/2000/0326/O  
Proposals: Site for dwelling and garage  
Decision: PR  
Decision Date: 11-JAN-01

Ref: H/2000/0325/O  
Proposals: Site for dwelling and garage  
Decision: PR  
Decision Date: 11-JAN-01

Ref: H/1990/0560  
Proposals: H.V. O.H. LINE BM 0464/90  
Decision: PG  
Decision Date:

Ref: H/2003/0230/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 07-NOV-05

Ref: H/2001/0504/F

Proposals: Extension to dwelling

Decision: PG

Decision Date: 11-OCT-01

Ref: H/2006/0737/RM

Proposals: Proposed bungalow

Decision: PG

Decision Date: 24-NOV-06

Ref: H/2008/0646/F

Proposals: Change of house type and double garage to previously approved application H/2006/0737/RM

Decision: PG

Decision Date: 21-JAN-09

Ref: H/1999/0696/O

Proposals: Site of Bungalow

Decision: PG

Decision Date: 11-JUN-00

Ref: H/2005/0634/F

Proposals: Variation of time condition number 2 of application H/1999/0696/O to extend outline permission by one year.

Decision: PG

Decision Date: 31-AUG-05

Ref: H/2002/1146/F

Proposals: Dwelling and Garage. (Renewal of H/1997/0264)

Decision: PG

Decision Date: 14-FEB-03

Ref: H/1999/0679/O

Proposals: Site of Dwelling and Garage

Decision: PG

Decision Date: 08-MAY-00

Ref: H/2000/0500/RM

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 22-SEP-00

Ref: H/1993/0353

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: H/1993/0026

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/1998/0450

Proposals: REPLACEMENT SEPTIC TANK

Decision: PG

Decision Date:

Ref: H/1995/0246

Proposals: SITE OF DWELLING AND GARAGE

Decision: PR

Decision Date:

Ref: H/2003/0226/O

Proposals: Site of two storey dwelling and garage.

Decision:

Decision Date:

Ref: H/1997/0403

Proposals: ERECTION OF MOBILE CLASSROOM

Decision: PG

Decision Date:

Ref: H/2001/0992/F

Proposals: Temporary Mobile Classroom

Decision: PG

Decision Date: 18-JAN-02

Ref: H/1991/0299

Proposals: MOBILE CLASSROOM

Decision: PG

Decision Date:

Ref: H/1994/0187

Proposals: NEW CAR PARK/TURNING AREA & ALTS TO FRONT ENTRANCE

Decision: PG

Decision Date:



Ref: H/2002/0859/F  
Proposals: Relocation of Temporary Classroom  
Decision: PG  
Decision Date: 15-NOV-02

Ref: H/1994/0306  
Proposals: MOBILE CLASSROOM  
Decision: PG  
Decision Date:

Ref: H/2014/0437/F  
Proposals: Removal of existing mobile accommodation. Provision of new temporary mobile accommodation for duration of contract. Erection of new 4 classroom teaching block, School Hall, Kitchen and Ancillary Accommodation. Also provision of new hard play area and remedial works to existing building.  
Decision: PG  
Decision Date: 13-FEB-15

Ref: H/2013/0069/F  
Proposals: Proposed staff toilet block and internal works to existing toilets  
Decision: PG  
Decision Date: 28-MAY-13

Ref: H/2014/0398/PREAPP  
Proposals: Proposed Extension to rear of the existing school comprising 4No. Classrooms, 2No. Resource Areas, School Hall, Kitchen and ancillary spaces. Proposal include the use of New Temporary Classrooms for the duration of the works which would be removed upon completion of the new building.  
Decision: ESA  
Decision Date: 30-JAN-15

Ref: H/2000/0103/F  
Proposals: Extension To Existing Primary School  
Decision: PG  
Decision Date: 19-APR-00

Ref: H/2013/0060/F  
Proposals: Proposed paint store  
Decision: PG  
Decision Date: 20-MAY-13

Ref: H/1995/0224  
Proposals: CHANGE OF USE FROM AGRICULTURE LAND TO STORAGE AREA FOR FINISHED TRAILERS PLUS THE ERECTION OF AN 2600MM HIGH BLOCK WALL ALONG WESTERN BOUNDARY, AND 2500MM STEEL POST

AND CHAIN LINK FENCE TO THE OTHER BOUNDARIES

Decision: PG

Decision Date:

Ref: H/1994/0572

Proposals: CHANGE OF USE FROM AGRICULTURE LAND TO TEMPORARY STORAGE

AREA AND TEMPORARY ACCESS

Decision: WITHDR

Decision Date:

Ref: H/1997/0281

Proposals: COVERED AREA BETWEEN STORAGE UNIT AND FABRICATION BUILDING(RETROSPECTIVE)

Decision: PG

Decision Date:

Ref: H/1994/6062

Proposals: EXT TO EXISTING FACTORY DEERPARK ROAD BELLAGHY

Decision: QL

Decision Date:

Ref: H/2012/0177/F

Proposals: Proposed creation of a new access from the Deerpark Road and oneway system for HGVS.

Decision:

Decision Date:

Ref: H/2005/0163/F

Proposals: Extension to existing factory

Decision: PG

Decision Date: 08-AUG-06

Ref: H/2013/0469/F

Proposals: Proposed training room facilities

Decision: PG

Decision Date: 28-FEB-14

Ref: LA09/2015/0903/F

Proposals: Retrospective planning for a light industrial shed

Decision: PG

Decision Date: 13-MAY-16

Ref: H/1995/0026

Proposals: SECOND FLOOR EXTENSION TO OFFICES

Decision: PG

Decision Date:

Ref: H/2003/0168/F

Proposals: Proposed canopy between existing buildings.

Decision: PG

Decision Date: 08-OCT-03

Ref: H/1990/0087

Proposals: EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: H/1994/0484

Proposals: EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: H/2014/0099/F

Proposals: Proposed training room facilities.

Decision: PG

Decision Date: 18-AUG-14

Ref: LA09/2022/1625/F

Proposals: Proposed alteration to previously approved egress point (LA09/2018/0777/F) to include for access to existing factory.

Decision:

Decision Date:

Ref: LA09/2018/0777/F

Proposals: Proposed new egress point to existing factory

Decision: PG

Decision Date: 24-OCT-18

Ref: H/1981/0394

Proposals: FACTORY

Decision: PG

Decision Date:

Ref: H/1989/0423

Proposals: STORE, WORKSHOP AND EXTENSION TO FACTORY

Decision: PG

Decision Date:

Ref: H/1988/0094

Proposals: FACTORY

Decision: PG

Decision Date:

Ref: H/2007/0319/RM

Proposals: Retrospective extension to existing workshop.

Decision: PG

Decision Date: 18-AUG-09

Ref: H/1982/0196

Proposals: HV AND MV O/H LINE (BM 5380)

Decision: PG

Decision Date:

Ref: LA09/2016/0587/F

Proposals: Proposed Extension to existing light industrial shed to provide welding training area

Decision: PG

Decision Date: 05-AUG-16

Ref: LA09/2022/1628/F

Proposals: Proposed cladding of existing gable to previously approved infill area (LA09/2018/0248/F) and new roller doors

Decision:

Decision Date:

Ref: H/2004/1303/F

Proposals: Excavation & Levelling Of Land As Enablement Works For Future Extension To Factory.

Decision: PG

Decision Date: 08-AUG-06

Ref: H/2003/0930/O

Proposals: Site of extension to workshop.

Decision: PG

Decision Date: 18-APR-04

Ref: H/1991/6158

Proposals: EXTENSION TO WORKSHOP DEERPARK ROAD TOOMEBRIDGE

Decision: PRENC

Decision Date: 20-DEC-91

Ref: LA09/2018/0248/F

Proposals: Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment.

Decision: PG

Decision Date: 16-SEP-19

Ref: H/2003/1248/A

Proposals: New signage.

Decision: CG

Decision Date: 17-NOV-04

Ref: H/2005/0913/F

Proposals: Extension to existing workshop & Extension to existing workshop as per previous approval Ref H/2002/0541/F

Decision: PG

Decision Date: 21-JUL-08

Ref: H/2002/0541/F

Proposals: Workshop, Offices, Yard, and Carparking.

Decision: PG

Decision Date: 21-MAY-04

Ref: H/2001/0804/Q

Proposals: Extension To Workshops For SDC Trailers.

Decision: ELA

Decision Date: 06-MAR-02

Ref: H/2000/0342/Q

Proposals: Proposed Development Site

Decision: ELR

Decision Date: 25-MAY-00

Ref: H/2013/0336/F

Proposals: Extension to existing roof extract flues and erection of 5 support structures

Decision: PG

Decision Date: 13-FEB-14

Ref: H/2013/0385/F

Proposals: Proposed chassis shelter

Decision: PG

Decision Date: 17-JAN-14

Ref: LA09/2016/0203/F

Proposals: Extension to existing chassis shelter

Decision: PG

Decision Date: 11-JUL-16

Ref: H/1990/6062

Proposals: ENGINEERING WORKSHOP 81 HILLHEAD ROAD CASTLEDAWSON

Decision: PREA

Decision Date: 06-SEP-90

Ref: H/2013/0111/F

Proposals: 50kw solar PV array on existing warehouse roof

Decision: PG

Decision Date: 05-JUN-13

Ref: H/1980/0013

Proposals: SITE OF BUNGALOW

Decision: PG

Decision Date:

Ref: H/1996/6073

Proposals: DEVELOPMENT OF LAND DEERPARK ROAD TOOMEBRIDGE

Decision: QL

Decision Date:

Ref: H/2006/0492/Q

Proposals: Proposed infilling of a low lying field by 4 feet approx for agricultural purpose

Decision: PRENC

Decision Date: 12-JUN-06

Ref: H/2005/0808/F

Proposals: Extension To Dwelling

Decision: PG

Decision Date: 19-OCT-05

Ref: H/2000/0050/F

Proposals: Extension Of Existing Car Park

Decision: PG

Decision Date: 16-MAR-00

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation.docx

DFI Roads - Enniskillen Office-previously answered

DFI Roads - Enniskillen Office-Previously answered

DFI Roads - Enniskillen Office-Roads Consultation 2.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable



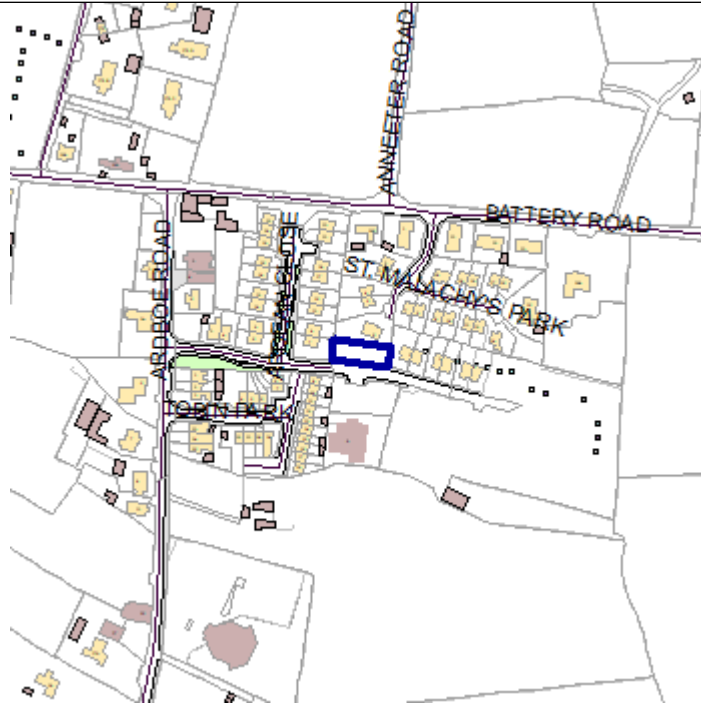
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.27
<b>Application ID:</b> LA09/2022/1690/O	<b>Target Date:</b> 20 March 2023
<b>Proposal:</b> Dwelling	<b>Location:</b> Lands Approx 30M West of 1 Tobin Drive Moortown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Smallwood Contracts Ltd 301 Drum Road Cookstown	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Pomeroy Co Tyrone BT70 2QP
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.docNo objection, subject to conditions.FORM RS1 STANDARD.docRoads outline.docx
Statutory Consultee	NI Water - Single Units West	LA09-2022-1690-O.pdf
Statutory Consultee	Historic Environment Division (HED)	

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

## Characteristics of the Site and Area

The site is located within the settlement limits of Moortown as designated within the Cookstown Area Plan.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site, which is a flat rectangular shaped gravelled yard comprising some building materials including breeze blocks, sits to the west of and at the entrance to the relatively new housing development 'Tobin Drive' under construction with a line of two storey semi-detached properties running in a line to the east of the site.



Fig 3: View of the site from the south from Tobin Youth Centre's car park



Fig 4: Google view of the site (in red box) from the west from Ardean Close a well-established housing development at the entrance into the relatively new housing development 'Tobin Drive' under construction.

Wooden close boarded fencing approx. 2m high defines the western, northern, and eastern boundaries of the site; and metal perimeter fencing approx. 2m high defines the southern boundary of the site.

No. 1 Tobin Drive, the first two-storey semi-detached in the new housing development under construction bounds the site to the east; no. 6 Malachy's Park, a two-storey detached dwelling within a neighbouring well-established housing development bounds the site to the north; no. 7 Ardean Close, a two-storey semi-detached dwelling within another neighbouring well-established housing development bounds the site to the west. The residential road including footpath serving the new housing development under construction bounds the site to the south / front.

The immediate area surrounding the site is primarily residential comprising a mix of detached, semi-detached and terraced properties. 'Tobin Youth Centre', with an ancillary rough tarmac / gravelled car park to its front / north also exists immediately to the south of the site to the other side of the residential road.



Views of the site are from Ardean Close on the approach to the entrance into Tobin Drive and from within Tobin Drive.

## Description of Proposal

This is an outline application for a proposed dwelling on lands approx. 30m West of 1 Tobin Drive Moortown.



Fig 5 & 6: Site location plan and concept layout respectively

It is noted that the lands proposed to be developed under this application outlined red in Fig 5 above were conditioned as open space under previous full planning application LA09/2015/1023/F, which on the 23<sup>rd</sup> March 2017, granted permission for 29 dwellings with garages. See Fig 7 & 8 below.



Fig 7 & 8: Site location planning plan and site layout, respectively, for planning application LA09/2015/1023/F. The site layout shows the areas of public open space (light green) conditioned to be provided prior to the occupation of any of the dwellings hereby approved. Current site identified within red box in Fig 8.

It is noted that, whilst not in the description of proposal, within the supporting statement submitted alongside this application a bungalow has been proposed on the site.

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

### **Policy Consideration**

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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 7: Quality Residential Environments
- Planning Policy Statement 7 (Addendum): Safe Guarding the Character of Established Residential Areas
- Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation
- Creating Places
- Development Control Advice Note 8: Housing in Existing Urban Areas

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

### **Planning History**

- I/2009/0286/O - Proposed Housing Development Moortown GAC Tobin Memorial Park Ardean Close Ardboe Rd Moortown - Granted 29<sup>th</sup> October 2010
- LA09/2015/1023/F - Proposed Housing development to consist of 26 semi-detached + 3 detached, 29 in total dwellings with garages - Tobin Memorial Park Ardean Close Ardboe Rd Moortown - Granted 23<sup>rd</sup> March 2017

- LA09/2019/0672/DC - Discharge of conditions 6 & 7 of planning permission  
LA09/2015/1023/F - Discharged 19<sup>th</sup> June 2019

Condition 6 was that no site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by Council. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

Condition 7 was that access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

- Discharge of condition 4 of planning permission LA09/2015/1023/F - Discharged 26<sup>th</sup> January 2022

Condition 4 was that the open space areas referred to in conditions No. 2 and 3 shall be managed in perpetuity by a Management Company the details of which shall be submitted to and agreed in writing by Mid Ulster Council, prior to the provision of any areas of open space.

Reason: To ensure that the areas of open space provision is managed in perpetuity, and, to ensure a quality residential environment.

## **Consultees**

1. Dfl Roads were consulted in relation to access arrangements, movement and parking arrangements and raised no objections to the proposal subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. NI Water (Multi Units West) were consulted and raised no objections, that there is available capacity for the proposed development at the receiving Waste Water Treatment Works.

3. Historic Environment Division (HED) were consulted as the site is located within the buffer of an archaeological site and monument (Fairy Bush - Reference: TYR 040:011). HED (Historic Monuments) assessed the application and were content the proposal is satisfactory to SPPS and Planning Policy Statement 6 archaeological policy requirements.

## **Consideration**

Cookstown Area Plan 2010 – Cookstown Area Plan is the extant Plan for the area and identifies the site as being within the settlement limits for Moortown.

The Plan has defined the settlement limits and allows for development within these limits provided it meets with regional policy requirements of Policy SETT 1.

Policy SETT 1 sets out 6 criteria and a general criterion to meet with regional policy. I consider that if the development meets with regional policies contained in Planning Policy Statement 7: Quality Residential Environments it will meet the requirements of SETT1.

Strategic Planning Policy Statement for Northern Ireland – I do not consider the Strategic Planning Policy Statement have provided any change in policy direction or provided clarification in relation to any of the existing policies relevant to this proposal.

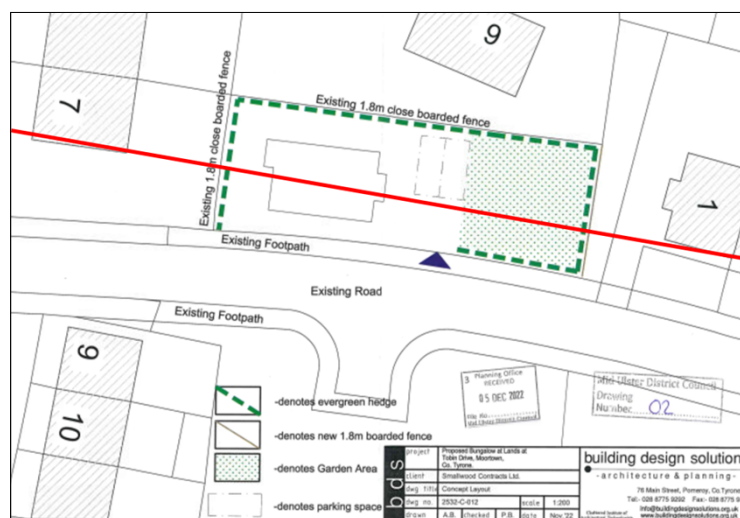
PPS 7 – Quality Residential Environments - PPS 7 is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy. I will deal with these as they appear in the policy.

- (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;

I am not content that this site could be developed to accommodate a dwelling that would respect it's surrounding residential context. The character of housing in the area is two storey as such a bungalow as proposed within the supporting statement submitted alongside this application would appear of character on this site and a two storey dwelling would increase the potential adverse effect of this proposal on neighbouring properties.

As indicated by the concept layout submitted a dwelling on the site would break with and run forward of the existing building line running from no. 7 Ardean Close, a two-storey semi-detached dwelling within a neighbouring well-established housing development to the west of the site and a line of two storey semi-detached houses within Tobin Drive a new housing development under construction to the east of the site including no.1 Tobin Drive bounding the site (see Fig 9 further below). I would note whilst there are no

landscaped features on this site, the site was conditioned to be provided as open space with some planting ancillary to Tobin Drive the new housing development under construction to its east. This public open space and planting provision which was to be provided prior to the occupation of any of the dwellings approved, which has not happened, was conditioned for the benefit of the occupiers of the dwellings, to aid integration of the development into the local landscape, and to provide a quality residential environment. I consider this proposal overdevelopment, that it will not respect it's surrounding context and will remove open space was integral to integrating and creating a quality residential environment for the occupiers of Tobin Drive and neighbouring developments. See further consideration of the potential removal of the conditioned area of open space further below under 'Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation'.





surrounding area;

I am dealing solely with an application for a single dwelling as such public open space is not a requirement for this proposal. Whilst indicated by the concept layout submitted private amenity space in excess of the 70m<sup>2</sup> average promoted in Creating Places could be provided I am not content that the layout shown constitutes a quality residential scheme with the properties main useable garden space, rather than being situated to the rear of the property, pushed to the east side of and separate from the dwelling by the parking.

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

I am dealing solely with an application for a single dwelling and I do not consider it is appropriate to require the provision of neighbourhood facilities for this scheme.

- (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 site will access onto a footpath linking the development to services within Moortown as such the proposal would support walking and cycling, and help meets the needs of people whose mobility is impaired by providing occupiers of the dwelling with adequate and convenient access to existing services and facilities within the village including public transport to wider afield.

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

Whilst indicated by the concept layout submitted in-curtilage parking for 2 vehicles could be accommodated and DFI Roads have raised no concerns in respect of parking I am not content that the layout shown constitutes a quality residential scheme with the properties main garden pushed to the east side of and separate from the dwelling by the parking.

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

This is an outline application and a detailed design is not being assessed at this stage.

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

Paragraph 7.16 of Creating Places advises that there should be a minimum separation distance of 10m between the rear of new houses and the common boundary.

Neighbouring properties to the site include nos. 7 Ardean Close, 6 Malachy's Park and 1

Tobin Drive located to the west, north and east of the site respectively. As stated further above the character of housing in the area is two storey as such a bungalow as proposed within the supporting statement submitted alongside this application would appear out of character on this site and a two storey dwelling in keeping with the character would increase the potential adverse effect of this proposal on neighbouring properties. I consider a dwelling in particular a two storey dwelling on this site would have an unacceptable adverse impact of the aforementioned two storey neighbouring properties by reason of overbearing, overlooking and overshadowing. As indicated by the concept layout submitted, despite pushing the dwelling to the west side of the site, which in my opinion does not result in a quality layout for reasons detailed further above, adequate separation distances still cannot be provided in particular in relation to no.6 Malachy's Park. The separation distance between the rear wall of the proposed dwelling and its boundary with no. 6 Malachy's Park is approx.3-4metres this limited separation distance is exasperated by no. 6 Malachy's Park also being situated within 4-6 metres of the party boundary. The character of housing in the area is two storey as such a bungalow would appear of character on this site and a two storey dwelling would increase the potential adverse effect of this proposal on neighbouring properties.

(i) the development is designed to deter crime and promote personal safety  
I am satisfied that there are enough dwellings close by to deter crime to some degree.

**Based on the above assessment it is clear that the proposal under consideration does not comply with all the criteria set out in policy QD 1 of PPS 7.**

#### PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

I am not satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area; and the site does not have the capacity to accommodate a suitably designed dwelling. As detailed further above I consider a dwelling on this site will not respect the existing building line within which it will sit and that it will have an unacceptable adverse effect on existing neighbouring properties in terms of overbearing, overlooking, overshadowing.

Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation - Policy OS 1 of PPS 8 Protection of Open Space outlines development that would result in the loss of existing open space or land zoned for the provision of open space will not be permitted.

The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance. An exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space. An exception will also be permitted where it is

demonstrated that the loss of open space will have no significant detrimental impact on the amenity, character or biodiversity of an area and where in the case of an area of open space of 2 hectares or less, alternative provision is made by the developer which is at least as accessible to current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality.

Policy OS 2 of PPS 8 Public Open Space in New Residential Development does not detail the precise amounts or types of open space to be included in housing developments, with each proposal assessed on its own particular context and characteristics. A normal expectation will be at least 10% of the total site area. Public open space required by this policy must also conform to all the following criteria:

- it is designed in a comprehensive and linked way as an integral part of the development;
- it is of demonstrable recreational or amenity value;
- it is designed, wherever possible, to be multi-functional;
- it provides easy and safe access for the residents of the dwellings that it is designed to serve;
- its design, location and appearance takes into account the amenity of nearby residents and the needs of people with disabilities; and
- it retains important landscape and heritage features and incorporates and protects these in an appropriate fashion.

Bearing in mind the above, whilst the open space approved under LA09/2015/1023/F has not yet been laid out I consider it was integral to this approval to meet all the requirements of Policy OS2 to integrate the development and create a quality residential environment for the occupiers of the development, 'Tobin Drive' substantially under construction to the east of the site, and to reduce any adverse impacts on neighbouring properties. The open space to be provided under LA09/2015/1023/F in two parts including the site (493m<sup>2</sup>) amounted to approx. 1516m<sup>2</sup> just short of the 10% expectation of the site area which was approx. 16905m<sup>2</sup>. Accordingly, I consider this proposal, which would significantly reduce the 10% expectation contrary to Policy OS 2 of PPS 8 Public Open Space in New Residential Development. It will result in the loss of a significant portion of public open space that has both recreational and social value, and that would help to establish a sense of identity. The 'greening' of an area can also contribute to people's health, well-being and quality of life, particularly that of children, and can help promote biodiversity.

Furthermore, I consider the proposal contrary to Policy OS 1 of PPS 8 Protection of Open Space as it has not been demonstrated that this proposal is an exception to the policy presumption against the loss of public open space as laid out above. Accordingly, I consider the loss of this open space to provide an additional dwelling should be resisted.

## **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, an objections had been received in relation to the proposal from Mr Quinn, the owner / occupier of no. 6 Malachy's Park, a two storey detached property located adjacent and to the north of the site. Mr Quinn raised the concerns regarding the proposals closeness to adjoining properties, conflict with the local plan and inadequate access arrangements.

Having taken into consideration Mr Quinn's objection above I am content through consultation with DFI Roads satisfactory access arrangements to the site can be provided however for the reasons detailed in the main body of this report I would agree with Mr Quinn that the development of a dwelling on the site would have an adverse impact on neighbouring amenity and based on the concept plan submitted, particularly his property. Accordingly, my opinion remains to recommend refusal of this proposal.

## **Additional considerations**

It is noted that the agent was contacted on the 1<sup>st</sup> February 2023 and advised the current site was conditioned to be open space for the housing granted under planning application LA09/2015/1023/F. That Condition 2 of planning application LA09/2015/1023/F required the open space to be provided prior to the occupation of any houses. That this area has not been provided and a number of houses on the date of site inspection were occupied as such a breach of condition has occurred and Plannings Enforcement Team notified.

He was advised of a relevantly recent PAC decision (reference: 2021/A0233) relating to the protection of open space and the need to provide the open space. He was asked to advise the Planning Department within 14 days from the date of this email how he wished to proceed with this application. To date no response or further information has been received.

**Recommendation:** Refuse

## **Summary of Recommendation:**

Refuse is recommended

## **Refusal Reasons**

### **Reason 1**

The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland,

Policy QD1 of PPS7 and Policies OS1 and OS2 of PPS 8 in that it would result in the loss of public open space within the development, and it has not been demonstrated that there would be substantial community benefits that would decisively outweigh the loss of the open space.

**Reason 2**

The proposed development is contrary to Policy QD1 of PPS7: Quality Residential Environments, in that, it does not represent a quality residential development and fails to meet criteria (a), (c), (f) and (h) of this policy.

**Reason 3**

The proposed development is contrary to Policy LC 1 of the Addendum to PPS 7: Protecting Local Character, Environmental Quality and Residential Amenity, in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area; and the site does not have the capacity to accommodate a dwelling.

**Signature(s):** Emma Richardson

**Date:** 22 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 December 2022
<b>Date First Advertised</b>	20 December 2022
<b>Date Last Advertised</b>	20 December 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 9 Ardean Close Ardboe Cookstown Tyrone BT80 0JN The Owner / Occupier 6 St Malachys Park Ardboe Cookstown Tyrone BT80 0ST The Owner / Occupier 1 Tobin Drive Cookstown Tyrone BT80 0BN The Owner / Occupier Tobin Memorial Park 8 Ardboe Road Cookstown Tyrone BT80 0HT The Owner / Occupier 9 Tobin Park Cookstown Tyrone BT80 0JL The Owner / Occupier 7 Ardean Close Ardboe Cookstown Tyrone BT80 0JN	
<b>Date of Last Neighbour Notification</b>	7 December 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/1999/0165 Proposals: Proposed Extension and Alterations to Hall Decision: PG Decision Date:  Ref: I/2004/0851 Proposals: Housing Development Decision: 211 Decision Date: 26-OCT-04  Ref: I/2005/0142/F Proposals: Extension to provide living room and bedroom above Decision: PG Decision Date: 14-MAR-05	

Ref: I/1997/0082

Proposals: Housing Development (18 no. houses)

Decision: PG

Decision Date:

Ref: LA09/2022/1690/O

Proposals: Dwelling

Decision:

Decision Date:

Ref: LA09/2015/1023/F

Proposals: Proposed Housing development to consist of 26 semi detached + 3 Detached  
29 in total dwellings with garages

Decision: PG

Decision Date: 23-MAR-17

Ref: LA09/2019/0672/DC

Proposals: Discharge of conditions 6 & 7 of planning permission LA09/2015/1023/F.

Decision: AL

Decision Date: 19-JUN-19

Ref: LA09/2021/1812/DC

Proposals: Discharge of condition No.4 of planning ref. LA09/2015/1023/F

Decision: AL

Decision Date: 26-JAN-22

Ref: I/2003/0259/Q

Proposals: Housing development

Decision: 211

Decision Date:

Ref: I/2009/0286/O

Proposals: Proposed Housing Development

Decision: PG

Decision Date: 10-NOV-10

Ref: LA09/2019/0038/F

Proposals: Alterations to existing youth centre

Decision: PG

Decision Date: 09-APR-19

Ref: I/2004/1002/F

Proposals: Proposed 16no Semi Detached dwellings & garages and 3no Town Houses

Decision: PG

Decision Date: 06-FEB-06

Ref: I/2009/0332/F

Proposals: Retention of existing constructed site entrance with a reduction in required sight lines

Decision: PG

Decision Date: 29-OCT-09

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docNo objection, subject to conditions.FORM RS1 STANDARD.docRoads outline.docx

NI Water - Single Units West-LA09-2022-1690-O.pdf

Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

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

Not Applicable



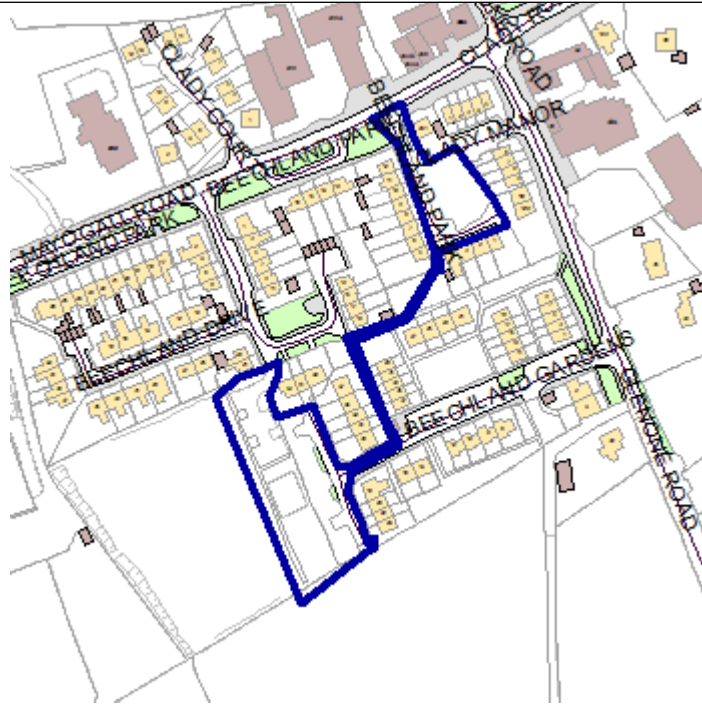


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.28
<b>Application ID:</b> LA09/2022/1760/F	<b>Target Date:</b> 7 April 2023
<b>Proposal:</b> Beechland Drive: The works will include an upgrade of existing access paths to the existing playpark and carpark and adjoining housing developments. The creation of a pocket park coupled with new seating and picnic areas will enhance the area. There will be a small decrease in the way of parking spaces in order to enhance the green area, existing parking areas will be resurfaced and whitelining. Beechland Park: The works will include an extension of carparking and upgrade of existing parking to include for whitelining. Existing grass area will be upgraded with improved drainage and creation of a new walking trail with seating and planters for community use.	<b>Location:</b> The Sites Are Located In Clady, There Are 2 Number Sites. 1 site at Beechland Drive & 1 site at Beechland Park.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Johnny McNeill Burn Road Cookstown BT80 8DT	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>  This application proposal is submitted by Mid Ulster District Council. The application is therefore brought to the Planning Committee for consideration with a recommendation for approval.	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

This application proposal is submitted by Mid Ulster District Council. The application is therefore brought to the Planning Committee for consideration with a recommendation for approval.

### Characteristics of the Site and Area

The application area is located on the inside of the south western edge of the Clady settlement limit as defined in the Magherafelt Area Plan 2015. This application

encompass two areas of green space, one located in Beechland Drive and the other within Beechland Park. The sites are 100m from one another and are both located within an existing residential development. The Beechland Drive site is 0.3 hectares and adjacent to an existing playing field. The site currently consists of approximately 20 unmarked car parking spaces and a playpark. The Beechland Park site is 0.1 hectares and is currently a patch of green open space.

### **Description of Proposal**

This is a full application consisting of the following works to the two areas of green space. Beechland Drive: The works will include an upgrade of existing access paths to the existing playpark and carpark and adjoining housing developments. The creation of a pocket park coupled with new seating and picnic areas will enhance the area. There will be a small decrease in the way of parking spaces in order to enhance the green area, existing parking areas will be resurfaced and whitelining. Beechland Park: The works will include an extension of carparking and upgrade of existing parking to include for whitelining. Existing grass area will be upgraded with improved drainage and creation of a new walking trail with seating and planters for community use.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

None

#### **Representations**

To date no third party representations have been received.

#### **Other Constraints**

The two site areas are not subject to any zoned designations as provided by the Magherafelt Area Plan 2015.

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

The site is not located within or adjacent to any listed building / structures.

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

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

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

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

### Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation

The proposed consists of improvement works to two areas of land consisting mostly of green open space, to include upgrades to existing access paths, the creation of a pocket park (with new seating and picnic areas), improved drainage, new walking trails within these areas.

It is proposed that the Beechland Drive site will absorb a small area of parking (approximately 8 parking spaces) to create a pocket park (complete with additional green space) adjacent to the existing playground, with a path link from park to existing housing.

It is proposed that the Beechland Park site will utilize an existing tarmacked area to the south of the existing green space to create 7 no. car parking spaces. There is only a miniscule loss of grass area as a result of this. Given the improvement of this area of greenspace, as well as the creation of new green space at the other site, this small loss of grass area is considered to be insignificant.

In terms of Policy OS 1 (Protection of Open Space) I am content that the proposed does not result in the loss of existing open space. The proposed both protects and enhances the existing green space while creating a new pocket park area of green space at one of the sites.

Having considered this proposal against PPS 8, I am satisfied that the proposed complies with the relevant policy.

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

A consultation was made to DfI Roads who provided no objections to the proposal, with an advisory note that the Council consult with the local DfI Roads maintenance section prior to any works commencing.

The proposed works include the loss of approximately 8 car parking spaces at the Beechland Drive site. Policy AMP 7 provides that a reduced level of car parking provision may be acceptable in the following circumstances where the exercises of flexibility would assist in the conservation of the built or natural heritage, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building. I am satisfied that the small loss of parking at this site results in a better quality of development. Most dwellings surrounding this site have access to private parking. Furthermore, during a site visit carried out on 09/01/22, photographs taken provided that the car park at this site was largely not in use.

The proposed works also include use and extension of an existing gravel area to create 7 new parking spaces. It is expected that these new parking spaces will serve the existing 4 no. dwellings adjacent and south of the site, which are without parking provision.

The applicant has indicated that the proposed development works (across both site areas) will not result in an increase in vehicles to the sites. The existing accesses onto the public road remains unchanged. I am also satisfied that the proposed works will not prejudice road safety or significantly inconvenience the flow of traffic.

#### Other considerations

I am content that the proposed (across both sites) will have zero adverse impact on surrounding amenity. I am satisfied the proposed will enhance these areas of green space and provide an added incentive for the local community to make use of these areas.

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

**Signature(s):** Benjamin Porter

**Date:** 25 January 2023

ANNEX	
<b>Date Valid</b>	23 December 2022
<b>Date First Advertised</b>	10 January 2023
<b>Date Last Advertised</b>	10 January 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 4 Beechland Park Portglenone Londonderry BT44 8NH The Owner / Occupier 45 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 1 Beechland Park Portglenone Londonderry BT44 8NH The Owner / Occupier 47 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 25 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 7 Beechland Park Portglenone Londonderry BT44 8NH The Owner / Occupier 14 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 23 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 12 Clady Manor Portglenone Londonderry BT44 8NE The Owner / Occupier 6 Beechland Park Portglenone Londonderry BT44 8NH The Owner / Occupier 9 Clady Manor Portglenone Londonderry BT44 8NE The Owner / Occupier 10 Beechland Park Portglenone Londonderry BT44 8NH The Owner / Occupier 41 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 35 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 17 Beechland Drive Portglenone Londonderry BT44 8NJ The Owner / Occupier 29 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 24 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 21 Beechland Drive Portglenone Londonderry BT44 8NJ The Owner / Occupier	

37 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

5 Beechland Park Portglenone Londonderry BT44 8NH  
The Owner / Occupier

51 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

6 Clady Manor Portglenone Londonderry BT44 8NE  
The Owner / Occupier

27 Beechland Drive Portglenone Londonderry BT44 8NJ  
The Owner / Occupier

244A Mayogall Road Clady Londonderry BT44 8NN  
The Owner / Occupier

7 Clady Manor Portglenone Londonderry BT44 8NE  
The Owner / Occupier

2 Beechland Park Portglenone Londonderry BT44 8NH  
The Owner / Occupier

18 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

16 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

9 Beechland Park Portglenone Londonderry BT44 8NH  
The Owner / Occupier

8 Clady Manor Portglenone Londonderry BT44 8NE  
The Owner / Occupier

11 Beechland Park Portglenone Londonderry BT44 8NH  
The Owner / Occupier

2 Clady Manor Portglenone Londonderry BT44 8NE  
The Owner / Occupier

11 Clady Manor Portglenone Londonderry BT44 8NE  
The Owner / Occupier

1 Clady Manor Portglenone Londonderry BT44 8NE  
The Owner / Occupier

53 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

19 Beechland Drive Portglenone Londonderry BT44 8NJ  
The Owner / Occupier

23 Beechland Drive Portglenone Londonderry BT44 8NJ  
The Owner / Occupier

3 Beechland Park Portglenone Londonderry BT44 8NH  
The Owner / Occupier

33 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

15 Beechland Drive Portglenone Londonderry BT44 8NJ  
The Owner / Occupier

22 Beechland Gardens Portglenone Londonderry BT44 8NA  
The Owner / Occupier

8 Beechland Park Portglenone Londonderry BT44 8NH  
The Owner / Occupier

3 Clady Manor Portglenone Londonderry BT44 8NE The Owner / Occupier 49 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 13 Clady Manor Portglenone Londonderry BT44 8NE The Owner / Occupier 12 Beechland Park Portglenone Londonderry BT44 8NH The Owner / Occupier 31 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 20 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 241 Mayogall Road Clady Londonderry BT44 8NN The Owner / Occupier 39 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 43 Beechland Gardens Portglenone Londonderry BT44 8NA The Owner / Occupier 25 Beechland Drive Portglenone Londonderry BT44 8NJ The Owner / Occupier 10 Clady Manor Portglenone Londonderry BT44 8NE The Owner / Occupier 27 Beechland Gardens Portglenone Londonderry BT44 8NA	
<b>Date of Last Neighbour Notification</b>	11 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Roads Consultation.docx	



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Elevations and Floor Plans Plan Ref: 04

**Notification to Department (if relevant)**

Not Applicable

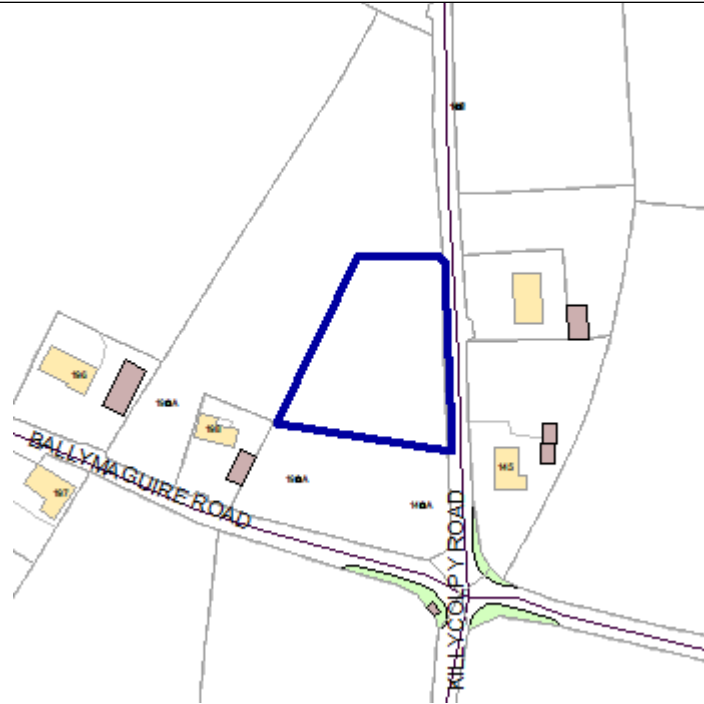


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.29
<b>Application ID:</b> LA09/2022/1771/O	<b>Target Date:</b> 6 April 2023
<b>Proposal:</b> Proposed Site for Dwelling and Garage in a cluster	<b>Location:</b> 50M North of 146A Killycolpy Road Stewartstown BT71 5NP
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Sean Muldoon Ballymaguire Road Stewartstown	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docRoads outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site which sits adjacent the Killycolpy Rd is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 1.5km southwest of Ardboe; and just

north of the Killycolpy and Ballymaguire crossroads, whereby a small cluster of development has formed.

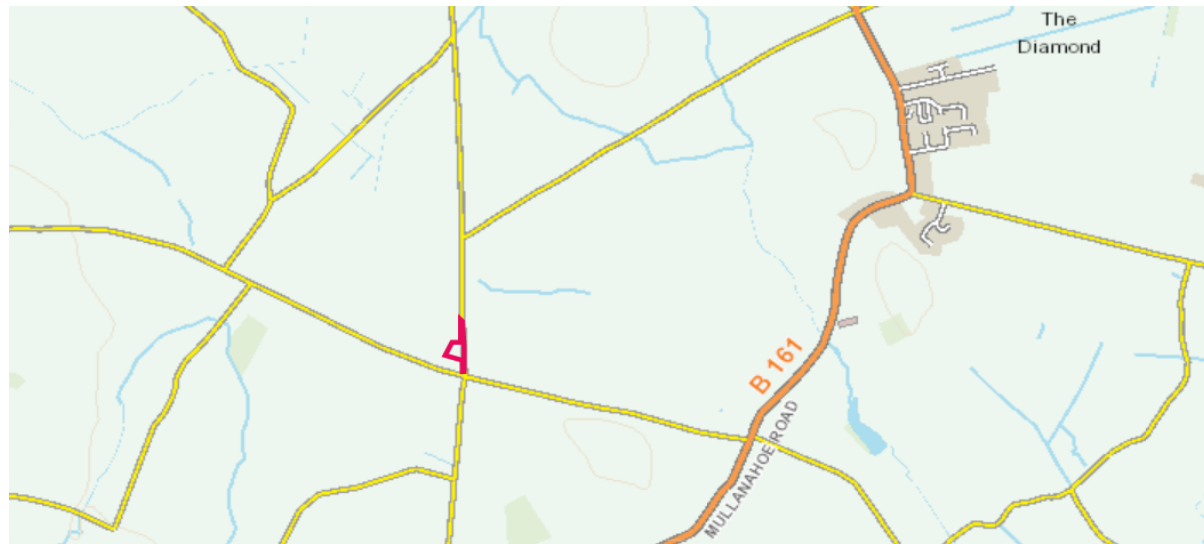


Fig 1: Site outlined red

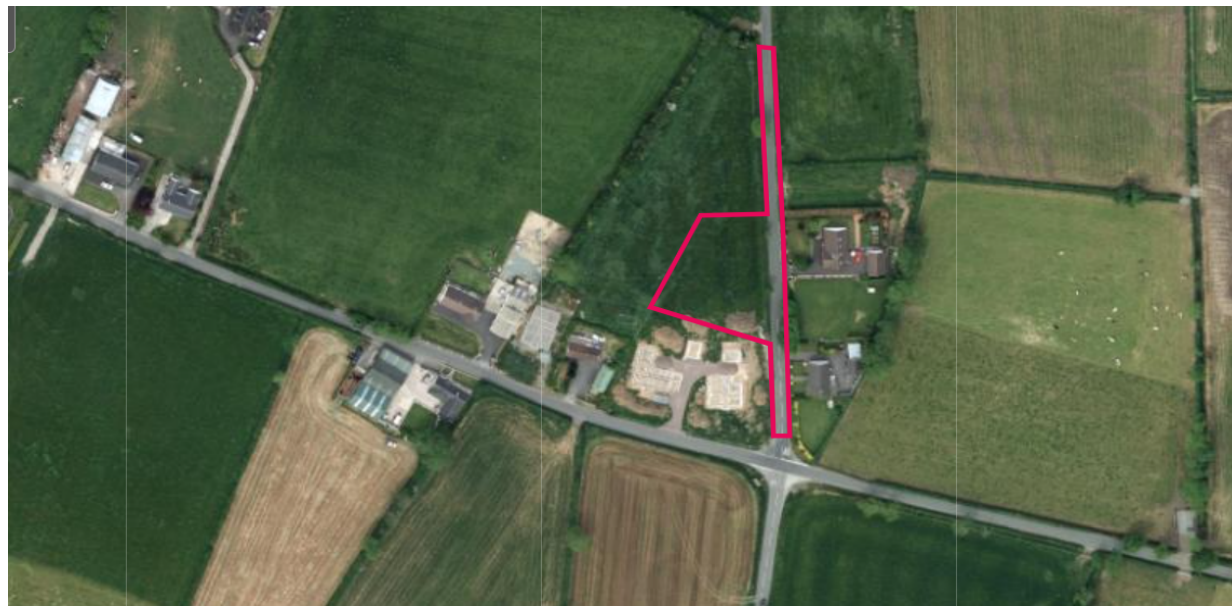


Fig 2: Site outlined red

The cluster of development includes a line of 4 single storey roadside dwellings with ancillary outbuildings/garages extending along the north side of the Ballymaguire Rd to the west of the crossroads; a small farm holding comprising a single storey roadside dwelling with accompanying agricultural sheds/outbuildings located to the south side of the Ballymaguire Rd to the west of the crossroads; and two single storey roadside dwellings with ancillary outbuildings/garages extending along the east side of the Killycolpy Rd to the north of the crossroads opposite the site.

The site is a relatively flat square shaped plot cut from the roadside frontage and southern half of a much larger agricultural field. The northern and western boundaries of the site are open unto the host field; a roadside hedge defines the eastern / roadside

boundary of the site; and the southern / party boundary of the site with nos.198a and 146a Ballymaguire Rd, 2 of the dwellings within the cluster is undefined in part to the rear 146a and bound to the rear of 198a by low fencing.

Critical views of the site are from the Killycolpy Rd on the northern approach to, and passing along the roadside frontage of, its host field. Views of the site from the Killycolpy Rd on the southern approach to the site and from the Ballymaguire Rd located to the south of the site are screened by dwellings and ancillary buildings within the cluster alongside existing vegetation within the wider vicinity.

Whilst the wider area surrounding the site is typically rural in nature characterised primarily by agricultural land interspersed with detached dwellings, ancillary buildings and farm holdings the immediate area, as detailed above, adjacent the crossroads has come under considerable development pressure in recent times.

### **Description of Proposal**

This is an outline application for a proposed dwelling & garage on lands 50m North of 146A Killycolpy Road Stewartstown.

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

#### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

## **Planning History**

I/1979/0318 - Filling station and garage - Killymenagh Stewartstown - Refused

## **Consultees**

1. DfI Roads were consulted in relation to access arrangements, movement and parking arrangements and raised no objections to the proposal subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

## **Consideration**

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

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside and all other policies relevant to this proposal have been retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 - Development in the Countryside. The site has been submitted under one of these instances 'New Dwellings in Existing Clusters' under Policy CTY2a of PPS21.

Policy CTY2a - New Dwellings in Existing Clusters states planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria bullet pointed criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.

I believe the site lies within a small cluster of development lying outside of a farm and consisting of four or more buildings of which more than three are dwellings. As detailed in the 'Characteristics of the Site and Area' the site sits just north of the Killycolpy and Ballymaguire crossroads, whereby a small cluster of development has formed. The cluster of development includes a line of 4 single storey roadside dwellings with ancillary outbuildings/garages extending along the north side of the Ballymaguire Rd to the west of the crossroads; a small farm holding comprising a single storey roadside dwelling with accompanying agricultural sheds/outbuildings located to the south side of the Ballymaguire Rd to the west of the crossroads; and two single storey roadside dwellings with ancillary outbuildings/garages extending along the east side of the Killycolpy Rd to the north of the crossroads opposite the site.

- The cluster appears as a visual entity in the local landscape.

I believe when travelling along the Ballymaguire Rd and Killycolpy Rd on the approach to their crossroads the cluster of development appears as a visual entity in the local landscape.

- The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.

The cluster is associated with the crossroads to the south of the site.

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.

The site is afforded an adequate degree of enclosure and a backdrop to critical views by the existing development within cluster which bounds it on two sides, to the south and east.

Nos.198a and 146a Ballymaguire Rd, 2 of the dwellings within the cluster bound the site to the south; and nos.145 and 147 Killycolly Rd, 2 further dwellings within the cluster bound the site to the east.

- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.

I consider a dwelling and garage should be absorbed into the existing cluster through consolidation with no significant impact on the existing character, or visually intruding into the open countryside.

- Development would not adversely impact on residential amenity.

As this is an outline application the details of the siting, size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. A suitably designed dwelling and garage on this site, with a ridge height no greater than 6m above FFL similar to existing properties in the cluster, should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the separation distances that can be retained.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, two objections had been received in relation to the proposal from Mr Harding, the owner / occupier of no. 198a Ballymaguire Rd, a single storey detached property located adjacent and to the south of the site.

- Mr Harding raised concerns that the application is lacking detail on the type and size of the dwelling proposed. That there could be overlooking to his and / or neighbouring properties causing a loss of privacy depending on the type and size of the dwelling and its location within the site; and
- Mr Harding advised the discharge from his property's sewage treatment tank is piped directly through the site over which he has an easement and that he is concerned about what effect a property being built on the proposed site will have on his property and where the responsibility and cost to make any changes lie.

Having taken into consideration Mr Harding's objection above the opinion remains to approve. With regards to bullet point 1 above for the reasons outlined in the main body of this report the proposal meets the requirements of Policy CTY2a of PPS21 'New Dwellings in Existing Clusters.' That this is an outline application the details of the siting, size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. That a suitably designed dwelling and garage on this site, with a ridge height no greater than 6m above FFL similar to existing properties in the cluster, should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the separation distances that can be retained. Furthermore, neighbouring properties including Mr Harding's would be neighbour notified again under any subsequent reserved

matters application received with detailed plans of the scheme for further consideration and / or comment. With regards bullet point 2 this is a civil matter outside the remit of Planning. Any planning permission granted would not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands. That any planning permission granted would not confer title, that it would be the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development. That any planning permission granted 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 Council or other statutory authority.

**Additional considerations**

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

NI Flood Maps do not indicate any flooding on site.

**Recommendation:** Approve

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

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

**Condition 2**

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

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



**Condition 3**

Full particulars and detailed plans of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

Reason: To enable the Council to consider in detail the proposed development of the site.

**Condition 4**

The proposed dwelling shall have a ridge height of no greater than 6m above finished floor level.

Reason: In the interest of visual amenity.

**Condition 5**

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

**Condition 6**

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

Reason: In the interest of visual amenity.

**Condition 7**

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. The scheme shall include a native species hedgerow to be planted to the rear of the visibility splays and along all new boundaries as indicated in yellow on approved Drawing no. 01 bearing the date stamp received 21 DEC 2023. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.

Reason: In the interests of visual and residential amenity.

**Condition 8**

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 and shall include sight splays of 2.4 x 60m to the South and 2.4 x 80m to the North onto the public road and any forward sight distance required. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved and the area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Signature(s):** Emma Richardson

**Date:** 22 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 December 2022
<b>Date First Advertised</b>	31 January 2023
<b>Date Last Advertised</b>	10 January 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 148 Killycolpy Road Stewartstown Tyrone BT71 5NP The Owner / Occupier 147 Killycolpy Road Stewartstown Tyrone BT71 5NP The Owner / Occupier 145 Killycolpy Road Stewartstown Tyrone BT71 5NP The Owner / Occupier 198 Ballymaguire Road Stewartstown Tyrone BT71 5NN The Owner / Occupier 198A Ballymaguire Road Stewartstown Tyrone BT71 5NN The Owner / Occupier 146A Ballymaguire Road Stewartstown Tyrone BT71 5NN	
<b>Date of Last Neighbour Notification</b>	18 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/2014/0321/O Proposals: Proposed site for dwelling and garage in a gap site Decision: PG Decision Date: 28-APR-15  Ref: I/1979/0318 Proposals: FILLING STATION AND GARAGE Decision: PR Decision Date:  Ref: LA09/2015/0172/O Proposals: Proposed dwelling and garage in a gap site Decision: PG	

Decision Date: 15-JUL-15

Ref: LA09/2022/1771/O

Proposals: Proposed Site for Dwelling and Garage in a cluster

Decision:

Decision Date:

Ref: I/1975/0166

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2016/1756/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 03-MAR-17

Ref: LA09/2016/1757/RM

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 21-FEB-17

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable

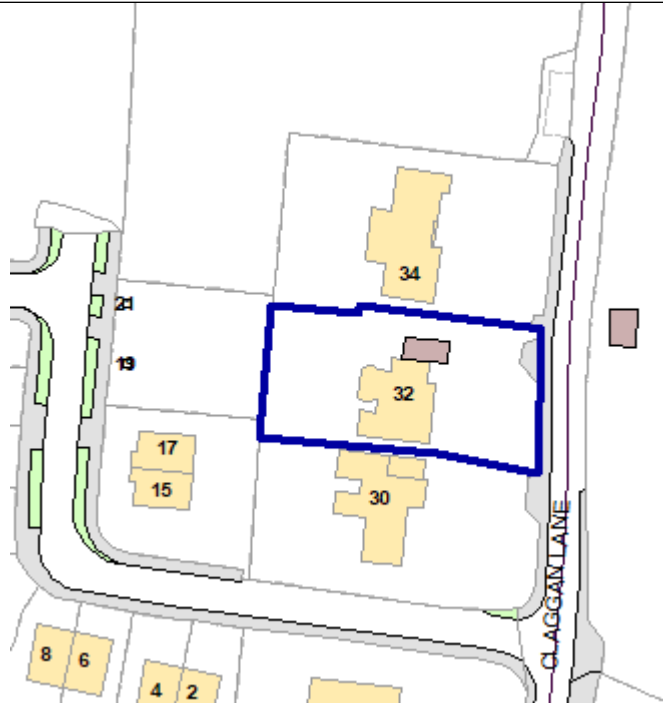


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.30
<b>Application ID:</b> LA09/2023/0037/F	<b>Target Date:</b> 27 April 2023
<b>Proposal:</b> Single storey rear extension to dwelling.	<b>Location:</b> 32 Claggan Lane Cookstown BT80 8PX
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr NIAL CONVERY 32 CLAGGAN LANE COOKSTOWN BT80 8PX	<b>Agent Name and Address:</b> Mr HENRY MURRAY 37C CLAGGAN ROAD COOKSTOWN BT809XJ
<b>Executive Summary:</b>  This is a full application for Single storey rear extension to the dwelling presented to the committee as one letter of objection has been received.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

One letter of objection was submitted online. The concerns raised within the objection letter have been fully considered as part of this planning application. The main point has been summarised below:

Concerns over addition of the double windows effecting privacy and overlooking onto the property (34 Claggan Lane).

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

The site is located within the Cookstown settlement limit as defined within the Cookstown Area Plan 2010. The single storey detached dwelling is located in a wider existing residential development and is identified as 32 Claggan Lane. The site is located on the outskirts of Claggan Manor residential estate. Neighbours include no.19 and 21 to West, and no.15 and 17 southwest to the dwelling. No.34 and 30 run horizontally North and south of the location. Holistically the site is complete with a Tarmac parking area to the front and a large rear garden area. Boundaries are marked by mature vegetation.

## **Description of Proposal**

This is a full application for single storey rear extension to the dwelling which will facilitate a kitchen and a living/dining area. It will replace a existing conservatory.

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

### **Policy Consideration**

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

No relevant planning histories on or adjacent to this site to be considered in this assessment.

In line with Statutory Neighbour Notification Procedures, 7 neighbouring properties were notified of this application. To date, there have been 1 letter of objection received in respect of the proposal

The following policies will be considered in this assessment:

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities.

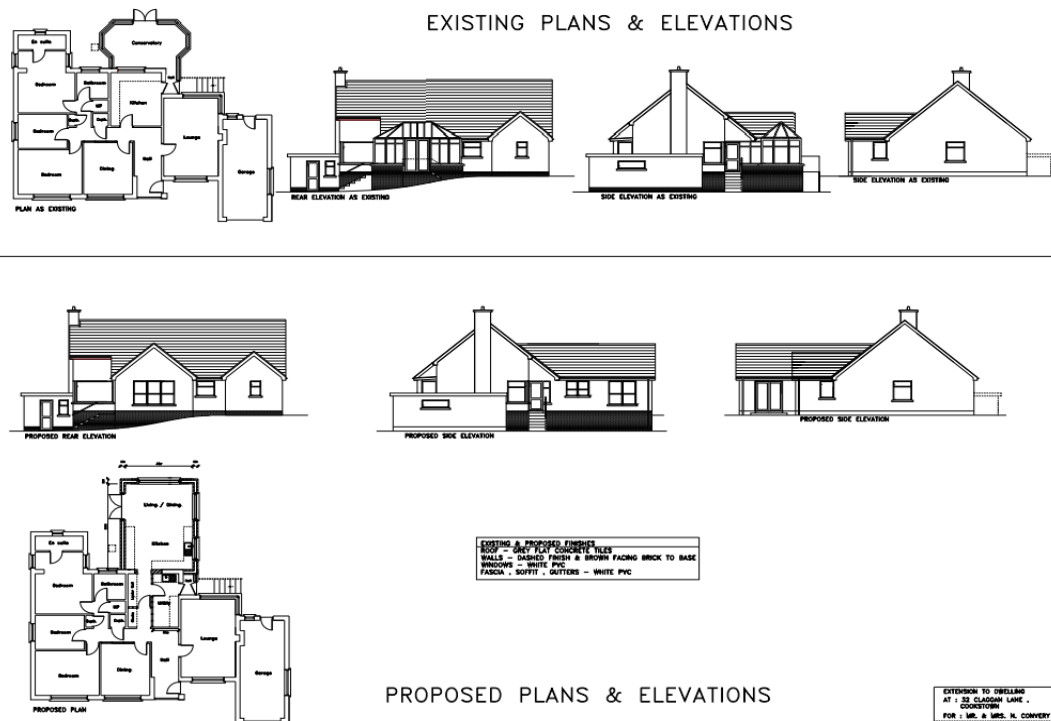
## Mid Ulster District Council Draft Plan Strategy 2030

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

### Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for the proposal to extend or alter a residential property where all the following criteria are met:

- a) Deals with scale, massing, design, and external materials, upon evaluation of the submitted plans below, the proposed is a single-storey extension which is subordinate to the existing dwelling in scale and massing. Additionally, the drawing displays that finishes will complement that of the existing dwelling. I am content that the proposed rear extension is satisfactory in terms of scale, massing, design, and external materials as it will not detract from the existing dwelling and the surrounding area.





- b) An objector has raised concerns over addition of the double window effecting privacy and the overlooking onto the property (34 Claggan Lane). Considering mature vegetation surrounding the location, I am satisfied that the location of the proposed rear extension is unlikely to have any impact on surrounding neighbouring amenity. Furthermore, with the removal of an existing conservatory to accommodate the extension will help reduce glazing, thus will help ensure privacy of neighbouring properties. Additionally, given the separation distance and that this extension is single storey, there will be no issues pertaining to overshadowing.
- c) Considering the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. This proposal will not cause loss of trees or landscape features.
- d) With the proposed single storey Rear extension to dwelling, I am content that there will be sufficient space within the curtilage for recreational and domestic purposes where parking arrangements remain unaffected.

Having evaluated the proposed rear extension to the existing dwelling, I am content that this proposal complies with Policy EXT1 of Addendum to PPS7: Residential extension and Alterations. Additionally, I cannot attach any determining weight to the objectors concerns over privacy or amenity of neighbouring residents.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Signature(s):** Daniel O'Neill

**Date:** 20 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	12 January 2023
<b>Date First Advertised</b>	24 January 2023
<b>Date Last Advertised</b>	24 January 2023
<b>Details of Neighbour Notification (all addresses)</b>  The Owner / Occupier 15 Claggan Manor Cookstown Tyrone BT80 9XY The Owner / Occupier 17 Claggan Manor Cookstown Tyrone BT80 9XY The Owner / Occupier 19 Claggan Manor Cookstown Tyrone BT80 9XY The Owner / Occupier 21 Claggan Manor Cookstown Tyrone BT80 9XY The Owner / Occupier 34 Claggan Lane Cookstown Tyrone BT80 8PX The Owner / Occupier 30 Claggan Lane Cookstown Tyrone BT80 8PX	
<b>Date of Last Neighbour Notification</b>	17 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/2004/1343/F Proposals: Proposed 5No detached dwellings and 6No town houses and associated estate road layout for private streets determination Decision: Decision Date:  Ref: I/2001/0207/Q Proposals: Proposed Housing Development Decision: ELA Decision Date:  Ref: I/2000/0859/Q Proposals: Proposed housing development	

Decision: ELA

Decision Date:

Ref: LA09/2023/0037/F

Proposals: SINGLE STOREY REAR EXTENSION TO DWELLING

Decision:

Decision Date:

Ref: I/2001/0046/A41

Proposals: Proposed extension to dwelling

Decision: 208

Decision Date: 15-JAN-02

Ref: I/2002/0050/F

Proposals: Retention for extension to dwelling

Decision: PG

Decision Date: 17-MAY-02

Ref: I/1990/0015

Proposals: Residential Development

Decision: PG

Decision Date:

Ref: I/2002/0618/F

Proposals: Proposed 11 No. Dwellings

Decision: PG

Decision Date: 16-JAN-03

Ref: I/2005/1453/F

Proposals: Proposed 4no semi detached dwellings & 6no town houses accessed off Coolmount Drive & 2no detached and 2no. semi detached off Claggan Manor.

Decision: PG

Decision Date: 19-SEP-07

Ref: I/2005/0206/F

Proposals: Proposed extension to dwelling

Decision: PG

Decision Date: 04-MAY-05

## **Summary of Consultee Responses**

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**Drawing Numbers and Title**

Site Location Plan   Plan Ref: 01

Site Layout or Block Plan   Plan Ref: 02

Proposed Elevations   Plan Ref: 03

**Notification to Department (if relevant)**

Not Applicable