



06 November 2018

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt at Mid Ulster District Council, Ballyronan Road, MAGHERAFELT, BT45 6EN on Tuesday, 06 November 2018 at 19:00 to transact the business noted below.

Yours faithfully

Anthony Tohill  
Chief Executive

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## AGENDA

### OPEN BUSINESS

1. Apologies
2. Declarations of Interest
3. Chair's Business

### Matters for Decision

### Development Management Decisions

4. Receive Planning Applications ( ) 7 - 240

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2016/1040/F	Retrospective application for the retention of the single storey portal frame shed and associated site works at lands opposite 8 Ballyheifer Road, Magherafelt, for Nicky Brown.	REFUSE
4.2.	LA09/2016/1224/O	Site for dwelling adjacent to 76 Dreenan Road, Maghera, for Mr Mervyn Hanna.	APPROVE
4.3.	LA09/2016/1481/F	Spray booth extension at existing workshop at 138-140 Dungannon Road, Ballygawley, for Barrick Hill Quarries.	REFUSE

4.4.	LA09/2017/0150/O	Demolition of workshop and erection of 1 no. 1.5 storey dwelling to the rear of no's 9 and 11 Adair Gardens, Cookstown, for R and F Developments.	APPROVE.
4.5.	LA09/2017/0293/F	Housing development of 29 dwellings, private and public amenity spaces, associated roads and waste water treatment plant at lands adjacent to and ESE of Ballygawley Church of Ireland, Church Street, Ballygawley, for Salvare Properties Ltd.	APPROVE
4.6.	LA09/2017/0456/O	Housing development (3 pairs of semi-detached and 1 detached dwelling) adjacent to and NW of 3 Tobermore Road, Desertmartin, for Sean McElwee.	APPROVE
4.7.	LA09/2017/0622/F	Change of use from farm building to dog grooming studio at 30 Lismoney Road, cookstown, for Clare Coney.	REFUSE
4.8.	LA09/2017/0926/F	Farm buildings as machinery shed and beef shed with underground slurry tank at junction of Whitetown Road and Roughan Road, Newmills, Dungannon, for Marie and Patrick McAvoy.	APPROVE
4.9.	LA09/2017/0998/F	Retrospective application for top dressing of existing laneway, widening of sight splays at road entrance, widening of chicane, piping approx. 20m of open sheugh at land fronting onto Keerin Road, approx. 625m W of 124 Broughderg Road, Omagh, for John O'Neill.	APPROVE
4.10.	LA09/2017/1104/F	2 no. detached dwellings 35m W of 20 Jockey Lane, Moy, for Mr G Hughes.	APPROVE
4.11.	LA09/2017/1292/O	Housing development of 10 semi-detached dwellings and 1 detached dwelling located S of St Lurach's Gardens, Glen, Maghera, for Jonathan Warnock.	APPROVE

4.12.	LA09/2017/1511/O	Site for 2 semi-detached dwellings immediately S of 7 Desertmartin Road, Moneymore, for Mr John Devlin.	APPROVE
4.13.	LA09/2018/0346/F	Retention of dwelling in substitution for dwelling approved under M/2006/0855 and retention of dwelling on applicant's farm holding at 120m NW of 81 Killyliss Road, Dungannon, for Gary McCann.	APPROVE
4.14.	LA09/2018/0522/O	Dwelling and garage at approx. 40m NE of 18 Mulnavoo Road, Derrynoyd, Draperstown, for T Bradley.	REFUSE
4.15.	LA09/2018/0527/O	Infill dwelling and garage at land adjacent to 106 Tirkane Road, Maghera, for Paul Convery.	<p>REFUSE</p>
4.16.	LA09/2018/0723/F	Change of use from communal land to extension of dwelling curtilage 30m E of 345 Hillhead Road, Knockloughrim, for Aubrey Shields.	REFUSE
4.17.	LA09/2018/0783/F	Alterations and extension to original nursing home building with front extension to incorporate new build home and rear extension, retention of existing access to Ballyheifer Road at Milesian Manor Nursing home, 9 Ballyheifer Road, Magherafelt, for Macklin Group.	APPROVE
4.18.	LA09/2018/0805/F	Dwelling with attic accommodation and integrated garage and loft at 1.2km SW of 64 Alderwood Road, Fivemiletown, for Markus Fuchsnthaler.	<p>REFUSE</p>
4.19.	LA09/2018/0862/RM	Dwelling and domestic garage/store 40m S of 82 Sherrigrim Road, Stewartstown, for Mrs Alison Rea.	APPROVE
4.20.	LA09/2018/1059/RM	Dwelling and domestic garage/store approx. 30m ENE of 52 Five Mile Straight, Draperstown, for Mr Aidan McGuigan.	APPROVE
4.21.	LA09/2018/1124/O	Dwelling and domestic garage/store at 20m ENE of 22	<p>APPROVE</p>

		Strawmore Road, Straw, Dungannon, for Mr Stephen McGlade.	
4.22.	LA09/2018/1128/O	Dwelling and garage 40m W of 55 Annaghmore Road, Castledawson, for Mr A McMullan.	<p>REFUSE</p>
4.23.	LA09/2018/1139/O	Replacement dwelling and garage 100m W of 39 Gortindarragh Road, Galbally, for Eugene and Patricia Hackett.	REFUSE
4.24.	LA09/2018/1221/F	Provision of 4no. 5m LED street lights to existing access road and 9no. 8m LED street lights to existing car park at Derrylaughen Kevin Barrys GAC, 92 Ballybeg Road, Dungannon, for Jack Corr.	APPROVE

## 5. Receive Deferred Applications

241 - 302

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2015/0782/F	Change of use to storage and distribution unit (Class B4) at site 60m N of 52 Ballymoghlan Road, Magherafelt, for Cloane Properties Ltd.	APPROVE
5.2.	LA09/2016/0848/O	Dwelling and garage 24m N of 93 Five Mile Straight, Bracaghreilly, Maghera for Colm Lynn.	REFUSE
5.3.	LA09/2016/1513/F	Erection of new store and 1 residential apartment at 2 -4 Glen Road, Maghera, for Mr Peter McKenna.	APPROVE
5.4.	LA09/2016/1793/F	Housing development of 18 detached dwellings, associated site works and landscaping and on site waste water treatment plant details at lands opposite (SE) of 17-31 Benburb Road, Moy for Chris Traynor.	APPROVE
5.5.	LA09/2017/0628/O	Dwelling and garage 60m W of 26 Ballydermot Road, Bellaghy, for Declan Diamond.	REFUSE
5.6.	LA09/2017/0864/O	Dwelling and basement garage to the rear of 14-16 Morgan Drive, Cookstown, for Ms Anne	APPROVE

		Mulligan.	
5.7.	LA09/2017/1112/O	Dwelling and garage approx. 60m WSW of 5 Cloane Lane, Cloane, Five Mile Straight, Draperstown, for Danny Grant.	APPROVE
5.8.	LA09/2017/1371/O	2 storey dwelling and domestic store/garage at 130m S of 38 Tirgan Road, Tirgan, Moneymore, for Declan Connery.	APPROVE
5.9.	LA09/2017/1685/O	Site for infill dwelling and domestic garage at 60m SW of 72 Deerpark Road, Castledawson, for Mr P Keenan.	APPROVE
5.10.	LA09/2018/0041/O	Dwelling and garage approx. 50m SE of 94 Kilrea Road, Portglenone, for Mr Raymond Henry.	<p>APPROVE</p>
5.11.	LA09/2018/0042/O	Dwelling at 20m W of 15 Derrynoyd Lane, Moneyneena, for Aaron Kelly.	APPROVE
5.12.	LA09/2018/0467/O	Site for dwelling and garage at 100m NE of 15 Ballydermot Road, Castledawson, for Mark Diamond.	REFUSE
5.13.	LA09/2018/0902/RM	One and a half storey dwelling and garage with upper level office and associative site works at site adjacent to 10 Derryloughan Avenue, Coalisland, for Gerard McCann.	APPROVE
5.14.	LA09/2018/1148/F	Construction of new vehicular access onto Old Eglisk Road (revised position), Black Lane, Dungannon, for Dungannon United Youth.	APPROVE

#### Matters for Information

6 Minutes of Planning Meeting held on Tuesday 2 October 2018 303 - 318

**Items restricted in accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014. The public will be asked to withdraw from the meeting at this point.**

Matters for Decision

Matters for Information

7. Minutes of Confidential Business of Planning Committee held on Tuesday 2 October 2018
8. Receive Enforcement Report
9. Enforcement Cases Opened
10. Enforcement Cases Closed



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/1040/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective application for the retention of the single storey portal frame shed (for storage/distribution in association with a landscaping business) and associated site works.	<b>Location:</b> Lands opposite 8 Ballyheifer Road Magherafelt
<b>Referral Route:</b>  This application is being presented to Committee as one letter of objection has been received and the proposal is being recommended for refusal.	
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Applicant Name and Address:</b> Mr Nicky Brown 2 Grange Avenue Magherafelt BT45 5RP	<b>Agent Name and Address:</b> MJ Walker Architecture 11 Coolsythe Road Randalstown BT41 3DN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	NIEA	Substantive Response Received

### Representations:

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

### Summary of Issues

One objection has been received in respect of this proposed development and relates to the following:-

The proposal is contrary to the Magherafelt Area Plan 2015;



The portal frame shed and associated development are unlawful and should be removed;  
 The proposal is contrary to PPS 4 Policies PED 1 and PED 9;  
 The objection raises issues relating to PED 9 and specifically bullet points a, e j & k. In this case I agree that the proposal offends point (a) in that it is not compatible with the largely surrounding residential uses. With regards to point (e) I do not agree that there is any issue regarding noise as this has not been raised by Environmental Health who advised they have no concerns regarding the proposal. With regards to point (j), the proposed shed is the same shed which existed on site prior to the previous application LA09/2015/0985/F and which was granted approval for its re-siting to the rear of the approved dwelling under that same application. As all other details of the proposal remain the same in terms of building design, infrastructure and landscaping, I do not accept that the proposal is contrary to that part of the policy. Regarding part (k) of the policy, I agree that although the boundary treatment remains unchanged from the time of the previous approval, it is inadequate to effectively screen areas of outside storage which includes pallets of materials stored at the side of the shed at the time of site inspection.

The objector also raised the issue of proximity to the rear boundary of No.10 Grange Avenue and refers to the minimum separation distances as referred to in Section 7 of Creating Places. However, Section 7 of Creating Places provides guidance on separation distances between dwellings and is therefore irrelevant in this case.

Other issues were raised in relation to the non-submission of a drainage assessment. As this development is for a use on a site with an area of less than 1000m<sup>2</sup> hardstanding, a drainage assessment is not required. The issue of potential contamination due to the infilling of the site has been raised with NIEA who have advised that they have no objections.

### **Description of Proposal**

The proposal is a 'Retrospective application for the retention of the single storey portal frame shed (for storage/distribution in association with a landscaping business) and associated site works.

### **Characteristics of the site and environs**

The site is contained within a larger overall site which is wedged between an existing housing development and an operational nursing home on the Ballyheifer Road. The site is located close to the northern extremity of the settlement development limit of Magherafelt and is within an area zoned for housing development (MT18). A new bungalow is currently under construction at the front of the site, with access to the shed, subject of this application, currently along the south-western boundary. A second access is available at the northern corner of the site and is marked by a pair of agricultural field gates. The shed is located to the rear of the dwelling on an area of hardstanding with a boundary proposed between the two buildings. The land to the rear of the shed is currently rough grassland. The shed measures 14.0m x 7.0m and has a ridge height of 3.4m. It is finished entirely in light grey coloured metal cladding with black flashings at corners and eaves/wall plate levels in addition to black doors. There is a large area of hardstanding around the shed with some of this being currently used for the storage of pallets of gardening materials.

The southern boundary is defined by a 1.8m high close boarded fence and a low level laurel hedge. This defines the boundary along the rear of the existing housing development of Grange Avenue which is predominantly one or one-and-a-half storey. The shed is positioned to the rear of 2 no. one-and-a-half storey detached dwellings and sits between 2.5m-4.0m from the rear boundary of these dwellings.

The site is located on the line of the disused Magherafelt to Moneymore railway line.

## Planning Assessment of Policy and Other Material Considerations

Relevant planning history

H/2003/0853/F – Housing development - 35 no. units, detached, semi-detached and terraced.

Withdrawn 15.04.2005

H/2005/0446/F – Erection of Housing Development. Appeal dismissed 02.10.2006

H/2012/0006/F – Housing development to include 32 units. Refused 15.11.2012

LA09/2015/0985/F – 1No. dwelling and attached garage including relocation of the existing portal frame shed (for domestic use only) to the rear of the proposed dwelling. Approved 03.03.2016

The latter approval included a condition (No.4) limiting the use of the portal frame shed to domestic use only to prevent the creation of an unacceptable business use in a residential area.

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 overarching criteria for considering economic development within settlements is PPS 4 which states that 'for the purpose of this PPS, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' of the Planning (Use Classes) Order (Northern Ireland) 2004'. PPS 4 Policy PED 1 – Economic Development in Settlements goes on to state 'A development proposal for a Class B4 storage or distribution use will be permitted in an area specifically allocated for such purposes in a development plan. In addition a Class B4 development will also be permitted in an existing or proposed industrial/employment area where it can be demonstrated: that the proposal is compatible with the predominant industrial/employment use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution in the industrial/employment resource both in the locality and the plan area generally. Elsewhere in cities and towns such proposals will be determined on their individual merits'.

The proposal is located on a site which is within an area zoned for housing land under the Magherafelt Area Plan 2015. Zoning MT 18 at Ballyheifer Road is an 11.14ha site with the following included as part of the key site requirements:-

- No development shall commence until a Concept Master Plan to facilitate the comprehensive development of the site has been submitted to and agreed with the Department. The Concept Master Plan shall incorporate details of any phasing proposed by the developer.
- Housing development to be at a minimum of 20 dwellings per hectare.

No information has been provided in support of the proposed development to demonstrate how the above requirements have been taken into consideration. Whilst the Key Site Requirements mentions the disused railway line, it does so in relation to the required retention of the mature trees and vegetation along the disused rail bed except for where this is required to facilitate access to the zoned lands.

It is clear therefore that as the proposal is for a storage use, albeit it is retrospective and would appear to be small scale, it is nevertheless a storage use which is clearly contrary to the designation of this land for housing. If this proposed development were to be approved in this location, it could ultimately develop into a larger business and extend further into the housing zoning. The proposed development is therefore contrary to the Magherafelt Area Plan 2015 and consequently is contrary to PPS4 Policy PED 1.

Policy PED 9 – General criteria for economic development; states that a proposal, in addition to other policy provisions of this PPS, will be required to meet a range of criteria. The proposal fails to satisfy all of the stated criteria as follows:-

- (a) The proposal will introduce an economic use to an area which is exclusively residential with the exception of a long standing contracting business which operates from the opposite side of the Ballyheifer Road. The proposed use in this area would not be compatible with the

surrounding residential use due to the potential for the business to grow and ultimately attract customers to the site.

- (b) The proposal is for the use of a shed for storage and distribution purposes in connection with a commercial business. This has the potential to cause disruption to the residents of the existing dwellings in Grange Avenue and is therefore considered to be unacceptable and contrary to policy.
- (h) It has not been satisfactorily demonstrated that the proposal can provide an acceptable mean of access to the site. The proposal indicates on the site layout that the access to the storage unit is via the approved access to the existing dwelling. However, a second access is also indicated on the plans which shows an access at the northern corner of the site which also serves the area of hardstanding. If this area is to be used only for the purpose of accessing lands to the rear of the site as indicated on the site layout, then it should be clearly separated from the area of hardstanding servicing the site with no gated access between so as to prevent an unauthorised access being used for a commercial business. It has not been demonstrated that provision has been made for the turning of the largest vehicles which will be using the site to enable them to enter and leave in forward gear.
- (k) The shed is located to the rear of the existing dwelling as is the area of external storage. However, although there may only be limited views of these from the public road system, the proposal includes the proposal that the existing boundary hedge be retained and let grow to a height of at least 1.8m, at present is around 1m in height and therefore provides little in the way of effective screening, especially from the rear of a number of existing properties on Grange Avenue. It is therefore my opinion that the proposal is contrary to this part of the policy.

Whilst the objection raised an issue regarding bullet point (j) it is my opinion that the site area required for the shed and area of outside storage is marginally larger (approximately 370m<sup>2</sup>) than the area originally shown on the approved application LA09/2015/0985/F drawing no. 01. The current application extends this area by around 15m into the area originally identified within the blue line but outside that site boundary. The shed has also been repositioned further back on the site, turned 90° and located closer to the rear boundary of No's. 8 & 10 Grange Avenue. The building design is the same as previously approved with a small area, around 105m<sup>2</sup> of external storage space, located on the opposite side of the shed from Grange Avenue and therefore screened from view from these properties, however, the area used for external storage at the time of site inspection was on the other side of the proposed shed, ie. next to Grange Avenue. The proposal includes for the existing boundary hedge to be retained and to be let grow to at least 1.8m to provide privacy and maintain the low visual impact of the development. There is a 1.8m high close boarded fence along this boundary at present and therefore whilst the proposal to allow the hedge to achieve the same height is welcomed, this will have little impact other than to soften the view of a shed behind the fence when viewed from Grange Avenue. The shed is a modest prefabricated building which would not look out of place within the residential curtilage of a dwelling of this size if used for domestic purposes. Therefore, in my opinion, the proposal is not contrary to this part of the policy.

### **Other policy and material considerations**

PPS 3 - Access, Movement and Parking; Transport NI have been consulted and have advised that amendments are required to demonstrate the access is safe and acceptable. However, given that there is a fundamental problem with the proposed use in locating an economic use in an area zoned for residential use, I see little merit in putting the applicant to the expense of providing further amendments which will not address this critical issue.

### **Environmental Health**

EHD were consulted and following consideration of the noise impact assessment and subsequent amendments to the proposal, advised of appropriate conditions which should be attached to any approval.

**Recommendation**

This is an application for the re-siting of a previously approved domestic shed which is now being used for storage and distribution purposes in connection with a business. The shed existed on site prior to the LA09/2015/0985/F application and was granted approval for its re-siting as part of that approval. However, the shed has now been positioned outside the red line of that approved site and is also being used in connection with a commercial business, which is contrary to Condition 04 of that approval which limited the use to domestic use only. On consideration of the above, it is my opinion that planning permission should be refused for the proposed development for the reasons detailed below:-

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

Refuse for the reason stated below:-

**Refusal Reasons**

1. The proposal is contrary to Planning Policy Statement 4, Industrial Development Policy PED 1 and PED 9 and the Magherafelt Area Plan 2015 in that the development would, if permitted, introduce an economic use to an area which is zoned for housing development and which should be retained to meet further demand.
2. The proposal is contrary to Planning Policy Statement 4, Industrial Development - Policy PED 9 in that the development would, if permitted :-  
be incompatible with the surrounding residential land use;  
have the potential to harm the amenity of adjacent residential properties;  
fail to provide adequate access arrangements, parking and manoeuvring areas; and  
areas used for outside storage are not adequately screened from public view.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since satisfactory access, parking and turning arrangements have not been provided.

**Signature(s)****Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	26th July 2016
<b>Date First Advertised</b>	11th August 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Grange Avenue Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 12 Grange Avenue Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 14 Grange Avenue,Town Parks Of Magherafelt,Magherafelt,Londonderry,BT45 5RP, The Owner/Occupier, 16 Grange Avenue Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 18 Grange Avenue Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 6 Grange Avenue Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 6 Grange Drive Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 8 Ballyheifer Road Mullaghboy Magherafelt The Owner/Occupier, 8 Grange Avenue Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 8 Grange Drive Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 8A Ballyheifer Road,Ballyheifer,Magherafelt,Londonderry,BT45 5EQ, The Owner/Occupier, 9 Ballyheifer Road,Ballyheifer,Magherafelt,Londonderry,BT45 Theresa Cassidy TC Town Planning,Town & Country Planning Consultants,84 Ashgrove Park,Magherafelt,BT45 6DN	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

## Planning History

Ref ID: LA09/2016/1040/F

Proposal: Retrospective application for the retention of the single storey portal frame shed (for storage/distribution in association with a landscaping business) and associated site works.

Address: Lands opposite 8 Ballyheifer Road, Magherafelt,

Decision:

Decision Date:

Ref ID: LA09/2015/0985/F

Proposal: 1No. dwelling and attached garage including relocation of the existing portal frame shed (for domestic use only) to the rear of the proposed dwelling.

Address: Lands opposite 8 Ballyheifer Road, Magherafelt, BT45 5EQ,

Decision: PG

Decision Date: 08.03.2016

Ref ID: H/1986/0500

Proposal: HV O/H LINE BM 8126

Address: AGHASKIN, BALLYHEIFER AND TOWNPARKS MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1988/0439

Proposal: LAYOUT OF HOUSING DEVELOPMENT

Address: THE GRANGE HOSPITAL ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1986/0428

Proposal: SITE OF HOUSING DEVELOPMENT

Address: HOSPITAL ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/0853/F

Proposal: Housing development - 35 no. units, detached, semi-detached and terraced.

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt.

Decision:

Decision Date: 15.04.2005

Ref ID: H/2005/0446/F

Proposal: Erection of Housing Development

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt  
Decision:  
Decision Date:

Ref ID: H/2012/0006/F  
Proposal: Housing development to include 32 units  
Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt,  
Decision: PR  
Decision Date: 19.11.2012

Ref ID: H/2007/0164/F  
Proposal: Proposed residential development comprising 4 No. semi-detached dwellings including demolition of existing dwelling.  
Address: 18 Grange Avenue, Magherafelt  
Decision:  
Decision Date: 15.04.2009

Ref ID: H/1991/0212  
Proposal: HOUSE  
Address: SITE NO 65 THE GRANGE BALLYHEIFER ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2010/0153/F  
Proposal: Proposed change of house type and minor amendments to current approved development of 4 No. semi-detached dwellings (H/2007/0164/F)  
Address: 18 Grange Avenue, Magherafelt  
Decision:  
Decision Date: 19.05.2010

Ref ID: H/1997/0631  
Proposal: EXTENSION TO DWELLING  
Address: 18 GRANGE AVENUE MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1991/0211  
Proposal: 4NO HOUSES AND GARAGES  
Address: SITES 61-64 THE GRANGE BALLYHEIFER ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1990/0292

Proposal: 2 HOUSES AND GARAGES

Address: SITES NO 26 & 27 GRANGE HOUSING DEVELOPMENT OFF  
BALLYHEIFER ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1990/0339

Proposal: BUNGALOW WITH GARAGE

Address: SITE NO 73 THE GRANGE HOSPITAL ROAD BALLYHEIFER  
MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1991/0267

Proposal: ALTERATIONS AND ADDITIONS TO DWELLING

Address: SITE 73 THE GRANGE HOSPITAL ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0328

Proposal: EXTENSION TO DWELLING

Address: 2 GRANGE AVENUE BALLYHEIFER ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2002/0546/Q

Proposal: Site of Housing Development

Address: Ballyheifer, Magherafelt

Decision:

Decision Date:

Ref ID: H/1990/0338

Proposal: BUNGALOW AND GARAGE

Address: SITE NO 72 THE GRANGE HOSPITAL ROAD MAGHEARFELT

Decision:

Decision Date:

Ref ID: H/1990/0093

Proposal: 6 NO DWELLINGS

Address: SITES NOS 66,67,68,69,70,71 THE GRANGE HOSPITAL/BALLYHEIFER  
ROAD MAGHERAFELT

Decision:

Decision Date:



Ref ID: H/1994/0522  
Proposal: GARAGE  
Address: 8 GRANGE AVENUE MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1987/0527  
Proposal: NURSING HOME  
Address: BALLYHEIFER ROAD TOWNS PARK WEST MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1996/0701  
Proposal: FRONT PORCH/SITTING AREA TO NURSING HOME  
Address: MALESIAN NURSING HOME BALLYHEIFER ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2010/0177/F  
Proposal: Construction of new housing development consisting of 38 No. dwellings and alteration to access of milesian manor nursing home  
Address: Lands Adjacent to 9 Ballyheifer Road, Magherafelt  
Decision: PG  
Decision Date: 24.01.2014

Ref ID: H/2010/0550/F  
Proposal: Extension to the front and rear with internal alterations to existing nursing home.  
Address: Milesian Manor Nursing Home, 9 Ballyheifer Road, Magherafelt, BT45 4DX,  
Decision:  
Decision Date: 18.01.2011

Ref ID: H/1990/0547  
Proposal: CHANGE OF HOUSE TYPES  
Address: SITES 66 & 67 THE GRANGE BALLYHEIFER ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2009/0149/F  
Proposal: Proposed domestic garage to rear of existing dwelling  
Address: 14 Grange Avenue, Magherafelt  
Decision:  
Decision Date: 24.04.2009

Ref ID: H/2010/0171/Q Proposal: Proposed Residential Development Address: Ballyheifer Road, Magherafelt Decision: Decision Date:
<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

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Status: Submitted

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Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 01  
Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Existing Elevations

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/1224/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for new dwelling on farm	<b>Location:</b> 50m NE 76 Dreenan Road Maghera
<b>Referral Route:</b> Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Mervyn Hanna Hanna Machinery 57 Magherafelt Road Draperstown BT45 7JT	<b>Agent Name and Address:</b> Gibson Design & Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	Substantive Response Received

### Representations:

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

### Summary of Issues

1. Impact on privacy.
2. Why the proposal site is located so far away from the dwelling to be replaced?
3. Which boundary hedge will be removed?
4. Where the entrance will be?

**Characteristics of the Site and Area**

The site is located approximately 1 mile south of Tamlaght O'Crilly in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 50m northeast of No 76 Dreenan Road and is located beside the Dreenan/Eden road junction. The site encompasses a small triangular shaped paddock and two small sheds/outbuildings which appear to be associated with the property No 76. The site has a frontage onto both the Dreenan Road and the Eden Road and is bound by 1m hawthorn hedge along the eastern and north western boundaries.

The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

**Description of Proposal**

The application seeks outline planning permission for a detached dwelling and garage on the farm

**Planning Assessment of Policy and Other Material Considerations****Relevant Site History:**

No relevant history.

**Representations:**

3 neighbour's notification letter were sent to No 76 Dreenan Road, Upperlands and Nos 25 & 26 Eden Road, Upperlands.

1 objection letter was received from H.A. Riddell who resides at No 26 Eden Road the farm dwelling located opposite the site. The objector raises the following concerns:-

1. The proposal will infringe on their privacy because the new dwelling will be looking directly into their property.

The objector's dwelling is set back approximately 10m from the edge of the public road and the proposal site is located on the opposite side of the road. It is anticipated that due to the confined nature of the northern portion of site, a new dwelling will have to be sited in the southern portion and as result a separation distance in excess of 30m will be achieved, which is more than sufficient to prevent loss of privacy.

2. Why the proposal site is located so far away from the original house?

The application was original submitted for an offsite replacement dwelling for a small roadside dwelling located approximately 150m north of the site. The Council considered the proposal unacceptable because the dwelling to be replaced displays the characterises of a vernacular dwelling and therefore worthy of retention under the replacement policy (CTY3). The applicant

agreed with the Council's view but was unwilling to consider either sympathetic refurbishment of the existing dwelling or siting the new dwelling onsite because of the potential impact on the residential amenity of future occupants caused by the adjacent Orange Hall. To overcome the re-siting issue the applicant opted to amend the proposal to a dwelling on the farm and provided the required farming information in line with the farming policy (CTY10). The application was re-advertised and re-neighbour notified and to date no further objections were received.

3. Which boundary hedge will be removed?

The application does not proposed the removal of any boundary hedge and the Council will be conditioning the retention of existing boundary hedges unless removal is necessary for the provision of visibility splays whereas replanting will be required.

4. Where will the entrance to the site be located?

The location of the entrance will be located on the eastern boundary and will access onto the Eden Road. Further details of the access arrangements will be provided at Reserved Matters stage.

**Development Plan and Key Policy Consideration:**

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

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

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

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

Criterion (b) requires no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. A planning history search reveals no development opportunities have been sold off, therefore the proposal complies with criterion (b).



Under criterion (c) of the policy which requires that the new dwelling is visually linked or sited to cluster with an established group of buildings on the farm. There are two established farm groupings on the farm, the main farm grouping is located near Draperstown and a second grouping abuts the site along the south western boundary and consists of a two storey dwelling and range of small outbuildings/sheds. Two of the outbuildings/sheds are also located within the proposal site. The proposal complies with criterion (c) and criterion (g) of CTY13.

#### **Integration and Rural Character**

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. The proposed site is relatively flat and is enclosed by 1m hawthorn hedge along the roadside and rear boundaries as well as existing development along the south western boundary. The landform to the rear of the site is undulating and which provides a backdrop for a dwelling with a ridge height of 7.5m to integrate into the landscape. When travelling in a south-westerly direction a new dwelling will read with the established farm grouping and when traveling in the opposite direction the farm grouping will help screen the proposal.

#### **Impact on Character and Appearance of the Area.**

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am satisfied a new dwelling would not cause an undesirable change to the rural character due to the traditional pattern of settlement development in the area.

#### **Other Policy and Material Considerations**

I am satisfied that the proposal is adequately sited and designed to avoid a significant adverse impact on neighbour amenity and that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

<b>Neighbour Notification Checked:</b>	<b>Yes</b>
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#### **Summary of Recommendation: That planning permission be approved subject to the following conditions.**

##### **Conditions**

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

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

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

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

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

3. The proposed dwelling shall have a ridge height of less than 7.5 metres above finished floor level and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent in and satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

4. The proposed dwelling shall be sited in the area shaded green on drawing No 01 Revision 1 which was received on 19th July 2018.

Reason: To preserve the amenity of the area and in the interest of residential amenity.

5. 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.

6. The existing natural screening along the laneway and the north western and eastern boundaries of the site shall be permanently retained at not less than 1 metres and trees allowed to grow on except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing.

Reason: In the interests of visual amenity.

7. Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no walls, gate pillars, fences or other structures, other than the development permitted shall be erected along the front boundary of the site without the written consent of the Council.

Reason: To preserve the amenity of the countryside.

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.

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

#### Informatives

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4. The applicant's attention is drawn to the attached information note from Northern Ireland Water.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	2nd September 2016
<b>Date First Advertised</b>	15th September 2016
<b>Date Last Advertised</b>	16th August 2018
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 25 Eden Road,Drumnacanon,Knockcloghrim,Magherafelt,Londonderry,BT46 5UB, H A Riddell 26 Eden Road, Magherafelt, Knockcloghrim, Londonderry, Northern Ireland, BT44 8LP The Owner/Occupier, 26 Eden Road,Drumnacanon,Knockcloghrim,Magherafelt,Londonderry,BT46 5UB, The Owner/Occupier, 76 Dreenan Road, Upperlands, Maghera	
<b>Date of Last Neighbour Notification</b>	30th July 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2016/1224/O Proposal: Proposed site for new dwelling on farm Address: Adjacent to 76 Dreenan Road, Maghera, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Revision 2 Type: Site Location Plan Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/1481/F	<b>Target Date:</b>
<b>Proposal:</b> Spray booth extension at existing workshop	<b>Location:</b> 138-140 Dungannon Road Ballygawley
<b>Referral Route:</b> Refusal –Insufficient information provided by the agent/applicant.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Barrack Hill Quarries Ltd 96 Lurgylea Road Galbally Dungannon	<b>Agent Name and Address:</b> McKeown & Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Environmental Health Mid Ulster Council	Additional Information Required
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

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

### Summary of Issues

Insufficient information to assess application. No representations received.

### Characteristics of the Site and Area

The site is located at 138-140 Dungannon Road, Ballygawley. The current use of the site appears to be an engineering workshop. A residential dwelling abuts the NE boundary of the site. The roadside boundary of the site is defined with palisade fencing approx. 6-7ft tall and the NW boundaries and SW boundaries are undefined on the ground. The site is located in the rural countryside as defined in the Dungannon and South Tyrone Area Plan 2010, situated NE of Ballygawley settlement limit. The predominant land use surrounding the site is agricultural, however there is also a mix of residential and engineering within the immediate vicinity.

**Description of Proposal**

Full planning permission is sought for a spray booth extension at existing workshop.

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

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 135, 136 and 137 Dungannon Road. At the time of writing, no third party representations have been received.

Planning History

M/2015/0087/F - 138-140 Dungannon Road, Ballygawley - Proposed extension of engineering workshop – PERMISSION GRANTED – 20.04.2016

An application for the lands NE of this application has also been submitted subsequent to this application and is currently under consideration:

LA09/2017/0122/F - 140 Dungannon Road, Ballygawley - Secure garage for the safe storage of vehicles – CONSULTATIONS ISSUED

Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 3 – Access, Movement and Parking
- PPS 4 - Planning and Economic Development
- PPS 21- Sustainable Development in the Countryside

The site is located outside any defined settlement limit, in the rural countryside as identified in the Dungannon and South Tyrone Area Plan 2010. The site is located NE of Ballygawley settlement limit and has no other zonings or designations. The site accesses onto a protected route.

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster District 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 notes the importance of open space, sport and outdoor recreation for our society.

In line with PPS 21 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 site and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Planning permission will be granted for non-residential development in the countryside where there are overriding reasons why it is essential and could not be located in the settlement. In this case the proposal is for a spray booth extension to an existing workshop.

Policy PED 3 of PPS 4 states that a proposal for 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. The proposed extension would be located to the rear of the existing engineering workshop and would be in proportion to the existing buildings with the same ridge height proposed. The extension would appear to integrate as part of the overall development. The extension would be respectful of the existing scale, design and materials of the original buildings and there is not considered to be any architectural interest in the original property. The proposal is not for the major expansion of an existing industrial enterprise. As

stated the proposed extension is located to the rear of the existing workshop and therefore it is not considered necessary to provide any additional landscaping or measures to aid integration. Policy PED 9 of PPS 4 deals with the general criteria for economic development. The surrounding land uses surrounding the site is predominantly agricultural, however there is also a mix of residential and engineering within the immediate vicinity therefore it is considered this type of proposal would be compatible with the surrounding land uses.

The amenity of nearby residents has been considered within Environmental Health's response who have asked for an odour assessment to be carried out. This information was requested by the case officers of the application on 10/04/2018 and again on 18/09/2018 and no subsequent information from the applicant agent was received and thus the application is being presented as a refusal based on insufficient information. There are no concerns with regard to the impact which the proposal would have on the features of the natural or built heritage. The site is not located in an area at flood risk and therefore there is no reason to believe there should be any flooding issues at this site. Noise issues would have been considered within Environmental Health's response, there were no concerns raised in relation to noise.

Environmental Health noted in their response that they are "aware that spraying activities, even within a purpose built building/spraybooth have the potential to cause loss of amenity due to odour from the spray activity, bake cycle, paint kitchen and fugitive emissions sources such as paint kitchen and waste material storage". The emissions or effluents which would be created as a result of this proposal would need to have been considered carefully within an odour assessment and as noted this was not provided by the applicant/agent.

The proposal intends to use an unaltered access onto Dungannon Road. DfI Roads have offered no objection to the proposal, noting that the parking for the extension should be provided in accordance with Parking Standard guidelines (Class B2/Class B3) and should be detailed on the drawing. It is considered there is adequate space for parking and the manoeuvring of vehicles within the site curtilage and disabled parking has been accounted for. Given the rural setting there are no footpaths/cycle lanes within close proximity to the site, however there are a number of existing bus stops located along the Dungannon Road.

The site layout isn't proposed to be amended as the application is for an extension to an existing workshop. The boundaries of the site are considered to be acceptable in terms of integration. I see no reason why the site would have issues regarding crime or personal safety. The site has high palisade fencing which surrounds the site and would help avoid public access whilst not in use.

<b>Neighbour Notification Checked:</b>	Yes
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#### **Summary of Recommendation:**

The information which is needed to assess the application fully has not been provided by the agent/applicant. Sufficient time was given by the case officers to allow this information to be submitted and therefore refusal is recommended on the basis of a lack of information being provided.

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

1. As provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to determine this proposal, in respect of the odour assessment.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	18th October 2016
<b>Date First Advertised</b>	3rd November 2016
<b>Date Last Advertised</b>	26th October 2017
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 135 Dungannon Road Lurgacullion Dungannon The Owner/Occupier, 136 Dungannon Road Lurgacullion Dungannon The Owner/Occupier, 137 Dungannon Road Lurgacullion Dungannon	
<b>Date of Last Neighbour Notification</b>	11th October 2017
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2016/1481/F Proposal: Revision to Previously Approved Extension of Workshop "Under Application M/2015/0087/F", to provide an additional extension to the rear of the newly approved scheme and to extend the external yard provision adjacent to the workshop Address: 138-140 Dungannon Road, Ballygawley, Decision: Decision Date:  Ref ID: M/1978/0430 Proposal: IMPROVEMENT AND REPAIR OF HOUSE Address: 136 DUNGANNON ROAD, BALLYGAWLEY Decision: Decision Date:  Ref ID: M/1986/0313 Proposal: PROPOSED BONING FACTORY Address: 130 DUNGANNON ROAD, BALLYGAWLEY Decision: Decision Date:  Ref ID: M/1986/0404	



Proposal: CHANGE OF USE FROM CONCRETE MANUFACTURE AND DISTRIBUTION TO STORAGE AND

Address: 136 DUNGANNON ROAD, INISHMAGH, BALLYGAWLEY

Decision:

Decision Date:

Ref ID: M/1989/0151

Proposal: Replacement building for repair and maintenance of commercial vehicles

Address: ADJACENT TO 136 DUNGANNON ROAD INISHMAGH BALLYGAWLEY

Decision:

Decision Date:

Ref ID: M/1989/0151B

Proposal: Replacement building for the repair and maintenance of commercial vehicles

Address: ADJACENT TO 136 DUNGANNON ROAD BALLYGAWLEY

Decision:

Decision Date:

Ref ID: M/2002/0864/F

Proposal: Proposed Bungalow

Address: 90 M North East of 136 Dungannon Road, Ballygawley

Decision:

Decision Date: 16.07.2003

Ref ID: M/2008/1038/F

Proposal: Proposed retention of office building and palisade fencing at 140 Dungannon Road, Ballygawley

Address: 140 Dungannon Road, Ballygawley

Decision:

Decision Date:

Ref ID: M/2009/1024/F

Proposal: Proposed replacement 2 storey dwelling and domestic garage

Address: 136 Dungannon Rd, Ballygawley

Decision:

Decision Date: 10.02.2010

Ref ID: M/2015/0087/F

Proposal: Proposed extension of engineering workshop

Address: 138-140 Dungannon Road, Ballygawley,

Decision: PG

Decision Date: 20.04.2016

**Summary of Consultee Responses**

Env Health – Concerns regarding impact of odours produced on neighbouring property.  
DfI Roads – Parking Standards.

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> Nov 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0150/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed demolition of workshop and erection of 1 No. 1.5 storey dwelling	<b>Location:</b> To the rear of no's 9 and 11 Adair Gardens Cookstown
<b>Referral Route: Objections received.</b>	
<b>Recommendation: approval</b>	
<b>Applicant Name and Address:</b> R and F Developments 90 Oldtwon Road Castledawson Magherafelt BT45 7BZ	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Signature(s): M.Bowman</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	NIEA	Content
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

Non Statutory	Shared Environmental Services	Substantive Response Received
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	15	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<p><b>Characteristics of the Site and Area</b></p> <p><u>Description of proposal</u></p> <p>This is an outline planning application for the proposed demolition of workshop and erection of 1 dwelling. This represents a reduced scheme from the originally submitted proposal for 2 semi-detached dwellings.</p> <p>The site is located within the limit of development for Cookstown as defined within the Cookstown Area Plan 2010. Located approximately 1km south west of the town centre the site lies within an existing residential estate to the rear of properties 9 and 11 Adair Gardens, and forms part of the extensive curtilage of No. 9. Access to the proposal is gained via No 9 Adair Gardens which connects onto Adair Drive and in turn the Westland Road South. The development road to the proposed dwellings is via the side of no 9, removing the attached garage and adjacent to the boundary with no 7. A Local landscape policy area (LLPA), Protected access way and Recreation Area Plan designation skirt around the rear and side of the site. No development within these areas is proposed however.</p> <p>On site at present is a large garage structure beyond the rear garden. This structure sits on significantly lower ground to that of surrounding dwellings.</p> <p>Site boundaries are a mixture of conifer type hedging and timber fencing. Within the south western part of the site is existing woodland/scrub area. Levels within the site vary considerably from Adair Gardens estate road to the southern corner which is at a much lower level. The immediate area is residential and Adair Gardens supports a variety of house types and sizes. Some two storeys, some storey and a half and some single storey. Levels also vary within the estate with no 9 being at a lower FFI than properties located to the north and east, and a higher level than the detached garage located in the southern corner of the site. The private rear garden of No. 11 Adair Gardens backs onto the site, its boundary defined by 1-2 m high hedging.</p> <p>The watercourse is adjacent to the south eastern edge of the red line boundary The watercourse flows directly into the Upper Ballinderry River SAC, approx 30m downstream.</p>		
<b>Description of Proposal</b>		
Proposed demolition of workshop and erection of 1 No. 1.5 storey dwelling		

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

Cookstown Area Plan 2010- The site is located on un-zoned land contained within the development limits of Cookstown.

### **Relevant Planning History**

I/2013/0370/O- outline permission was granted for proposed residential development incorporating the retention of the existing garage on 05.10.2016.

This permission shows the footprint of 2 x detached dwellings to the rear of No. 09 Adair Gardens with the garage now to be removed retained to the rear of No 11. The current application proposed a further 2 units on the footprint of the large garage, having raised concerns for planning, this was amended to a single 1.5st chalet type dwelling and the necessary re-consultation and notification carried out. Further objection has been received which is summarised later in my report.

### **Key Planning Policy**

It is important to note that the newly published Strategic Planning Policy for Northern Ireland (SPPS) states that the policy provisions of PPS7- Quality Residential Environments are retained until such times as a Plan Strategy for the whole of the council area has been adopted. Creating Places design guide, DCAN 8 Housing in existing Urban Areas is also applicable, as is DCAN 15 Parking Standards and PPS3 Access, Movement and Parking.

No features of archaeology or built heritage have been negatively impacted upon. Adequate provision is made for private space within the development. The development supports a movement pattern that is appropriate for the size and scale of this proposal. Adequate and appropriate provision is made for parking.

The original proposal was for 2 no. semi-detached 2 storey dwellings. A block plan had been supplied to show the indicative layout of the proposed development. The 2 semis and associated access road and front garden areas were to be constructed over the existing garage that was conditioned for retention under I/2013/0370/O. The retention of this shed was required to limit impacts on bats. However after submission of a Bat report NED have no objections subject to conditions.

Policy QD1 of PPS7 is a key Policy consideration in the determination of this application and it sets out the following requirements:

All proposals for residential development will be expected to conform to all of the following criteria:

(a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;

I acknowledge that this form / pattern of design and layout departs somewhat from the more distinct settlement character of Adair Gardens, however, the chosen location of the site allows this dwelling along with the approved 2 other dwellings to very much create their own 'sense of place' to the rear of the established street scene being also hidden from view from the main estate road. Precise design can be determined at Reserved Matters stage.

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

No issues in relation to these features given the response from Statutory Consultees.

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

These details are satisfactory at Outline stage. Adequate private amenity space in this case is also provided for. It will be important to condition the retention of boundary between the site and No 11.

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

In my view not necessary for one dwelling unit.

(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;

Again for a single dwelling unit not necessary, that said, Adair Gardens is accessible by public transport along Westland Road.

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

This is satisfactory and DFI Roads are in agreement.

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

Given this is Outline stage – further consideration will be given to design specifics at the next stage. Proposed one and half chalet type dwelling is in principle an acceptable design approach.

(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;

Whilst third parties raise these concerns they are not realised in my opinion given the nature and location of the proposed development.

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

This is a relatively secluded site with no other obvious means of access from the rear.

#### DCAN 8 (Housing in Existing Urban Areas)

Par 4.4 of DCAN 8 advises, amongst other guiding principles, that the successful integration of new housing in established residential areas requires very sensitive urban design, landscape and architectural approaches.

This is necessary in order to avoid the prospect of eroding, or even destroying, the character and qualities which make an area an attractive place to live and visit. The approach taken should:

- maintain and where possible enhance environmental quality;
  - respect the privacy and preserve the amenity of existing residents;
  - reinforce the character and qualities which make an area an attractive place to live and visit;
  - ensure good practice principles in the design of buildings and landscaping of surroundings;
- and
- aim to provide a safe and secure environment.

At Par 4.7, DCAN8 also states that, it is also important that full account is taken of the potentially damaging effect of cumulative changes in a neighbourhood, by which individual proposals, although not detrimental in isolation, could be judged to be detrimental when considered alongside other recently approved development.

At Par 4.8 In established residential areas, development proposals will therefore need to be considered in terms of their relationship to their setting, and should respect the physical, social and environmental context.

In addressing the above, the permission granted by the Council in 2016 for 2 dwellings at this location has significant weight in determining this proposal in my view. The access remains the same, the scale of the development is similar and equally, as with the 2 dwellings already approved, there will be no ability to associate this small development totalling 3 units with the established character of Adair Gardens as a result of topography and presence of existing dwellings. One further dwelling will not therefore alter the character of this established residential area in any measurable detrimental way. I see no detrimental impact on amenity currently enjoyed by all residents within the estate. Yes, I accept that there will be an increased use of Adair Gardens for the purposes of access, but in the absence of any objections from DFI Roads I have no reason to see this relatively modest increase as being an issue for road safety or the wider convenience of road users.

#### Other Considerations / local objections

3rd Party Objections have been received at all stages of this proposal, including more lately to the reduced scheme and the following issues have been raised;

- Road Safety concerns
- Out of character with area, overlooking, overshadowing, impact of construction on amenity
- detrimental impact on environment including Bats and river corridor species including fish life
- proposal will lead to landlock, and does not represent betterment
- Impact on human Rights
- the original developer deemed the land in question unsuitable for housing, presumably for health and safety reasons
- the river is to its source is an ASSI /SAC
- run off from the site will create a risk downstream
- risk of silt deposits and risk to pearl mussel, atlantic salmon and Dollaghan
- impact on bat population
- possibility of further development
- proposed access is hazardous
- sewerage capacity issues
- proposed access will lead to a loss of amenity / nuisance from streetlighting

Most of the issues raised have been addressed above.

In terms of impact on Human Rights, the Human Rights Act 1998 in relation to the First Protocol of Article 1 says that every natural or legal person is entitled to the peaceful enjoyment of his possessions. This is subject to the public interest and the fulfilment of a legitimate aim must be



proportionate and justified. So human rights implications are considered when planning policy was being drafted. Therefore this planning assessment has considered the potential human rights implications of this proposal when applying planning policy and considering amenity issues.

In terms of nuisance experienced during construction, as this proposal is for 1 no. dwelling, it is thought the impacts will be temporary and acceptable given the size and scale of the proposal, and given that the land is located on white land within the developments of Cookstown. The approved 2 dwellings propose the same access point and I do not consider the addition of 1 dwelling to unacceptably increase any levels of nuisance from same. Careful consideration has been given to sensitive areas and I note SES / NIEA have raised no objections to the proposal subject to conditions / informatives. I see no way to realistically propose any further development here given the site restraints and limited area.

In relation to highway safety, DFI Roads recommend approval subject to conditions. Rivers Agency have no objections subject to a 5m maintenance strip adjacent to the water course being identified on a plan should permission be granted.

There are no contamination or human health concerns to consider.

Northern Ireland Water do not raise any concern about capacity of mains sewage or storm drainage infrastructure provision.

On balance, and having considered all relevant material considerations raised, I recommend approval of Outline permission subject to the following conditions.

#### **Neighbour Notification Checked**

**Yes**

#### **Summary of Recommendation: approval with conditions.**

#### **Conditions.**

1. 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.

2. 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.

3. A buffer of at least 10 metres 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 and the watercourse along the south west boundary line of the proposal site.

Reason: To protect Upper Ballinderry River SAC from potential polluting discharges.

4. No development, demolition, earth moving shall take place, nor material or machinery brought onto site, until protective fencing has been erected between the construction site and the adjacent sheugh. The fencing must be suitable to prevent egress of water from the construction site into the sheugh. This protective fencing to be fully maintained for the duration of the construction period.

Reason: To protect Upper Ballinderry River SAC from potential polluting discharges.

5. Surface water run off during construction should be directed away from the adjacent river.

Reason: To protect Upper Ballinderry River SAC from potential polluting discharges.

6. Storm drainage of the site during construction and operational phases must be designed to the principles of Sustainable Drainage Systems (SuDS). This is to prevent the polluting effects of storm water on aquatic environments. Construction of SuDS must comply with the design and construction standards as set out in The SuDS Manual – Construction Industry and Information Association (CIRIA) Report C753 (2015).

Reason: To protect Upper Ballinderry River SAC from potential polluting discharges.

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

8. No development including site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Department and these works shall be carried out as approved. These details shall include: (proposed finished levels/existing and proposed contours/means of enclosure/car parking layout/vehicle and pedestrian access and circulation areas/hard surface materials/minor artifacts and structures e.g. street furniture, play equipment, refuse storage, lighting/existing and proposed services above and below ground/retained historic landscape features and proposals for restoration).

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

Informatives.

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by

any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605

- The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
  - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
  - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
  - c) Deliberately to disturb such an animal in such a way as to be likely to;
    - (i) affect the local distribution or abundance of the species to which it belongs;
    - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
    - (iii) Impair its ability to hibernate or migrate;
  - d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
  - e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

- The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
  - kill, injure or take any wild bird; or
  - take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
  - at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
  - obstruct or prevent any wild bird from using its nest; or
  - take or destroy an egg of any wild bird; or
  - disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
  - disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1<sup>st</sup> March to 31<sup>st</sup> August, unless pre-clearance surveys show an absence of breeding birds.

**Signature(s) M.Bowman**

**Date: 23/10/2018**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd February 2017
<b>Date First Advertised</b>	16th February 2017
<b>Date Last Advertised</b>	28th June 2018
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Adair Gardens Sullenboy Cookstown Martin Mclvor On Behalf of Michael Mclvor 11 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 12 Adair Gardens Sullenboy Cookstown Derek Donaldson 12 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Derek Donaldson 12 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Derek Donaldson 12, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Jane Cairnduff 15, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 16 Westbury Gardens Gortalowry Cookstown Denis and Rosemary Ferguson 17 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS S D & R G Ferguson 17 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 18 Westbury Gardens Gortalowry Cookstown Sean Donnelly 20 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 20 Westbury Gardens Gortalowry Cookstown The Owner/Occupier, 7 Adair Gardens Sullenboy Cookstown Sean and Eileen O'Hagan 7 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Eileen & Sean O'Hagan 7, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Eileen and Sean O'Hagan 7, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Gerald Thornton 8 Adair Gardens Sullenboy Cookstown Gerald and Clare Thornton 8 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS Gerald and Clare Thornton 8 Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS	

Gerald and Clare Thornton 8, Adair Gardens, Cookstown, Tyrone, Northern Ireland, BT80 8PS The Owner/Occupier, 9 Adair Gardens Sullenboy Cookstown	
<b>Date of Last Neighbour Notification</b>	13th June 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/0150/O Proposal: Proposed demolition of workshop and erection of 2 no. semi-detached dwellings Address: To the rear of no's 9 and 11 Adair Gardens, Cookstown, Decision: Decision Date:  Ref ID: I/2003/1002/F Proposal: Extension & alterations to dwelling Address: 9 Adair Gardens Cookstown Decision: Decision Date: 11.03.2004  Ref ID: I/2013/0370/O Proposal: Proposed residential development incorporating the retention of the existing garage (amended description) Address: Lands to the rear of 9 Adair Gardens, Cookstown, Decision: PG Decision Date: 10.10.2016  Ref ID: I/1983/0216 Proposal: RESIDENTIAL DEVELOPMENT Address: SULLENBOY, COOKSTOWN Decision: Decision Date:  Ref ID: I/1977/0377 Proposal: 11 KV O/H LINE, MV U/G CABLE Address: SULLENBOY, COOKSTOWN Decision: Decision Date:	

Ref ID: I/2004/0164/F

Proposal: Proposed extension and alterations to dwelling

Address: 7 Adair Gardens, Cookstown, Co Tyrone

Decision:

Decision Date: 16.04.2004

Ref ID: I/2001/0815/F

Proposal: Domestic garage and store

Address: 9 Adair Gardens, Cookstown

Decision:

Decision Date: 14.01.2002

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

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Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6th November 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0293/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed private housing development consisting of 29 No. dwellings ,including private and public amenity spaces and associated roads and Waste Water Treatment Plant	<b>Location:</b> Lands adjacent to and East South East of Ballygawley Church of Ireland Church Street Ballygawley
<b>Referral Route: Objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Salvare Properties Ltd 4a Enterprise Road Bangor BT19 7TA	<b>Agent Name and Address:</b> Eugene Corrigan Building Designs 7 Ardmore Heights Omagh BT76 5AX
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Representations:

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

#### Summary of Issues

See main body of report; Representations.

#### Description of proposal

This is a full planning application for a mix of 2 storey detached and semi-detached dwellings (29 in total) located within the development limits of Ballygawley.

**Characteristics of site and area**

The application site is located on the south side of Church Street in Ballygawley. It is bounded by the Church of Ireland to the west and by the 'Fairway Green' housing development and hall with direct access onto Church Street to the east. Opposite the site to the north is Presbyterian Church and Hall and Richmond Primary School.

At present the site is devoid of any development and is used for rough agricultural grazing. The northern portion of the east/NE boundary is shared with development to the east including dwellings within Fair Green that back onto the site, an existing hall and nursing home and is defined by a mix of treatments including fencing, hedging and walls of a variety of heights. The remaining part of this boundary is defined in part by a post and wire fence shared with another field, other parts to the south of this boundary are not clearly defined and open to a larger open area of rushy/marshy land.

Along the SE boundary there is a ditch but this boundary remains largely undefined.

Part of the NW boundary is shared with the Church of Ireland, a listed building, and is defined by a 2/3m high stone wall and some mature trees located on the site side of the boundary. The remainder of this boundary is not clearly defined and dissects part of an existing field to the south of the Church.

The SW boundary is not clearly defined. To the south of the site the land is flat and marshy, with drainage channels, marshy/rush land and some tree/shrub growth. This part of the site lies within 1:100 flood plain.

There are panoramic views of the countryside to the south, with the A5 visible in the distance. The site can be viewed from the stretch of road from the Ballygawley roundabout towards Omagh for small approx. 200m with the Church of Ireland also clearly visible along with other surrounding development within this area of Ballygawley.

Land within the site slope downhill from Church Street to a flatter area to the south of the site. Access is gained from Church Street where this boundary is defined by a rendered block wall and access gate.

**Planning Assessment of Policy and Other Material Considerations****Area Plan**

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Ballygawley on land with no zoning. Within the area plan it indicates that housing development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement.

**Relevant planning history**

The most relevant permission for this site was granted on 28th May 2009 for 38 units of accommodation under M/2006/1112/F and included a mix of apartments, semi-detached and terraced dwellings with associated landscaping and parking. This permission has now lapsed and was never lawfully commenced.

**Representations**

A number of 3rd party objections have been received by neighbours, including from the Church of Ireland community (represented by the Reverend Broodle) and Richmond Primary School. Issues raised are summarised below and include;

- Road safety concerns in terms of;
- sight line and forward sight distance provision,
- traffic volumes;
- Impacts of smell, overflow and hygiene from the proposed package treatment plant;

- Archaeological importance of land and the need for proper archaeological assessments to be carried out, especially as there may be human remains on the site as it is thought this site is a burial ground for those who perished during the time of the plague. It is also presumed that the site is that of an old Celtic Church (no evidence of this has been presented by the objector). These objections will be address in the main body of my assessment.

### **Consultees**

NIEA Natural Environment Division- concern raised over land contamination. A land contamination report was supplied by the applicant/agent and NIEA accept that land contamination risks from the site are low and recommend conditions be attached to any permission, to ensure that any previously unidentified risks are properly dealt with should they arise. No concern was raised over potential detrimental impacts to the natural environment, protected species or Natura 2000 sites.

NIEA Historic Environment Division- Initially HED requested additional surveys and archaeological assessment be carried out. However, they are now content to proceed on the basis of negative conditions. These conditions include;

- a programme of archaeological work prior to commencement of development
- access to the site at all times by any archaeologist nominated by HED;
- a structural condition survey for the listed curtilage wall to the Church of Ireland to be provided;
- hedgerows and landscaping to all boundaries to be retained;
- planting carried out before any dwelling occupied.

Rivers Agency- as the development is over 10 dwellings the applicant/agent had to provide a Drainage Assessment. There has been a lot of toing and froing between the agent and Rivers Agency during the processing of this application due to complexities presented by this site. This site slopes steeply to the south towards an existing flood plain therefore the site has to be developed to retain as much water as possible to ensure a slow release of rain water to ensure that incidents of flooding are not made worse by this development. In an e-mail from Rivers Agency dated 10th October 2018 it is stated that if the planning authority are minded to approve this development DfI Rivers would request that a planning condition is put in place to ensure the drainage systems are correctly designed and implemented prior to the commencement of any other development, and that all parties involved are made aware of their maintenance responsibilities regarding permeable paving and grey water storage systems. This is necessary to ensure appropriate measures are put in place to deal with flood risk at the site.

Rivers Agency comment stating they do not have the expertise to assess the greywater and permeable surfaces, however, it is clear these will limit the amount of water from the development. The permeable surfaces will allow water to soak into the ground and should not therefore have any greater impact on the amount of water running off the site, the greywater tanks will store water from the roofs of the development, which will also result in the attenuation of water from the site, again reducing the amount of run off. Rivers have issued a Schedule 6 agreement for the discharge from the attenuation system in the site and there is no information to suggest this will not be adopted and maintained by Water Service.

Northern Ireland Water- it has been indicated that Ballygawley Waste Water Treatment Plant has insufficient capacity cater for this development. It may be the case that as this site has been granted previous approval for 38 units that these figures have been taken into account in NIW calculations for capacity, but the developer has not been able to demonstrate if this is the case and no 161 water and sewage agreement is in place at present. So in order to address this issue the applicant/agent has provided a temporary waste water treatment plant until such times as the waste water works within Ballygawley has been upgraded. This method of sewage disposal has been used in other housing developments and is an agreed way forward in dealing with mains sewage incapacity within towns and villages.

Environmental Health- land contamination issues have been raised given the potential previous use on the site as a burial ground. A land contamination report has been provided and EHD have no further objections subject to planning conditions being attached in the event of land contamination being discovered. In relation to the temporary waste water treatment plant further technical details of the plant have been provided. EHD recommend the views of the Water Management Unit of NIEA, and advise that planning permission should not be granted for the proposal until the proposed means of effluent disposal satisfies the requirements of the Water Management Unit of Department of the Environment.

NIEA Water Management Unit were consulted on advice from EHD. In their reply they raise no objection and state they are content with the proposal subject to conditions (set out in their Standing Advice on Multiple dwellings), the applicant noting the advice contained in the explanatory note and any relevant statutory permissions being obtained.

DfI Roads- on various occasions during the processing of the application DfI have requested amended plans to address road safety and private street concerns. DfI now have no objections to this proposal in terms of road safety concerns and are aware of all the objections that have been made over road safety. Planning conditions are provided and can be attached to any permission including sight splays of 2.4m by 70m onto the public road and other Private Street conditions.

### **Consideration**

Planning permission was granted on this site under M/2006/1112/F for 38 dwellings. The Strategic Planning Policy Statement has been introduced since this permission, and is a consolidation of existing Planning Policy, under which PPS7 and addendums remain unaltered.

A meeting on design and densities was held between Council Planning representatives and the applicant/agent on 17/10/2017. This layout has been considered acceptable to the Department in the 2006 permission and there has not been any change to the policy for housing developments since that time. I consider the layout appears to be cramped with a preponderance for hard surfaces to the front of the houses to provide parking areas, which I would not generally consider to be acceptable. That said, as I have pointed out this type of layout was considered acceptable to the Department and there has been no change in planning policy for housing development since that permission was granted. In view of this the developer has a reasonable expectation this type of development would be acceptable again and it is only due to this previous planning permission that I would reluctantly accept the layout.

Plus, recent developments granted and built on the development edge of Ballygawley on approach from the Old Omagh Road are of similar densities, scale and design.

**Policy QD1** - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to all of the following criteria:

- a) *the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced area;*

The principle of residential development has been established on this site under M/2006/1112/ for a higher density of development proposed. This 2006 permission has however lapsed and was never lawfully commenced therefore a fresh assessment is required. This subject proposal respects surrounding land use which is mostly residential. Driving into the development there will be an area of open space, before coming to sites 1-8 (4 sets of 2 storey semis) which will be sited along a downward sloping hill, the dwellings backing onto the Church. It is proposed to protect the existing listed wall of the Church along with existing mature trees and hedging along the NW boundary. Further into the development is a T-Junction with access to a further 21

dwelling, 5 sets of 2 storey semis and one detached dwelling. This part of the development site is low lying and in essence the development is a cul-de-sac, with potential linkage to land on either side of the development which is also located within the development limits of Ballygawley. There is a good separation distance between the proposed dwellings and residential development located in Fair Green. Sections show that the northern part of the proposed development is on higher land than that at Fair Green, but given the separation distance and through additional proposed landscaping and existing boundary retention, impacts on character and amenity will be respected and reduced.

A 3m high retaining wall is proposed to the southern part of the site, on top of which a wooden privacy fence will be constructed. This wall will protect dwellings from flooding and the wall will be visible from the main Omagh-Ballygawley A5. It is proposed to soften the visual impact of this wall through additional landscaping, which in my view will be satisfactory, and will safeguard the character of the area.

There is a good level of landscaping proposed within this site, as evident from drawing No. 02 rev2 which in my view will soften the impact of the development in the landscape and will help to retain the existing character of this area of Ballygawley.

- b) features of the archaeological and built heritage, and landscaped features are identified and, where appropriate, protected and integrated on a suitable manner into the overall design and layout of the development;*

The site is located adjacent to Church of Ireland, a Grade B listed building. Its curtilage wall, shared with the proposed development is listed also. Historic Buildings advise they are content with this proposal for housing subject to;

- a structural condition survey for the listed curtilage wall to the Church of Ireland to be provided;
- hedgerows and landscaping to all boundaries to be retained;
- planting carried out before any dwelling occupied.

Historic Buildings raise no concern about the impact of this proposed housing development on the setting or character of the listed church in terms of its layout, design, materials etc.

Historic Monuments are also content with this proposal subject to;

- a programme of archaeological work prior to commencement of development
- access to the site at all times by any archaeologist nominated by HED.

These can be addressed through planning conditions.

In terms of impact on the Natural Environment, objections have been received which state that the site could be a site where plague pits were dug and people buried. Through completion of a Land Contamination Report it was demonstrated that potential contamination risks are low and both NIEA and Environmental Health raise no objections subject to planning conditions.

A drainage and flood risk assessment has also been completed and Rivers Agency accept that though provision of planning conditions they can proceed on this basis.

In my view the proposal will not have a detrimental impact on the natural or built environment.

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

There is sufficient private amenity space provided for each dwelling in this application. Parking is mostly to the front of properties, with some on-street parking outside any defined existing curtilage. This layout has been found acceptable by the Department under the 2006 permission, and by Council Planning staff before I inherited the file. Two public areas of open space are also located within the development at the access to the site with the public road. Whilst these areas are poor in terms of open space provision, in light of the previous approval it would be difficult to achieve an improvement.



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

The site is located close to existing services within Ballygawley Village. A development of this size and scale does not need its own facilities.

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

Footpaths are provided along the internal road that link with existing footpaths into the village and the location of this site within Ballygawley enables convenient access to public transport.

- f) *adequate and appropriate provision is made for parking;*

There is adequate provision for parking provided for each dwelling proposed and DfI Roads raise no concern or objection to this development subject to planning conditions.

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

The proposed materials of natural roof slates, smooth render plaster finish to walls, uPVC off-white windows, and composite doors are acceptable in this proposal and match that of what is existing in the surrounding area. No objection was raised by Historic Building/Monuments on the impact of finishes on the adjacent listed Church.

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

The orientation of the dwellings takes into consideration other existing and/or approved dwellings in the immediate vicinity of the site. A 2 m high close board fence will separate the side and rear curtilages of each dwelling offering privacy. There is sufficient separation distance between existing and proposed properties for there to be any detrimental impacts of overlooking, overshadowing or over dominance.

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

There are no concerns about this regarding this proposal. Rear boundaries of properties are secure, and there is a good level of surveillance as properties front onto the road and onto each other to the south of the development. Area of open space are bounded by public road with good surveillance which promotes personal safety. Streetlighting will also help promote personal safety. There are no 'hideout' or potential anti-social areas within the development.

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

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



The density of this proposal is suitable in this established residential area. This application proposes a reduced density to that which was previously granted approval by the Department.

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

The layout and design of residential development within the wider area is varied with dwellings of differing design and types. I do not think this proposal is conflicting with the character of the existing residential area, as explained above.

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

The sizes of the dwellings proposed exceed the minimum recommended standards and are acceptable.

**PPS15 Planning and Flood Risk.** As stated above, part of the southern portion of the site falls within an existing flood plain. It is proposed to protect dwellings within the development with a 3m high retaining wall. A Drainage and Flood Risk Assessment has been prepared by the applicant/agent, its finding broadly accepted by Rivers Agency, subject to provision of planning conditions to ensure proper provision and maintenance responsibilities regarding permeable paving and grey water storage systems. In my view the applicant/agent has made sufficient effort to provide a drainage system that will provide run-off/percolation rates similar to existing rates of runoff pre-development.

#### **Other Considerations**

As stated above, objectors raise concern over about the impact of this development on the existing road network, that increased volumes of traffic will increase the risk of congestion and the potential for a crash. Concern was also raised about a hump in the road close to the access of the site, that this might impede forward sight distance. These concerns were raised with DfI Roads who raise no objections to this proposal subject to planning conditions. I am satisfied that no undue road safety concerns will arise due to this development, subject to the planning conditions being satisfactorily implemented and retained by the developer.

This application proposes a reduced density than what was previously granted approval on this site. I am satisfied this application complies with the policy requirements of the Area Plan and PPS 7 and therefore I recommend approval.

**Neighbour Notification Checked**

**Yes**

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

That planning permission be granted subject to the following conditions.

#### **Conditions**

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

Reason: Time Limit.

2. Prior to the commencement of any other site works all existing trees to be retained, as identified on drawing no. 02 rev2 received 6th July 2018, shall be fenced off. This must be at a distance of the crown spread (the outer drip-line of the tree) or half the tree height, whichever is the greater. Fencing shall be at least 1.2m high cleft chestnut pale or chain link, well

braced to resist impacts or similar. These works shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within these areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the prior written consent of Mid Ulster District Council.

Reason: To ensure the protection of trees and other vegetation to be retained and to ensure the continuity of amenity afforded by existing trees and to protect the setting of a listed Church.

3. The existing natural screenings of this site shall be retained in perpetuity.

Reason: In the interest of visual amenity, to ensure the maintenance of screening to the site and to safeguard the setting of a listed building.

4. Prior to the occupation of any of the dwellings hereby approved, the developer shall provide the proposed public open space and all planting as indicated on the approved plan, drawing no. 02 rev2 date received 6th July 2018, unless otherwise agreed in writing by Mid Ulster District Council.

The existing trees indicated within plots 1-8 shall be retained and maintained by the owner of the plot and the condition referring to such retention and maintenance shall be placed as a condition of the sale of the plot.

All hard and soft landscaping works shown on the approved plans shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

Reason: To ensure that the public open space and planting provision is provided in a timely manner for the benefit of the occupiers and to aid integration of the development into the local landscape as soon as possible.

5. No dwelling unit hereby approved shall be occupied until Mid Ulster District Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company for all areas of public open space and landscaping as identified in condition no.04 (see informative no.01).

Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)-Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.

6. 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.

7. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed as detailed on drawings no. 02 rev2 date received 6th July 2018 and No. 41 date received 10th April 2018.

Reason: To ensure that boundary treatments are provided in a timely manner to assist in the provision of a quality residential environment in accordance with the Departments Policy Statement PPS 7 - Quality Residential Environments, and to ensure continuity throughout the development.

8. 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.

9. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities - Historic Environment Division 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.

10. A structural condition survey and method statement for the listed curtilage wall to Ballygawley Church shall be submitted to HED:HB for approval in writing prior to commencement of works on site.

Reason: To ensure the protection and conservation of the boundary wall.

11. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with NIEA in writing, and subsequently implemented and verified to its satisfaction.

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

12. After completing any remediation works required under Condition 12 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with NIEA. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

13. Each building shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system shall also be designed to minimise the risk of wrongly connecting the sewage system to the rain-water drainage system, once the buildings are occupied.

Reason: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway.

14. The development shall be served by a private sewage treatment plant until such times as the necessary upgrade of the Waste Water Treatment Works has been completed. On completion of the necessary improvements to the Waste Water Treatment Works the dwellings approved under this planning permission shall be connected to the public sewerage system and the private sewage treatment plant shall be decommissioned and removed from the site within 3 months of successful connection to the public sewerage system.

Reason: To ensure that a satisfactory, permanent means of sewage disposal is achieved.

15. No development shall take place on-site until the method of sewage disposal has been agreed in writing and all necessary statutory agreements are in place.

Reason: To ensure a practical solution to sewage disposal is possible at this site

16. Prior to the commencement of development on site a Schedule 6 drainage consent shall be agreed in writing with Rivers Agency. All mitigation measures and maintenance proposals agreed in the Drainage Assessment and the Schedule 6 Drainage Consent shall be carried out in accordance with those assessment, and a legal agreement for future maintenance and management of all drainage mitigation measures within the site shall be agreed in writing between the developer and a suitable management company, details of which to be provided to Council.

Reason: To reduce the risk of flooding to properties and to ensure proper maintenance of drainage to the site.

17. Prior to the occupation of dwellings on sites No.s 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30, the retaining wall indicated on drawing No. 02 rev2 date received 6th July 2018 shall be built in accordance with approved plans and levels.

Reason: To reduce the risk of flooding to properties.

18. The visibility splays of 2.4 metres by 70.0 metres in directions at the junction of the proposed main access road with the public road shall be provided in accordance with Drawing No 05 Rev 2 bearing the date stamp 6th July 2018 prior to the commencement of any other works or other development.

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.

19. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

20. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access

gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

#### 21. Private Street Condition

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Mid Ulster Council/Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 05 Rev 2 bearing the date stamp 6th July 2018.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

### **Informatives**

1. Mid Ulster District Council will require the submission of a signed legal agreement between the developer and the maintenance company prior to the commencement of site works to ensure compliance fully with condition 5.

In order to comply with condition 5, the arrangements for the future management and maintenance in perpetuity of areas of public open space acceptable to Mid Ulster Council include:

- a) a legal agreement transferring ownership of and responsibility for the open space to the local district council; or
- b) a legal agreement transferring ownership and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or
- c) a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements. Evidence should be submitted to the Council to include:
  - Articles of Association
  - Memorandum of understanding, and
  - Evidence of registration of the company

If an alternative approach to those outlined above is to be followed, it should be demonstrated how the approach can meet the policy requirement for open space to be managed and maintained in perpetuity.

In all cases, the developers will be responsible for the laying out and landscaping of public open space required.

2. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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

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

5. DfI Roads advise the following;  
The applicant must apply to the DfI Roads for a licence indemnifying the Department against any claims arising from the implementation of the proposal.

The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

Separate approval must be received from DfI in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Street Lighting Consultancy, Marlborough House, Craigavon. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

It is a DfI Roads requirement that all structures which fall within the scope of the current version of BD 2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted to the Technical Approval Authority through the relevant Division.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Section Engineer whose address is Section Office Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

All construction plant and materials shall be stored within the curtilage of the site.

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard may be

necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to Network Services through the relevant Division.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

Notwithstanding the terms and conditions of the Department's approval set out above, you are required under the Street Works (Northern Ireland) Order 1995 to be in possession of a Street Works Licence before any work is commenced which involves making any opening or placing of any apparatus in a street. The Street Works Licence is available on personal application to the Department for Infrastructure Section Engineer whose address is Section Office Main Street, Moygashel, Dungannon.

Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Regional Development's Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

The developer is required to enter into a licence agreement with the DfI Roads for the carrying out of the road works approved, prior to the commencement of any works to the public road network.

The licence agreement shall be issued through the Development Control Officer, Network Planning Section, DfI Roads Western Division County Hall, Omagh and the developer should allow up to three months for completion of the licence. Accordingly the developer is advised to make an early personal application for the issue of the licence. He should also initiate early discussions for the satisfactory programming of the road works with the Private Streets Engineer Western Division County Hall, Omagh

6. NIEA advise the following;

Discharge consent under the terms of the Water (Northern Ireland) Order 1999 will be required for the discharge of sewage effluent from the proposed development.

Water Management Unit would normally expect that the discharge of foul sewage would be to the NIW foul sewer however the Council comments indicate that this has already been refused and so the applicant presumably intends to discharge to a local waterway with the relevant Water Order consent.

As the application relates to a multi-ownership site the applicant must provide confirmation that NIW have been approached to consider adoption of the proposed treatment system under Article 161 of the Water and Sewerage Service (Northern Ireland) Order 2006.

Should NIW refuse to adopt, the applicant must supply the following additional information in support of any Water Order application:

A. Confirmation of the legal identity who will be responsible for ongoing maintenance of the treatment system and compliance with consent (named individual/name of Limited Management Company),

B. Detail and sizing criteria for the treatment system,

C. Maintenance requirements

D. Inspection and maintenance schedule

E. Estimated capital and maintenance costs and ongoing source of funding for same

F. Key maintenance personnel

Full assessment on the Temporary Waste Water Treatment Plant proposal cannot be made until NIEA Water Management Unit have received and processed a duly made Water Order application (including the fee of £1,030) – there is no guarantee however that such application will be successful. The applicant would need to be sure that they have access to a suitably sized waterway for the discharge proposal.

Due to the close proximity of the site to a watercourse, care will need to be taken to ensure that polluting discharges do not occur during the works phase. The applicant should refer and adhere to the precepts contained in Standing Advice on Pollution Prevention Guidelines.

Water Management Unit would request that once a contractor has been appointed, a Construction Method Statement should be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of construction to ensure effective avoidance and mitigation methodologies have been planned for the protection of the water environment. This can be sent directly to Water Management Unit Pollution Prevention Team ([nieapollutionprevention@daera-ni.gov.uk](mailto:nieapollutionprevention@daera-ni.gov.uk)) who will be happy to advise.

Water Management Unit recommends the storm drainage of the site adheres to the precepts contained in Standing Advice on Sustainable Drainage Systems.

Discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of the development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant should refer to Standing Advice on Discharges to the Water Environment.

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

7. Rivers Agency advise;

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of DfI. This should be obtained from our Armagh Office, 44 Seagoe Industrial Estate, Seagoe Lower, Craigavon, BT63 5QE.

8. Historic Environment Division advise;

HED: HM has reviewed this case in light of the applicants request to have the requirement for archaeological mitigation attached as planning conditions to any subsequent approval. We find this acceptable in this case and note that the applicant is fully aware of the potential for finding buried archaeological remains during site work and will employ suitable mitigation.

For guidance on the preparation of the Written Scheme and Programme of Archaeological Work, which should be submitted for approval at least 4 weeks before work is due to begin, contact:

Historic Environment Division- Historic Monuments

Causeway Exchange

17 Bedford Street

Belfast,

BT2 7EG

Tel: 02890 823100

Quote reference: SM11/1 TYR 59: 88, 89 and LA09/2017/0293/F



Application for the excavation licence, required under the Historic Monuments and Archaeological Objects (NI) Order 1995, should be submitted at least 4 weeks before work is due to begin, by a qualified archaeologist responsible for the project, to:

Historic Environment Division -Historic Monuments Unit  
Causeway Exchange  
17 Bedford Street  
Belfast,  
BT2 7EG

9. NIW advise;

Waste water treatment capacity is not available at present for the proposed development. If the applicant wishes to proceed he should contact NIW to discuss alternative interim options such as a temporary wastewater facility at his own expense, this would not be adopted by NIW in the future. The developer may consider the use of a temporary package plant in agreement with the relevant statutory agencies until such times as the additional capacity at the WWTW is available.

The site is located within a development consultation zone in proximity to a Waste Water Treatment Works (WWTW)(or Regional Pumping Station) and there is a possibility of nuisance from odour and / or noise. Developer should enter into early discussion with NI Water by means of a Development Encroachment Application to agree the limit of development and / or associated conditions.

Although it has been determined above if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to obtain details of the availability of existing water and sewerage infrastructure and how their proposal may be serviced.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th February 2017
<b>Date First Advertised</b>	16th March 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) V Robinson (Principal) 1 Richmond Primary School, Old Omagh Road, Ballygawley, Tyrone, Northern Ireland, BT70 2EZ The Owner/Occupier, 1 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 1 Old Omagh Road Lisgonnell Ballygawley The Owner/Occupier, 10 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 11 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 17 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 18 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 19 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 2 Old Omagh Road, Richmond, Ballygawley, Tyrone, BT70 2AA, The Owner/Occupier, 21 Fair Green, Ballygawley, Tyrone, BT70 2LJ, The Owner/Occupier, 3 Old Omagh Road, Ballygawley, Tyrone, BT70 2AA, The Owner/Occupier, 3 Old Omagh Road, Richmond, Ballygawley, Tyrone, BT70 2AA, The Owner/Occupier, 77 Church Street Ballygawley Tyrone The Owner/Occupier, 80 Church Street Ballygawley Tyrone The Owner/Occupier, 81 Church Street, Ballygawley, Tyrone, BT70 2HA, The Owner/Occupier, Ballygawley Church (c Of I) Church Street Richmond C Broddle Ballygawley Church (c Of I), Church Street, Ballygawley, Tyrone, Northern Ireland, BT70 2HB The Owner/Occupier, Ballygawley Presbyterian Church 79 Church Street Ballygawley Christopher Broddle Email Address	

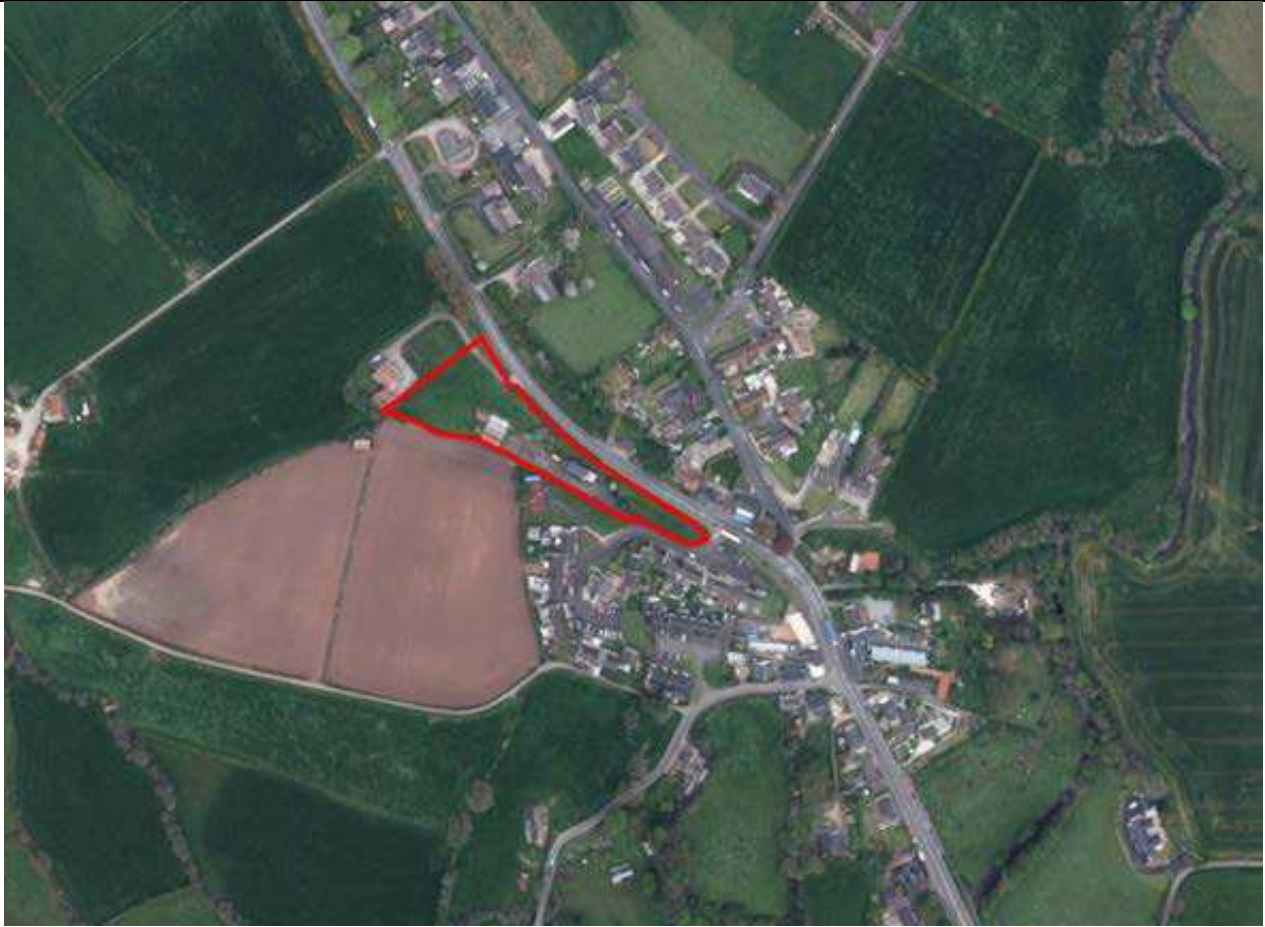
C Broddle Richmond Rectory, 24 Old Omagh Road, Ballygawley, Co. Tyrone BT70 2AA C Broddle Richmond Rectory, 24 Old Omagh Road, Ballygawley, Co. Tyrone BT70 2AA C Brodle Richmond Rectory, 24 Old Omagh Road, Ballygawley, County Tyrone, BT70 2AA The Owner/Occupier, The Firs, 7 Fair Green, Ballygawley, Tyrone, BT70 2LJ,	
<b>Date of Last Neighbour Notification</b>	17th August 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2006/1112/F Proposal: Housing development with mix of apartments, semi-detached & terrace dwellings with associated landscaping & parking Address: Rear of 88 Church Street, Ballygawley Decision: Decision Date: 29.05.2009	

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0456/O	<b>Target Date:</b>
<b>Proposal:</b>  Proposed housing development (3 pairs of semi detached and 1 detached dwelling)	<b>Location:</b> Adjacent and North West of 3 Tobermore Road Desertmartin
<b>Referral Route: One objection received</b>	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Sean Mc Elwee 28 Longfield Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> D M Kearney Design 2A Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b>	
<b>Signature(s): Lorraine Moon</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

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

### Summary of Issues

Objection received.

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

The proposal site sits adjacent and northwest of the former station house at 3 Tobermore Road, Desertmartin. The site is a flat low lying area of land occupied by a large general purpose shed which along with the station house are accessed via an existing laneway from Station Road. The site sits adjacent to Tobermore Road however it is some 7-10 metres below road level. There is a low mature hedge along the eastern boundary. The significant difference in levels of the site with the public road means that only the chimneys of the existing station house are visible on approach from the southeast. Approaching from the northwest no views into the site are possible as a result of the combination of site levels and topographical features.

### **Description of Proposal**

Proposed housing development (3 pairs of semi-detached and 1 detached dwelling).

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

I have assessed this proposal under the following -

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 1 - General Principles

Planning Policy 7 - Quality Residential Environments

Planning Policy Statement 3 - Access, Movement and Parking

The proposal site is within the development limits of Desertmartin as designated by the Magherafelt Area Plan 2015.

Consultees: - Environmental Health were asked to comment. Part of the site is positioned on a former railway line and as such Environmental Health required a contamination report to be submitted. Once this was received and considered they responded on 25.06.2018 with no objections subject to conditions.

Transportni were asked to comment and responded on 24.05.2017 with no objections subject to conditions.

NI Water were asked to comment and responded on 13.04.2017 with no objections subject to advice.

In line with legislation this proposal was advertised in the local press on 13.04.2017.

Neighbours Notified: - Owners/Occupiers of Nos 1 - 30 Station Road and Nos 11, 13, 15, 23, 24 28 Tobermore Road were notified of the proposal on 11.04.2017. A second neighbour notification was also carried out on 04.06.2018 when amended plans were received.

Objection: - One objection has been received from the owner/occupier of No. 24 Tobermore Road dated 26.04.2017. The main points raised within this objection were:

- lack of boundary treatment details especially along boundary between No 24 Tobermore Road and the proposal site.
- agreement with consultees that a contamination report is required. (note environmental health comments).

Following consideration of the initial submission amendments were sought and received. The Owner/Occupier of No 24 Tobermore Road was notified of these amendments/additional information on 04.06.2018. No further correspondence has been received. I feel all the objectors previous concerns have been addressed in the amendments submitted.

According to QD1 of PPS7 planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential development. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

This proposal is an outline application and so no house designs have been stipulated except to say whether the units are detached or semi-detached however I would suggest from the submitted site layout plans that 2 storey units will be the desired type.

The proposed site layout demonstrates that the proposed number of units is achievable in the site whilst still providing an acceptable level of private parking and outdoor space, both for the proposed units and existing development.

The proposal will have no impact on any features of archaeological or built heritage.

Due to the location within Desertmartin occupants of the proposed development would be able to make use of local facilities in the village.

The proposed development is of a relatively small scale and as such no drainage assessment is required and the applicant is not required to provide necessary neighbourhood facilities.

As previously mentioned the site is within close proximity to local facilities within Desertmartin and to local public transport links. In addition private off street parking has been identified within the proposal site.

The proposed layout date stamped 15.05.2018 would not cause conflict to any neighbouring or adjoining land uses.

Having considered all of the above I feel this proposal is acceptable and would recommend an approval be granted for the development.

#### **Neighbour Notification Checked**

**Yes**

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

Approval recommended

#### **Conditions:**

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

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

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

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

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

3.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.

4. At Reserved Matters stage parking and servicing shall be in accordance with the requirements of the current published Parking Standards.

Reason: To ensure the provision of adequate parking facilities to meet the needs of the development and in the interests of road safety and the convenience of road users.

5. THE PRIVATE STREETS (NORTHERN IRELAND) ORDER 1980 AS AMENDED BY THE PRIVATE STREETS (AMENDMENT) (NORTHERN IRELAND) ORDER 1992.

The development shall be in accordance with the requirements of the Creating Places Design Guide and, for the purpose of adopting private streets as public roads, Mid Ulster Council shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Street (Northern Ireland) Order 1980.

6. In the event that contamination is found at any time when carrying out the approved development Mid Ulster District Council shall be notified immediately and works shall cease pending submission and agreement of a written report detailing the proposed investigation, risk assessment and remediation scheme to Mid Ulster District Council Planning Department in consultation with Mid Ulster District Council Environmental Health Department. This new contamination shall be fully investigated and a risk assessment undertaken in accordance with the Model Procedures for the Management of Land Contamination (CLR 11) and British Standard BS 10175, 2011 'Investigation of potentially contaminated sites Code of Practice.' In the event of unacceptable risks being identified and where remediation is necessary, a remediation strategy shall be submitted for prior approval with Planning in consultation with Mid Ulster District Council. Development works shall not resume until the approved remediation strategy has been implemented and carried out in accordance with its terms.

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

7.If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

8.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 the 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 the Council gives its written consent to any variation.



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

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

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

#### **Informatives**

1. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.

Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp)

All services within the development should be laid underground.

None of the development hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans.

None of the developments shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.

Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	30th March 2017
<b>Date First Advertised</b>	13th April 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Station Road Stranagard Desertmartin The Owner/Occupier, 10 Station Road Stranagard Desertmartin The Owner/Occupier, 11 Station Road Stranagard Desertmartin The Owner/Occupier, 11 Tobermore Road Stranagard Desertmartin The Owner/Occupier, 12 Station Road Stranagard Desertmartin The Owner/Occupier, 13 Station Road Stranagard Desertmartin The Owner/Occupier, 13 Tobermore Road Stranagard Desertmartin The Owner/Occupier, 14 Station Road Stranagard Desertmartin The Owner/Occupier, 15 Station Road Stranagard Desertmartin The Owner/Occupier, 15 Tobermore Road Stranagard Desertmartin The Owner/Occupier, 16 Station Road Stranagard Desertmartin The Owner/Occupier, 17 Station Road Stranagard Desertmartin The Owner/Occupier, 18 Station Road Stranagard Desertmartin The Owner/Occupier, 19 Station Road Stranagard Desertmartin The Owner/Occupier, 2 Station Road Stranagard Desertmartin The Owner/Occupier, 20 Station Road Stranagard Desertmartin The Owner/Occupier, 21 Station Road Stranagard Desertmartin The Owner/Occupier, 22 Station Road Stranagard Desertmartin The Owner/Occupier, 23 Station Road Stranagard Desertmartin The Owner/Occupier, 23 Tobermore Road, Desertmartin	

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 24 Tobermore Road, Desertmartin  
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 24 Tobermore Road, Desertmartin, BT45 5LD,  
 The Owner/Occupier,  
 25 Station Road Stranagard Desertmartin  
 The Owner/Occupier,  
 26 Station Road, Desertmartin  
 The Owner/Occupier,  
 27 Station Road Stranagard Desertmartin  
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 28 Station Road Stranagard Desertmartin  
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 28 Tobermore Road Stranagard Desertmartin  
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 4 Station Road Stranagard Desertmartin  
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 6 Station Road Stranagard Desertmartin  
 The Owner/Occupier,  
 7 Station Road Stranagard Desertmartin  
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 8 Station Road Stranagard Desertmartin  
 The Owner/Occupier,  
 9 Station Road Stranagard Desertmartin

<b>Date of Last Neighbour Notification</b>	11th April 2017
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

**Planning History**

Ref ID: LA09/2017/0456/O

Proposal: Proposed housing development (3 pairs of semi detached and 1 detached dwelling)

Address: Adjacent and North West of 3 Tobermore Road, Desertmartin,

Decision:

Decision Date:

Ref ID: H/1997/0155

Proposal: MULTI-ELEMENT IMPROVEMENTS TO NIHE DWELLINGS

Address: 3,5,7,9 &amp; 11 STATION ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: H/1974/0277

Proposal: SITE OF HOUSING DEVELOPMENT

Address: DESERTMARTIN, COUNTY LONDONDERRY

Decision:

Decision Date:

Ref ID: H/1999/0701/F

Proposal: Proposed Dwelling and Garage

Address: Opposite 15 Tobermore Road Desertmartin

Decision:

Decision Date: 26.05.2000

**Summary of Consultee Responses****Drawing Numbers and Title**

Drawing No. 01/1

Type: Site Location Plan

Status: Approved

Drawing No. 01

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b> 18.05.2017
<b>Application ID:</b> LA09/2017/0622/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of use from farm building to dog grooming studio	<b>Location:</b> 30 Lismoney Road Cookstown
<b>Referral Route:</b>  Recommendation: Refusal	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Clare Coney 30 Lismoney Road Cookstown	<b>Agent Name and Address:</b> APS Architects LLP 4 Mid Ulster Business Park Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Content

### Representations:

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

### Summary of Issues

All statutory bodies were consulted on this application. All other material considerations have been addressed within the determination of this application.

## Characteristics of the Site and Area

The proposed application site comprises a single storey dwelling with associated outhouses situated at 30 Lismoney Road, Cookstown, which is a rural location as depicted in the Cookstown Area Plan 2010. The front of the dwelling is garden with access point onto Lismoney Road.

The building subject of this application relates to a change of use from an agricultural building to dog grooming studio, situated to the rear of No. 30. The building represents a typical Dutch barn style shed measuring 11.8m wide, 6m depth and 5.2m in height above ground level. The total gross floor area is 64sqm.

Characterises of the surrounding land form is one of undulating countryside where the land raises north from Lismoney Road towards the application site

## Description of Proposal

The applicant is seeking full planning content for proposed change of use from farm building to dog grooming studio at 30 Lismoney Road, Cookstown. The design details are as annotated on Drawing No 02 (Rev-1) stamp date 31-05-2018

## Planning history

Planning Ref:	Site Address	Proposal	Decision	Decision Date
I/2006/0447/F	30 Lismoney Road, Cookstown. BT80 8RH.	Proposed extension to dwelling	Permission Granted	13.09.2006

The proposal relates to a change of use from farm building to dog grooming studio at 30 Lismoney Road, Cookstown – the proposal failed to meet the policy criteria under CTY11 Policy CTY 11 – Farm Diversification, as documented in the report, the proposal is not considered to comply with PPS 3 Access, Movement and Parking prevailing planning policy and refusal is recommended. The applicant has been provided with a number of opportunities to submit amendments and clarification to address issues raised and has to date failed to do so.

## Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations...

The application property is located outside the settlement Development Limits of Cookstown Area Plan 2010.



There are no other potential development constraints. The proposal raises no concerns in terms of flood risk, impact on listed built heritage or protected trees or vegetation (TPO) nor does it fall within Conservation, Townscape Designation. The proposal is under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office -Radar. The key policy tests and relevant supplementary guidance are listed below.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Cookstown Area Plan 2010 (CAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

### **Policy References:**

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

1. Cookstown Area Plan 2010.
2. Strategic Planning Policy Statement (SPPS).
3. Planning Policy Statement (PPS) 3 – Access, Movement and Parking.
4. Planning Policy Statement (PPS) 21 – Sustainable Development in the Countryside.

### **Representations**

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

### **Statutory Consultations**

DFI Roads Outstanding amendments  
 MUDC no objections subject to Informatives  
 Historic Environmental Division HED content

### **Assessment**

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The SPPS outlines that until such times as a plan strategy has been prepared for the area, development proposals should be guided by existing prevailing planning policy.

### **CAP 2010**

The application relates to the proposed change of use from farm building to dog grooming studio at No 30 Lismoney Road, Cookstown. The Cookstown Area Plan 2010 (CAP) is the relevant planning framework as stipulated in Section 45 (1) of The Planning Act (Northern Ireland) 2011. The application property is located outside the settlement Development Limits of Cookstown Area Plan 2010.

Strategic Planning Policy Statement stipulates farm diversification: provision should be made for a farm diversification scheme where the farm business is currently active and established (for a minimum 6 years) and, the proposal is to be run in conjunction with the agricultural operations of the farm. Proposals must involve the re-use or adaptation of existing buildings, with new buildings only being acceptable in exceptional circumstances.

The Case Officer has communicated with the agent on several occasions requesting DFI Road amendments and clarification on the active farm status and confirmation the farm business ID and for the submission of Form PIC be submitted to allow planning to consult DAERA on this application.

**The following is a list of correspondence relating to the application.**

28.02.2018 a letter sent to agent;  
 24.04.2018 an email from case officer to agent;  
 30.04.2018 an email from Dr. C Boomer, Planning Manager to Cllr McNamee;  
 26.06.2018 an email from case officer to agent,  
 20.07.2018 an email from case officer to agent,  
 28.08.2018 a letter sent to agent.

I telephoned the agent today (23.10.2018) to alert him of my intention to refer the application to November Planning Committee with a recommendation to refused – the agent confirmed to me he would not have any issues with my approach and suggested it might be a means to sorting those outstanding issues referred to in this report.

In consideration of the above I am satisfied that the proposal would be acceptable in principle as a farm diversification proposal as per PPS 21 CTY11 and would be capable of approval subject to conditions for a change of use from a farm building to dog grooming studio.

That said, the failure to submit relevant information by the agent / applicant to fully determine the application prevents the application from being fully assessed against policy and therefore, I am unable to recommend approval of this application.

In addition, amended road details were submitted in May 2018, but DFI Roads remained to have concerns by them.

**Further Particulars**

Members should be aware that the applicant/agent have been made aware of my concerns regarding this application on several occasions, dating from 28th February 2018 and have failed to provide any amended/supplementary information.

If the applicant was willing to make the amendments and submit farm supplementary information I am confident that a compromise solution could be achieved. However, as they have not responded to my requests, I have no option but to recommend refusal

**Other points of note**

The application was initially advertised in the local press on w/c 15 May 2017 (publication May July 2017). No neighbouring properties were notified for this application. All processes were in accordance with the Development Management Practice Note 14 (April 2015)

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th May 2017
<b>Date First Advertised</b>	18th May 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/0622/F Proposal: Proposed change of use from farm building to dog grooming studio Address: 30 Lismoney Road, Cookstown, Decision: Decision Date:  Ref ID: I/2006/0447/F Proposal: Proposed extension to dwelling Address: 30 Lismoney Road, Cookstown. BT80 8RH. Decision: Decision Date: 13.09.2006	
<b>Summary of Consultee Responses</b>	

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02(REV-1)

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

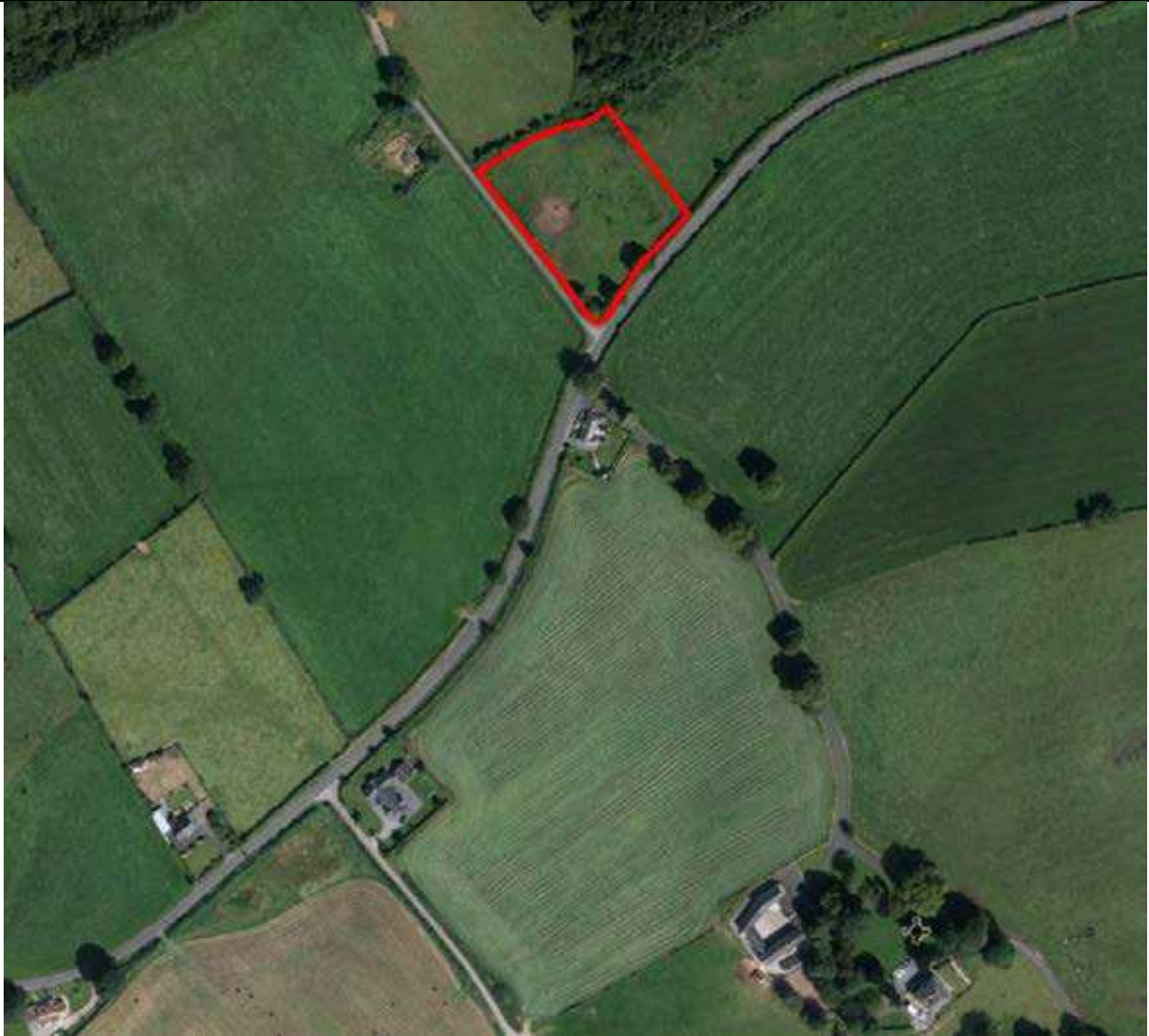


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0926/F	<b>Target Date:</b> 20/10/2017
<b>Proposal:</b> Proposed farm buildings as machinery shed and beef shed with underground slurry tank (Bio-diversity Checklist, Air Quality Impact Assessment)	<b>Location:</b> Junction of Whitetown Road and Roughen Road Newmills Dungannon
<b>Referral Route:</b> Contrary to PPS21, CTY12 (the proposed buildings are not sited beside existing farm buildings).	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Marie and Patrick McAvoy 53 Killymeal Road Dungannon	<b>Agent Name and Address:</b> FMK Architecture Unit 5 Ahoghill Business Centre Ahoghill Ballymena BT42 1LA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Representations:** None Received

#### Description of proposal

This is a full planning application for 2 farm buildings as machinery shed and beef shed with underground slurry tank.

#### Characteristics of Site and Area

This site is a road field located at the junction of Whitetown Road and Roughan Road approx. 0.6 km NE from Newmills. Its roadside boundaries are defined by hedgerows while the NE is defined by a ditch and hedgerow and the NW by a tree lined hedge, beyond which is a copse of mature deciduous trees. The site is undulating with the low point being to the south and west and gently rising to the east corner. An electricity line passes through the site.

### Planning Assessment of Policy and Other Material Considerations

#### Area Plan

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

#### Other Policy Considerations

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

PPS6 Planning, archaeology and built heritage

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

- Policy CTY 1 Development in the Countryside

- Policy CTY 12 Agricultural and Forestry Development.

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

- Policy CTY 14 Rural Character

### 3rd Party Objections

No objections to this application have been received.

### Key Policy Consideration

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

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

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

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for more than 6 years and that the farm business claims subsidies. Therefore there is an active and established farm business. This proposal for 2 no. agricultural buildings, one to provide shelter for cows/beef the other for farm machinery. I am of the opinion that this proposal supports the needs of the existing business and will grow the business.

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

The surrounding area is rural in character. Although large scale, these are agricultural buildings which are typical of the rural area. Given the nature of these buildings, and their purpose to house cattle and machinery, they are considered appropriate to the location. The materials and finishes are typical of this type of building and are acceptable in the rural area.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

The sheds are set on a roadside field bounded on 2 sides by a public road. The site is low lying with mature roadside hedgerows and a mature backdrop of vegetation (trees) along the NE boundary. In my view, given the design, size, scale and backdrop of vegetation, and low lying nature of the site when compared with surrounding landform, that this proposal will integrate into the landscape.

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

Roughan Castle, a protected historic monument lies to the south/south-east of the site, and is visually linked with the applicants existing farm holding. The subject application site was chosen so as not to have a detrimental impact on the character and setting of Roughan Castle and surrounding vernacular buildings. Historic Environment Division (HED) were consulted on this proposal, and asked to comment on the possible siting of these sheds so as to group with the



existing holding, or along the existing laneway to the applicants holding. Historic Environment Division replied stating that siting these buildings anywhere near the holding or along the existing laneway would detract from the setting of the castle and would have a detrimental visual impact upon visitor approach to the site. HED also state that the current location is acceptable in terms of its impact on the historic monument. Given this, and through discussion with senior planners, I am of the view that the subject site is acceptable in this instance.

NIEA and Shared Environmental Services (SES) were consulted on this proposal. Various additional environmental reports were requested by these consultees in order to assess the full impact of this proposal on the natural environment, to ensure no significant impact would result. These reports include a Nutrient Management Plan and Bio-diversity Checklist. Through various re-consultation with these agencies, they now have no objections with this proposal.

SES carried out a Habitats Regulation Assessment and in their final reply state that the proposal would not have a likely significant effect on the selection features, conservation objectives or status of any European Site.

NIEA suggest some planning conditions are attached including. Some of these conditions are considered unacceptable as they would be impossible to enforce and therefore do not meet the tests of a condition. The following conditions suggested by NIEA will be attached;

- The maximum number of beef cattle within the proposed facility shall not exceed 40 no. 1-2 year old beef cattle and 20 no. >2 year old beef cattle.

- There shall be no livestock housed within the proposed machinery shed.

- A suitable buffer of 10 metres shall 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 present along the North boundary of the application site.

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

There are no 3rd party objections to this proposal. No. 70 Roughan Road is located adjacent land south of the site, on the opposite side of the road. This property was neighbour notified. Environmental Health have been consulted. Due to its proximity to a 3rd party property additional information was required on the type of machinery and activities to be carried out. This information was supplied and Environmental Health replied by e-mail with no objections to the proposal based on the fact that no noisy activities would be associated with this proposal.

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

- There are no suitable existing buildings;

No suitable buildings are available for the proposed storage of animals and modern machinery.

- The design and materials are sympathetic to the locality;

The sheds are of a simple design and buildings of this style are characteristic of the rural area.

- It is sited beside existing farm buildings.

The proposed sheds are not sited beside the existing farm buildings as it has been demonstrated that this would have a detrimental impact on the visual setting of Roughan Castle and surrounding area.

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

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

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

The sheds are agricultural in nature and will not cause a detrimental change to the rural character of this area.

Having weighted up the above policy and material considerations I am of the opinion that this application should be recommended for approval subject to the following conditions.

It is worth noting that an EIA screening exercise was also carried out and given that the proposal is unlikely to have a significant environmental impact, the need for an ES was screened out.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That planning permission is granted subject to the following conditions.

**Conditions**

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

Reason: Time Limit.

2. The existing trees and hedges, as indicated on drawing No 02 rev1 date received 22nd August 2018, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

Reason: To ensure the development integrates into the countryside.

3. No retained tree shall be cut down, uprooted or destroyed or have its roots damaged within the crown spread, nor shall arboricultural work or tree surgery take place on any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of Mid Ulster Council. Any approved arboricultural work or tree surgery shall be carried out in accordance with British Standard 3998, 1989. Recommendations for Tree Work.

Reason: To ensure the continuity of amenity afforded by existing trees and to ensure the development integrates into the countryside.

4. The vehicular access, including visibility splays of 2.4m by 45m in both directions shall be in place, in accordance with drawing No 02 rev1 date stamp received 22nd August 2018, prior to the commencement of any other development hereby approved.

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

5. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

6. The maximum number of beef cattle within the proposed facility shall not exceed 40 no. 1-2 year old beef cattle and 20 no. 2 year old and above beef cattle.

Reason: To safeguard the environment.

7. There shall be no livestock housed within the proposed machinery shed.

Reason: To safeguard the environment.

8. A suitable buffer of 10 metres shall 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 present along the North boundary of the application site.

Reason: To safeguard the environment.

#### Informatives

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

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

3. NIEA advise the following;  
All contaminated run-off (from the facility and concrete apron) must be directed to the underground collection tank, with no overflow or outlet to any waterway or soakaway. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014 as detailed in Standing Advice Note 12 for agricultural developments.

Agricultural developments may result in the generation of slurry and dirty water. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014 as detailed in the Standing Advice document for agricultural developments.

The applicant also should refer and adhere to the precepts contained in the following Standing Advice documents: Pollution Prevention Guidance, Sustainable Drainage Systems, Discharges to the Water Environment, Agricultural Developments and Livestock Installations and Ammonia. Standing advice notes are available at: <https://www.daera-ni.gov.uk/articles/standing-advice-0>

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605. Any proposed

planting should be of native species (further details on native species planting can be found here: <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/natural-guidance-nativespecies-planting-guidance-2012.pdf>).

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605. Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Inspector, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- o kill, injure or take any wild bird; or
- o take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- o at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- o obstruct or prevent any wild bird from using its nest; or
- o take or destroy an egg of any wild bird; or
- o disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- o disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

#### 4. DfI Roads advise;

-The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Regional Development for which separate permissions and arrangements are required.

-Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon.

A monetary deposit will be required to cover works on the public road.

-Provision shall be made to the satisfaction of Roads Service, to ensure that surface water does not flow from the site onto the public road in the interest of public safety and traffic management.

-Provision shall be made to the satisfaction of Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site in the interest of public safety and traffic management.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	7th July 2017
<b>Date First Advertised</b>	27th July 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 4 Whitetown Road, Roughan, Dungannon, Tyrone, BT71 4ES, The Owner/Occupier, 70 Roughan Road Roughan Stewartstown	
<b>Date of Last Neighbour Notification</b>	20th June 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0998/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective application for top dressing of existing laneway widening of sight splays at road entrance, widening of chicane, piping approx. 20m of open sheugh to prevent collapse at 90 Degree corner( Amended proposal)	<b>Location:</b> Land fronting onto Keerin Road approx. 625m West of 125 Broughderg Road Omagh
<b>Referral Route:</b>  Objections	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> John O'Neill 125 Broughderg Road Omagh BT79 8JN	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>  Approved recommendation taking into account objectors concerns and applying relevant policy	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Statutory	Historic Environment Division (HED)	Advice
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Shared Environmental Services	
Statutory	DFI Roads - Enniskillen Office	
Non Statutory	NIEA	Substantive Response Received



<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	14	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>  <p>All statutory bodies were consulted on this application. All other material considerations have been addressed within the determination of this application.</p>		
<b>Characteristics of the Site and Area</b>  <p>This is a retrospective application.</p> <p>The application site relates to a laneway accessing onto Keerin Road approx. 625m West of No. 125 Broughderg Road, Omagh County Tyrone. The site falls within an ACM (Area of Mineral Constraint), an AONB (Area of outstanding Natural Beauty) including an ASAI (Area of Significant Archaeological Interest). The site is classified as an upland area of the Sperrins. A second access point opens onto Broughderg. The lane has its access entrance widen (Keerin Rd) and in parts hard core and arrogates put down at various points along the lane.</p> <p>The surrounding area is predominantly upland agricultural land, which is within the Sperrins Area of outstanding Natural Beauty including an ASAI (Area of Significant Archaeological Interest).</p>		
<b>Description of Proposal</b>  <p>Mid Ulster District Council in exercise of the powers conferred on it by Section 43 of the 2011 Planning Act requested the land owner under Submission Notice EN/2017/0154 to submit a planning application for unauthorised engineering works, which include widening of an existing access and laneway and the addition of hardcore to facilitate these works, which have been carried out without the grant of planning permission.</p> <p>The applicant has complied with the above notice by submitting an application to determine the unauthorised works carried out to the lane.</p>		
<b>Planning Histories</b>		

Reference	Location	Proposal/Complaint	Status	Date
LA09/2017/0998/F	Land fronting onto Keerin Road approx	Top dressing of existing laneway widening of sight spl	VALID APPLICATION RECEIVED	
LA09/2017/0071/CA	Keerin Road, DMAGH	Alleged laying of underground electricity cables	ASSESSMENT OF ENFORCEMENT	
K/2010/0090CA	Keerin Road, off Broughderg Road, Mo	OPERATIONAL DEVELOPMENT - Unauthorised Winn	ENFORCEMENT ACTION BEING P	
LA09/2017/0008/CA	Lands Fronting Onto Keerin Road, Appri	Unauthorised engineering works to an existing access/	ENFORCEMENT ACTION BEING P	

## Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations...

The application property is located outside the settlement Development Limits of Cookstown Area Plan 2010.

There are no other potential development constraints. The proposal raises no concerns in terms of flood risk, impact on listed built heritage or protected trees or vegetation (TPO) nor does it fall within Conservation, Townscape Designation. The proposal is under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office -Radar. The key policy tests and relevant supplementary guidance are listed below.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Cookstown Area Plan 2010 (CAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

### Policy References:

Regional Development Strategy 2035  
Cookstown Area Plan 2010  
Strategic Planning Policy Statement for Northern Ireland (SPPS, published 28 Sept 2015)  
PPS 2 Natural Heritage  
PPS 3 Access, Movement and Parking  
PPS 6 Planning, Archaeology and the Built Environment  
PPS 21 Sustainable Development in the Countryside

### Supplementary Planning Guidance

DCAN 15 Vehicular Access Standards

## Statutory Consultees

DFI Roads: No objection to proposal

Drainage and water: No objection to proposal

Water Management Unit content with the proposal:

Natural Heritage and Conservation Areas were consulted 30.09.2018, given the change of the application status to Retrospective (works had already been carried out) commented as follows: Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns.

The proposal involves works to an already existing laneway. The laneway bisects an area where substantial unauthorised peat extraction has taken place. The habitat adjacent to the laneway is blanket bog which has been severely degraded by past peat cutting activities which have removed most of the original peat deposits. NED considers that the proposed works to the laneway will only have a negligible impact on blanket bog habitat which has already been severely degraded. NED has some concerns that the works to the laneway will facilitate future peat extraction, however, we are content that Mid Ulster District Council has an ongoing enforcement case to address the issue of unauthorised peat extraction in the area.

The site has a tenuous hydrological link to the Owenkillew River SAC/ASSI through approximately.

380m of minor field drains on gently sloping ground which link to an unnamed small watercourse to the northeast. This watercourse joins a larger stream, the Broughderg Burn, about 50m downstream and the Broughderg Burn then travels for approximately 4.3km before it reaches the Broughderg River and the designated site. NED considers that the proposal is unlikely to have a significant impact on the selection features of the designated sites.

## Shared Environmental Service

The site is adjacent to waterways that are tributaries of the Broughderg River that forms part of Owenkillew River SAC. Construction works, culverting and laneway maintenance work can release contaminants that can negatively impact upon water quality and thus the site selection features and conservation objectives of this European Site.

Historic Environment Division: Archaeology and Built Heritage.

HED having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site  
HED Historic Monuments has assessed the application and on the basis of the information provided is content that no archaeological works are required as resurfacing of a lane may not require archaeological mitigation. However any further work at this location including peat extraction will require archaeological mitigation.

## Objections

Ten (10) letters of objection were received on the following dates:

One (1) letter received on 21/08/2017; one (1) letter received on 22/08/2017 and one (1) 24/08/2017; five (5) letters were received on 24/08/2017 and one (1) letter was received on 08/01/2018.

The following concerns are summarised as follows:

Increase traffic flow on small country roads, increase noise and dust, health and safety implications, dangers to young people and harm to sensitive peatland with protected designated site, lack of public consultation in local newspapers.

Concerns related to the historic context of the site and implications of approving development would damage the sensitive designated areas and especially the harm to local archaeological features within the site.

Concerns were raised on the importance of protecting designate archaeological monuments within the site including concerns using heavy machinery would damage areas of sensitive peatland, other concerns related to peat extraction.

A letter dated 8th January 2018 from "Concerned Broughderg Residents Association" raised similar concerns some of which were previously covered by other objectors. The objections made reference to ongoing enforcement issues currently under consideration.

Observations were made in relation to extracts from the Case Officer's initial report previously scheduled for the January 2018 Planning Committee. To summarise concerns related to the following:

1. Peat extraction;
2. HED not consulted in initial report;
3. NED's concerns;
4. Comments reference to turbary rights;
5. Reference to NIEA mistakenly referred to Fermanagh and Omagh District Council as the competent authority instead of Mid Ulster District Council.
6. Issues over shares of land ownership relating to the surrounding lands
7. The applicant showed a complete disregard for the planning process by not having planning consent prior to carrying out development.

Whilst there was an interim case officer report scheduled for the Planning Committee meeting (January 2018), based on new information received the works had already been completed on site as a result further plans were requested annotated spot levels taken at various location on the laneway drawing nos 03 & 04 stamp date 07.03.2018. The proposed description was amended to retrospective. Following receipt of the amendments the application was re-advertised on 31 May 2018.

Important to note that this application was submitted in response to a Submission Notice served on the applicant by MUDC Enforcement Team related to lands fronting onto Keerin Road, approx. 765m North West of 129 Broughderg Road, Broughderg related to unauthorised engineering works to an existing access/laneway.

In terms of turbary rights referred to in my initial report was based on telephone conversation I had with applicant who confirmed he held turbary rights However, this something that has really no bearing on this application.

In terms of noise and health and safety, which I acknowledge are important considerations however in terms of planning policy lay outside the scope of planning and are the responsibility of other statutory agencies.

I am satisfied correct procedures have been complied with in respect of advertisement and other statutory consultations. I am also content that no neighbouring notification was required in this case given the separation distance with surrounding residential properties and the site.

I can understand the annoyance of local residents that development had took place without planning permission, but that is not sufficient reason to withhold permission once it is applied for as in this case the application is retrospective and which followed a request of Submission Notice served on the applicant relating LA09/2017/0008/CA.

### **Other points of note**

The application was initially advertised in the local press on w/c 7 August 2017 (publication date 10 August 2017). The application was re-advertised on w/c 28 May 2018 (publication date 31 May 2018, in accordance with the Development Management Practice Note 14 (April 2015).

Discussions with Dr Boomer it was decided to write out to the objectors given the development description had change to retrospective and spot level taken at various places on the laneway annotated on drawings Nos 03 & 04 stamp date 07.03.208.

Three (3) additional letters of objection were received stamp date 06.09.2018, in general the objections reiterated previous concerns already noted in my report.

In response to one of the objection concerns related to DFI Roads consultation response dated 24.10.2017, stating pillar ad stone wall to be removed.

The above response was issued in error by DFI relating an entrance onto the Broughderg Road. This road entrance is not included within the site's redline and is not considered relevant in my assessment. In a second DFI consultation response of the same date relates Keerin Road, which is material to the application.

### **Consideration**

I inspected the site along with my colleague Peter Henry on 13th June 2018. During this site inspection we noticed an extensive area of the peatland had peat extracted land place on top of the ground. We carried out an inspection of the laneway and took photographs at the locations where the works had been carried out.

An inspection of overhead historical orthographic imagery, along with street view imagery (see copies held on file) confirms the laneway has been in place over the statutory time frame of five (5) years covering the periods 11/05/2006 to 21/04/2015.

The above indicates the laneway has immunity from enforcement action and in view of this fact I am satisfied that a refusal decision would be difficult to sustain at an appeal and could expose Council to costs.

It is my view the lane has been in existence for a considerable time and the works carried out are relatively minor in detail and have had little or no significant impact or harm to surrounding peatland I am content recommending approval

### **Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

Approval
<p>Conditions</p> <p>1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.</p> <p>Reason: This is a retrospective application.</p> <p>Informatives</p>
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>

<b>ANNEX</b>	
<b>Date Valid</b>	25th July 2017
<b>Date First Advertised</b>	10th August 2017
<b>Date Last Advertised</b>	31st May 2018
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 129 Broughderg Road, Mountfield, Tyrone, Northern Ireland, BT79 8JN The Owner/Occupier, 129 Broughderg Road, Omagh, Co Tyrone, BT79 8JN The Owner/Occupier, 129 Broughderg Road, Omagh, Tyrone, Northern Ireland, BT79 8JN The Owner/Occupier, 129, Broughderg Road, Mountfield, Tyrone, Northern Ireland, BT79 8JN Broughderg Residents Association 129, Broughderg Road, Mountfield, Tyrone, Northern Ireland, BT79 8JN Ellis Leddy 129, Broughderg Road, Mountfield, Tyrone, Northern Ireland, BT79 8JN The Owner/Occupier, 30 Liggins Road, Greencastle, Omagh, Co Tyrone BT79 8JA Kerry and Shaun McCrory 30, Liggins Road, Glenhull, Tyrone, Northern Ireland, BT79 8JA Kerry & Shaun McCrory 30, Liggins Road, Glenhull, Tyrone, Northern Ireland, BT79 8JA The Owner/Occupier, 47 Keerin Road, Broughderg, Omagh BT79 8HU J H Clarke 47, Keerin Road, Mountfield, Tyrone, Northern Ireland, BT79 8HU Mary McKenna 50 Crouck Road, Mountfield, Tyrone, Northern Ireland, BT79 8HT Colm, Mary and McKenna and Family 50 Crouck Road, Omagh, Tyrone, Northern Ireland, BT79 8HT Darren McKenna 50, Crouck Road, Mountfield, Tyrone, Northern Ireland, BT79 8HT Colm McKenna 50, Crouck Road, Mountfield, Tyrone, Northern Ireland, BT79 8HT Jason McKenna 50, Crouck Road, Mountfield, Tyrone, Northern Ireland, BT79 8HT Aoibhin McKenna 50, Crouck Road, Mountfield, Tyrone, Northern Ireland, BT79 8HT The Owner/Occupier, Aoibhin McKenna, 50 Crock Road, Greencastle, Omagh, Co Tyrone BT79 8HT The Owner/Occupier, Colm McKenna, 50 Crock Road, Greencastle, Omagh, Co Tyrone BT79 8HT The Owner/Occupier,	

Concerned Broughderg Residents Association, 129 Broughderg Road, Omagh, Co Tyrone BT79 8HU The Owner/Occupier, Darren McKenna, 50 Crock Road, Greencastle, Omagh, Co Tyrone BT79 8HT The Owner/Occupier, Jason McKenna, 50 Crock Road, Greencastle, Omagh, Co Tyrone BT79 8HT The Owner/Occupier, Mary McKenna, 50 Crock Road, Greencastle, Omagh, Co Tyrone BT79 8HT	
<b>Date of Last Neighbour Notification</b>	23rd August 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/0998/F Proposal: Top dressing of existing laneway widening of sight splays at road entrance ,widening of chicane, piping approx. 20m of open sheugh to prevent collapse at 90 Deg corner Address: Land fronting onto Keerin Road approx. 625m West of 125 Broughderg Road, Omagh, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	



Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 04  
Type: Roads Details  
Status: Submitted

Drawing No. 03  
Type: Site Levels  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 01  
Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1104/F	<b>Target Date:</b>
<b>Proposal:</b> 2 no. detached dwellings	<b>Location:</b> 35m West of 20 Jockey Lane Moy
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr G Hughes 20 Dungannon Street Moy BT71 7SH	<b>Agent Name and Address:</b> O'Callaghan Planning Unit 1 10 Monaghan Court Monaghan Street Newry BT35 6BH
<b>Executive Summary:</b> This proposal is for 2 detached dwellings off a narrow minor road in the settlement limits of Moy. Objectors have raised concerns about the traffic generated by these 2 additional dwellings on this narrow road, impact on the character of the area and privacy. The applicant intends to widen the road and provide a footpath across the site frontage, Roads engineers have not raised any road safety concerns and intend to adopt the road and footpath.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Layout subject to PSD
Non Statutory	Environmental Health Mid Ulster Council	Considered - No Comment Necessary
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection, foul sewer 20m from site, no capacity issues raised

Statutory	Historic Environment Division (HED)	Content – no concerns on impact of St Johns
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	4	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b> Road safety and pedestrian safety concerns due too narrow road and no footpath Impact on character of the area and privacy		
<b>Characteristics of the Site and Area</b>  The site a relatively flat piece of overgrown land which sits slightly above the level of Jockey Lane. Its boundaries are undefined to the south west where there are foundations dug for 2 houses, a post and wire to the rear boundary with a large agricultural field, a conifer hedge to the north east with a garden beyond it and a hedge to the frontage with Jockey Lane.  The site is access off a narrow cul de sac, Jockeys Lane, which serves 3 dwellings past this point and has plans for another 2. This part of Jockeys Lane has a high stone wall around the graveyard on the east and a stone wall and s storey stone gable of a building in the yard of 20 Dungannon Street as well as the rendered gable of the 2 storey dwelling at 20 Dungannon Street on the west. The properties off Jockey Lane are a mix of 2 storey and single storey with detached and semi-detached properties, finishes are a mix of brick, dash and render. Planning permission, M/2005/1742/F, has been granted for 2 detached dwellings (though have the appearance of ½ semi detached dwellings) on the adjacent site and appears to have foundations dug.		
<b>Description of Proposal</b>  The proposal is for the erection 2no 3 bedroom detached 2 storey dwellings. The dwellings have an 8m ridge height, 2 storey front porches and single storey rear sunrooms. The dwellings are finished with roughcast render walls, stone to the porch and slate to the roofs. It is proposed to widen the road across the frontage and provide a footpath across the frontage of the site and the adjacent site which has pp for 2 dwellings. The dwellings are approx 4 metres back from the edge of the widened road and have 2 car parking spaces in driveway between the dwellings. The front boundary is defined by a 1m high metal park railing fence and the rear boundary is 1.8m wooden screen fence. The rear gardens are 7m and 7.4m in length from the rear wall of the main house to the boundary, these provide approx. 100sqm of private amenity space for each dwelling.		
<b>Planning Assessment of Policy and Other Material Considerations</b>		

**Planning History**

Planning permission was granted on 14/08/2007, ref M/2005/1742/F, for 2 detached dwellings on the adjoining site, these properties are 2 storey, 8m high, the closest dwelling to the road is 4m from the road edge and the gardens are only 7m in length.

**Policy Consideration**

The proposal should be considered against the policies in the Dungannon & South Tyrone Area Plan 2010 (DSTAP), which is the extant plan for the area. Other policies for consideration are contained in the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 3 (PPS3) – Access, Movement & Parking, Planning Policy Statement 7 (PPS7) – Quality Residential Environments, PPS7 Addendum – Safeguarding the Character of Established Residential Areas, Planning Policy Statement 12 (PPS12) and Planning Policy Statement 13 (PPS13). Other guidance documents include Creating Place, DCAN 8 and DCAN 15.

The Dungannon and South Tyrone Area Plan 2010 is the extant plan for the area, the site is located within the settlement limits for Moy as defined by SETT1, it is not defined as any particular land use as most of the small settlements did not allocate land for specific purposes, therefore I consider if the development meets other the criteria in SETT1 and other published planning guidance then it is acceptable. There is no conflict between the SPPS and the extant policies for this type of development, as such the extant policies are those that should be considered.

These 2 storey detached dwellings have the porches generally on the same building line as the approved development to the side, the houses have a similar ridge height, they are wider but have a separation distance of 10m between them and the closest dwelling to the approved development is 8.5, which provides good separation at the sides. To the north east of the site the existing gables of the dwelling and the outbuilding of 20 Dungannon Street are set at the edge of the road and as such this development will be set further back from the road than those. On the opposite side of the road the dwellings have a similar 10m separation distance as the 2 storey dwelling and outbuilding in 20 Dungannon Street. The proposed dwellings have provided 2 in curtilage car parking spaces and some of the car parking will be grass-crete which will reduce the appearance of the hard landscaping. The fences along the frontage are not imposing and will not have a dominating appearance and behind these is a small garden area which is similar to the already approved development on this side of Jockey Lane. I consider the proposed dwellings are therefore not out of character with the appearance of the existing and approved development.

There are no flooding issues apparent on the site or near it and HED have advised they do not have any concerns about the impact of the development on the setting of St John's Church, a listed building.

The proposed rear amenity space is over the 70sqm standard advocated in Creating Places, however the gardens are only 7.4m and 7m in length, when measured from the back wall of the houses. This is less than the 10m which is set out as good practice and is to limit overlooking and overshadowing between houses, as the land to the rear is within the settlement limits it could be developed for housing. I consider the Department has already set out a level of the acceptable rear garden space for this area, as it granted planning permission for dwellings with 7m back gardens. This application initially had 2 storey rear returns but these have been reduced to single storey to limit the potential of overlooking and overshadowing of any further

development. Taking account of the permission that exists next door and the rights for householders to extend without requiring planning permission, I consider the proposed single storey extensions to the rear are appropriate and would suggest that a condition removing any further permitted development rights to extend these houses should be imposed to protect the land to the rear.

Concerns have been raised about the traffic from this development, visibility splays for the access onto the road and safety of pedestrians using Jockey Lane. I note the narrowness of Jockey Lane and its cul-de-sac nature which limits the amount of traffic using it at this point. It also has low speed of traffic due to the road geometry. Roads engineers have assessed the proposal and are now content that parking can be provided within the curtilage of the properties. They have not raised any concerns about the proposed visibility splays of 2.0m x 33.0m or any other issues of road safety concern and have advised they will adopt the widened road and the footpath. In light of these comments I do not consider there is a road safety concern or that these 2 houses would cause any significantly greater issue that is already in place.

The property opposite the site has concerns about the 2 storey houses at the bottom of their garden overlooking their property. This property is a bungalow and is set back approximately 19m from Jockey Lane, it has a garden and driveway in front of it and the garden has a low post and rail fence along the edge of Jockey Lane. The front garden and front of the house is open to views from Jockey Lane and the opposing fronts of the dwelling will be approx. 25m from each other. While I appreciate the residents have enjoyed a semi-rural environment, this is an urban location where there may be some degree of overlooking. In this instance, given the separation distance of approx.. 25m and the intervening roadway, I do not consider the proposal will have a significant impact on residential amenity due to overlooking or loss of privacy from the upstairs bedrooms or the ground floor windows.

Members are advised the other issues relating to need for the houses and residents not wanting them are not planning considerations that I consider can be given any significant weight in the determination of this application.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve with conditions

**Conditions:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. Prior to the commencement of any other development hereby approved, the vehicular access, including visibility splays of 2.0m x 33.0m and any forward sight line shall be provided in accordance with the details shown on drawing No 02E bearing the stamp dated 04OCT2018. 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 levels 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.

3. The gradients of the accesses shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

4. The gradient of the access shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or other legislation amending or revoking that legislation, no extensions to the dwellings hereby permitted shall be carried out without the consent of Mid Ulster Council.

Reason: To protect the amenity and development potential of adjoining land and properties..

**The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.**

6. The Department for Infrastructure has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawings No 04A, bearing the date stamp 04OCT2018.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	16th August 2017
<b>Date First Advertised</b>	31st August 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Jockey Lane Moy Tyrone The Owner/Occupier, 16 Jockey Lane Moy Tyrone The Owner/Occupier, 18 Jockey Lane Moy Tyrone The Owner/Occupier, 20 DUNGANNON STREET MOY TYRONE BT71 7SH Don O'Hara 20 Jockey Lane Moy Tyrone Don O'Hara 20, Jockey Lane, Moy, Tyrone, Northern Ireland, BT71 7SR Don O'Hara 20, Jockey Lane, Moy, Tyrone, Northern Ireland, BT71 7SR Don O'Hara 20, Jockey Lane, Moy, Tyrone, Northern Ireland, BT71 7SR The Owner/Occupier, 22 Jockey Lane Moy Tyrone May McAleese 22, Jockey Lane, Moy, Tyrone, Northern Ireland, BT71 7SR The Owner/Occupier, 24 Jockey Lane, Moy, Tyrone, BT71 7SR The Owner/Occupier, 26 THE HOLLOWS MOY TYRONE BT71 7TH The Owner/Occupier, 28 Jockey Lane, Moy, Tyrone, BT71 7SR	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	

## **Planning History**

Ref ID: LA09/2016/1560/PAD

Proposal: Shared Education Campus

Address: Moy Regional PS, Dungannon Street, Moy,

Decision:

Decision Date:

Ref ID: LA09/2017/0138/PAD

Proposal: Housing Development consisting of 6 houses

Address: Lands at Jockey Lane, Dungannon Street, Moy,

Decision:

Decision Date:

Ref ID: LA09/2017/1104/F

Proposal: 2 no. detached dwellings

Address: 35m West of 20 Jockey Lane, Moy,

Decision:

Decision Date:

Ref ID: M/1999/4002

Proposal: Pitched Roof over existing Games Room

Address: 20 DUNGANNON STREET MOY

Decision:

Decision Date:

Ref ID: M/1983/0053

Proposal: 11 KV O/H LINE

Address: JOCKEY LANE, MOY

Decision:

Decision Date:

Ref ID: M/2004/1436/O

Proposal: 2No Semi detached 1.5 storey town houses - new drawings - amended drawings.

Address: To the rear of 30 Jockey Lane, Moy

Decision:

Decision Date: 01.11.2005

Ref ID: M/2005/1742/F

Proposal: 2 No proposed detached dwellings - revised description.

Address: Opposite 24 Jockey Lane, Moy  
Decision:  
Decision Date: 31.08.2007

Ref ID: M/1995/0667  
Proposal: Dwelling  
Address: JOCKEY LANE MOY  
Decision:  
Decision Date:

Ref ID: M/2001/0080/O  
Proposal: Housing development  
Address: Opposite 26 Jockey Lane Moy  
Decision:  
Decision Date: 19.02.2002

#### **Summary of Consultee Responses**

Roads – Private Streets Determination  
EHO – no issues  
HED – content no impact on St Johns  
NI Water – foul sewer available, no capacity issues

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

Drawing No. 01A  
Type:  
Status: Submitted

Drawing No. 02E  
Type:  
Status: Submitted

Drawing No. 03  
Type:  
Status: Submitted

Drawing No. 04A  
Type:  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1292/O	<b>Target Date:</b>
<b>Proposal:</b> New housing development comprising of 10no semi-detached dwellings and 1no detached dwelling located South of St Lurach's Gardens, Glen, Maghera	<b>Location:</b> South of St Lurach's Gardens Glen Maghera
<b>Referral Route:</b> Objections	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Jonathan Warnock 21 Broad Street Magherafelt BT46 5PT	<b>Agent Name and Address:</b> OJQ Architecture 89 Main Street Garvagh BT51 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

Approval recommended

### Characteristics of the Site and Area

Proposal site is currently a small grassed piece of land. Immediately north of the proposal site is a long established housing development, St. Lurach's Gardens, immediately west of the proposal site is a waste water treatment works. The site is flanked on two sides by a road, the one on the southern side is Tullyheran road and the proposal site sits at a higher level than this road level, while the road on the eastern side leads to the housing development to the rear and also No 19 Tullyheran Road.

The site is bounded on the eastern side by large grass verge and post and wire fence with scrub vegetation. While the southern boundary consists of post and wire fence and mature substantial hedging. The northern and western boundaries consist of mature vegetation and trees and post and wire fencing.

The site itself sits at a higher level than the Tullyheran/Ballyknock Road and with the properties within St Lurachs Gardens sitting slightly higher in level again than the proposal site. The properties within the neighbouring development at St Lurachs Gardens consists of semi detached, terraced and detached single storey properties of the same design.

### Description of Proposal

Proposed new housing development comprising of 10 No. semi detached dwellings and 1 no detached dwelling located south of St Lurachs Gardens, Glen, Maghera.

### Planning Assessment of Policy and Other Material Considerations

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 7 - Quality Residential Environments

Planning Policy Statement 12 - Housing in Settlements

Creating Places

The proposal site is located within the settlement development limit of Glen as designated by the Magherafelt Area Plan 2015.

Neighbours notified: Owners/Occupiers of Nos. 2, 4, 6, 8, 10, 12 \_ 14 St Lurach's Garden were notified of this proposal on 2.11.2017.

Consultees: Transportni were asked to comment and responded on 8th May 2018 with no objections subject to conditions.

Environmental Health were asked to comment and responded on 17th Nov 2017 with no issues of concern arising.

NI Water were asked to comment and responded on 6th Nov 2017 with no objections.

Rivers Agency were asked to comment on the submitted drainage assessment and they responded on 05.06.2018 with no objections to the proposal subject to advice.

Objections - A letter of objection was received from Jeane Dunne of 4 St Lurach's Gardens dated 14.11.2017, the main points raised within this correspondence where:

- the proposal will potentially reduce the selling price of the existing properties.
- potentially overlooking and loss of light due to the 2 storey properties proposed.
- no prior consultancy with existing residents from applicant.
- possible further development at later stage
- potentially access issues and safety issues
- increased pollution from additional traffic if proposal approved.
- detrimental impact on existing residents well being.

A letter of objection was received from Peter Dobbs of 12 St Lurach's Gardens dated 14.11.2017, the main points raised within this correspondence are:

- The proposed development would impact adversely on the rural nature of the area as per policy CTY 13 - Integration and Design of Buildings in the Countryside. The proposed development is situated on a sloping field and as such it would be constitute a major adverse visual impact on the area.
- the proposed development is not in keeping with the nature or design of the existing houses which are in the small estate, 'St Lurachs Gardens'.. the proposed development would compromise the rural nature of the existing housing.
- the sewage provision could not cope with the additional load as currently it struggles with existing load.
- the proposed entrance to site is dangerous.
- the proposed development will impact adversely on the objectors privacy as it backs on to his property.

A letter of objection was received from Juliette Zeoli of 10 St Lurach's Gardens dated 10.11.2017, the main points raised within this correspondence are:

- the proposal would be 'too prominent a feature in the landscape CTY 13(a) and the design of the development inappropriate for the site and its locality CTY 13(e)...it would not blend in sympathetically with its surroundings the new buildings would not integrate well into the landscape.
- the proposal would cause a change which would be out of character in a rural setting.
- There is already ample development land designated within the town boundary of Maghera and therefore no need to develop into the rural area.
- Possible access safety issues.
- devaluation of property if proposal approved.
- Loss of privacy
- Potential impact on light accessing objectors property
- Potential disruption/ damage to existing mature trees bordering No 10 St Lurach's Gardens

A letter of objection was received from a neighbouring resident, Brian McEldowney, dated 13.11.2017, the main points raised within this correspondence are:

- loss of privacy due to overlooking;
- increase levels of noise and pollution
- increased traffic volume
- overbearing development design due to the proposed 2 storey aspect, development inappropriate design for this area.
- the proposed development would create new/more noise and pollution and dust at all times. Parking will generate more noise and pollution, traffic can be heavy at times in area and the proposal will only add to the existing traffic.

In response to the objectors points I feel it is important to clarify that this proposal is an outline application and so no dwelling designs have been indicated only unit numbers at this stage. Due to the size of the proposal site and the number of units proposed I do not feel there would be an unsuitable level of noise or pollution produced. Traffic volumes would be increased but as the



proposal is located within a recognised settlement I feel this would be an acceptable increase. As the proposal would not result in the overdevelopment of the site I feel a suitable scheme can be achieved at reserved matters stage which would prevent any issues with possible overlooking or overshadowing onto neighbouring properties. Full landscaping details can be requested and conditioned however it should be noted that the proposal site is not within any close proximity to any protected trees. Finally with regards possible sewage problems all the necessary consultees have been asked to comment and none identified any possible issues with this proposal.

This proposal is an outline application for 10 semi-detached dwellings and one detached dwelling within a site measuring approx. 0.488HA within the settlement limits of Glen according to the Magherafelt Area Plan 2015. The proposal site is located immediately adjacent to St Lurach's Gardens a long established housing development of single storey dwellings. A concept site plan has been submitted with the proposal which shows the suggested development, off street parking, individual garages, outside space and access details for the proposal.

According to policy 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. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. It also goes on to state that all proposals for residential development will be expected to conform to all of the following criteria:

- a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas; - the proposal is an outline application for 11 properties in total, the design of these properties has not been identified at this stage. The proposal site is within an identified settlement as per the Magherafelt Area Plan and the proposal site is of such a size and topography that housing could be acceptable on the site.
- b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development; - there are no identifiable archaeological or built heritage features identified for the proposal site.
- c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area; - This is an outline application and as such no open spaces or landscaping details are being considered at this time however it should be mentioned that due to the size of the proposal site and the number of units proposed that I feel a suitable level of private space can be accommodated and no public open space will be required.
- d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development; - the proposal site is within a recognised settlement within close proximity to public transport and local facilities.
- e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures; - this has been addressed adequately for the size of development proposed with off street parking and access points.
- f) adequate and appropriate provision is made for parking; - this point has already been addressed

g) the design of the development draws upon the best local traditions of form, materials and detailing; - this is an outline application and so no design aspects are being considered 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; - this is an outline application and conditions can be used in order to protect from any potential or possible harm for neighbouring properties or land uses.

i) the development is designed to deter crime and promote personal safety. - this is a small development proposed within the settlement limits of Glen.

Having considered all of the above points I feel a recommendation for approval should be made.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval recommended

**Conditions:**

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

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

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

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

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

3. 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.

4. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be

replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

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

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

6. 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 the 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 the Council gives its written consent to any variation.

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

#### Informatives

1. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

2. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

3. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

4. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

5.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	22nd September 2017
<b>Date First Advertised</b>	5th October 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 St. Lurachs Gardens Maghera Londonderry Juliette Zeoli 10, St. Lurachs Gardens, Maghera, Londonderry, Northern Ireland, BT46 5JJ The Owner/Occupier, 12 St. Lurachs Gardens Maghera Londonderry Peter Dobbs 12, St. Lurachs Gardens, Maghera, Londonderry, Northern Ireland, BT46 5JJ The Owner/Occupier, 14 St. Lurachs Gardens Maghera Londonderry The Owner/Occupier, 2 St. Lurachs Gardens Maghera Londonderry The Owner/Occupier, 4 St. Lurachs Gardens Maghera Londonderry Jean Dunne 4, St. Lurachs Gardens, Maghera, Londonderry, Northern Ireland, BT46 5JJ The Owner/Occupier, 6 St. Lurachs Gardens Maghera Londonderry The Owner/Occupier, 8 St. Lurachs Gardens Maghera Londonderry D McEldowney	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/1292/O Proposal: New housing development comprising of 10no semi-detached dwellings and 1no detached dwelling located South of St Lurach's Gardens, Glen, Maghera Address: South of St Lurach's Gardens, Glen, Maghera, Decision: Decision Date:	

Ref ID: H/1992/0445  
 Proposal: UNDERGROUND SEWAGE PUMPING STATION  
 Address: BALLYKNOCK ROAD MAGHERA  
 Decision:  
 Decision Date: 15.10.1992

Ref ID: H/2002/0199/F  
 Proposal: Multi-Element Improvements to 12 No. Dwellings  
 Address: St Lurachs Crescent/Gardens, Maghera  
 Decision:  
 Decision Date: 24.04.2002

Ref ID: H/1991/6078  
 Proposal: SITE OF HOUSING DEVELOPMENT GLEN ROAD MAGHERA  
 Address: GLEN ROAD  
 Decision:  
 Decision Date:

Ref ID: H/2008/0670/F  
 Proposal: Proposed extension to dwelling to provide sun lounge.  
 Address: 14 St Lurachs Gardens, Maghera.  
 Decision:  
 Decision Date: 21.01.2009

Ref ID: H/1998/0431  
 Proposal: EXTENSION TO DWELLING  
 Address: 12 ST LURACHS GARDENS MAGHERA  
 Decision:  
 Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

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

Drawing No. 01/2  
Type: Site Location Plan  
Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1511/O	<b>Target Date:</b>
<b>Proposal:</b> Site for 2 No (1 Pair) semi-detached dwellings	<b>Location:</b> Immediately South of 7 Desertmartin Road Moneymore
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Mr John Devlin 7 Desrtmartin Road Moneymore	<b>Agent Name and Address:</b> Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice

#### Representations:

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

**Summary of Issues:**

1. Land ownership
2. Impact on views
3. Retention of hedges

**Characteristics of the Site and Area**

The site is located within the development limits of Moneymore in accordance with the Cookstown Area Plan 2010. The site is located 20m of No 7 Desertmartin Road and consists of roadside triangular shape paddock. The boundaries along the east and west of the site are defined by a 1.5m high hawthorn hedge, the northern boundary is defined by 1m evergreen hedge and the short southern boundary is defined by a post and wire fence. The site is relatively flat and site level with the road, whilst the residential development located at Mountview Drive which adjoins the site along the eastern boundary sits approximately 1.5 – 1.75m higher.

**Description of Proposal**

The application seeks outline planning permission for 2 No (1 Pair) semi-detached chalet dwellings.

**Planning Assessment of Policy and Other Material Considerations****Relevant Site History:**

No relevant

**Representations:**

5 neighbour notification letters were sent to the occupiers of Nos 2, 10, 12 & 14 Mountview Drive and No 7 Desertmartin Road, Moneymore.

1 letter of representations have been received from Doris and MacMahon Solicitors acting on behalf of Mrs Elizabeth Brown the owner of No 2 Mountview Drive the dwelling located southeast of the site, points raised:

1.Ownership of a small triangular portion of the site – The applicant has removed the disputed portion of land from the application site and has shown it outlined in blue on the location plan (drg. No. 01 Rev 1). Land ownership is a civil matter between the applicant and the objector.

2.Impact on views and a height restriction of existing hedges. – The concept plan shows the proposal located on the northern half of the site and the objector's dwelling and the dwelling No 10 located overlooking the southern half of the site, therefore there will be no adverse impact on views. The site also sits at lower level than the objector's property which also helps lessen the impact on views from both properties. It should be noted that the right to a view is not a material consideration unless it will have a detrimental impact on third party residential amenity. With regards to existing hedges along the boundary these will be retained and their heights will be conditioned.

**Development Plan and Key Policy Consideration:**

Cookstown Area Plan 2010.

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

Planning Policy Statement 7: Quality Residential Environments (PPS7)

Creating Places: Achieving Quality in Residential Developments

Planning Policy Statement 12: Housing in Settlements (PPS12)

DCAN 8: Housing in existing Urban Areas

DCAN 15 - Vehicular Access Standards 2nd Edition.

The application site is defined as white land and is situated within the settlement limits of Moneymore in accordance with Cookstown Area Plan 2010 and therefore the principle of development is acceptable subject to the relevant policy tests.

Policy QD1 of PPS7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. The proposal is for 2 No (1 Pair) semi-detached chalet dwellings located in a small paddock within the development limits of Moneymore.

The Policy sets out nine criteria which all residential development proposals are expected to meet.

a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas – The site outlined in red comprises of a small triangular shaped paddock which fronts onto the Desertmartin Road. The site is located in a well-established residential area characterised predominately by single storey and two storey detached dwellings. Plot sizes vary depending on the location of the property with larger plot size located along the Desertmartin Road. All-in-all the proposal respects the surrounding context or be appropriate to the character of the area.

(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development. – No features of the archaeological/built heritage have been identified on the application site.

(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area; – Paragraph 5.19 of Creating Places refers to private open space provision and states that in lower density areas all houses should have an area of private amenity space behind the building line and should be calculated as 70sqm per house or greater. Approximately 88sqm of private amenity space will be provided for the proposed semi-detached located along the northern boundary and approximately 72sqm will be provided for the other dwelling. I am satisfied that both dwellings can achieve the necessary amount of amenity space.

(d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development; – The footpath located at the front of the site will be retained, no other facilities required for this type of development.

(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures; – The site is located within walking distance of the town centre and has convenient access to public transport.

(f) adequate and appropriate provision is made for parking; – The submitted block plan shows 2 No. in-curtilage car parking spaces for each dwelling which is adequate for this type of development. DFI Roads have been consulted with regards to access arrangement onto the public road and advise that they have no objections subject to a 1:500 scale block plan submitted at reserved matters stage showing 2.4m x 90m visibility splays.

(g) the design of the development draws upon the best local traditions of form, materials and detailing; – The design of the dwelling will be considered at reserved matters stage and condition

will be attached advising that the dwelling shall be in general conformity with the footprint of the dwelling shown on the block plan.

(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; - Criterion (h) of indicates that the design and layout should 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. Creating Places states where a development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking. The closest residential property is located at No 12 Mountview Drive immediately east of the site and contains a two storey dwelling. The dwelling sits approximately 1.75m higher than the proposal site and abuts the site along its rear boundary. As a result a minimum 15m separation distance will be achieved between No 12 and the proposed semi-detached dwellings. The separation distance falls 5m short of the required 20m, however I am satisfied that a reduction can be permitted for the following reasons:

1. The proposal is for chalet dwelling
2. The proposal site sits at a lower level than No 12.
3. There are no first floor windows located on the rear elevation of No 12 (see image below).



**The rear of No 12 Mountview Drive**

(i) the development is designed to deter crime and promote personal safety. – The development appears to be designed to deter crime and promote personal safety in that site is bound by existing development and there are no alley ways or other areas for congregation and potential crime.

#### **PPS 7 Addendum (Safeguarding the Character of Established Residential Areas)**

The Addendum to PPS 7 also sets out a set of criteria which must be met in established residential areas for the infilling of vacant sites including gardens under Policy LC 1 (Protecting Local Character, Environmental Quality and Residential Amenity).

LC1 states that permission will only be granted where all the following criteria would be met;

a)The proposed density is not significantly higher than that found in the established residential area.-

The proposal is for 2 residential units and as a result there will be no significant increase in density.

b)The pattern of development is in keeping with the overall character and environmental quality of the established residential area.-  
The proposal will respect the pattern of development and is in keeping with the overall character and environmental quality of the area.

c)All dwelling units and apartments are built to a size not less than those set out in Annex A.-  
This is achievable and will be further considered at reserved matters stage.

**Neighbour Notification Checked**                      **Yes**

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

Conditions

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

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

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

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

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

3. The layout shall be in general conformity with the stamped approved concept drawing No 02 Revision 1 which was received on 8th June 2018 and shall be designed in accordance with Policy QD1 of Planning Policy Statement 7 "Quality Residential Environments" and the associated supplementary guidance "Creating Places".

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

4. The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level and a low angle of roof pitch not exceeding 40 degrees.

Reason: In the interest of residential amenity

5. The existing natural screening along the north, south east and west boundaries of the site shall be permanently retained at not less than 1.5 metres except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to the commencement of any works

Reason: In the interests of visual amenity.

6. 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.

**Informatives**

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4.The applicant's attention is drawn to the attached information note from Northern Ireland Water.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	31st October 2017
<b>Date First Advertised</b>	16th November 2017
<b>Date Last Advertised</b>	21st June 2018
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Mountview Drive Moneymore Londonderry The Owner/Occupier, 10 Mountview Drive Moneymore Londonderry The Owner/Occupier, 12 Mountview Drive Moneymore Londonderry The Owner/Occupier, 14 Mountview Drive Moneymore Londonderry The Owner/Occupier, 2 Mountview Drive Moneymore Londonderry The Owner/Occupier, 7 Desertmartin Road Moneymore Londonderry Doris and MacMahon Solicitors, 63 James Street, Cookstown, Co. Tyrone, BT80 8AE	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/1511/O Proposal: Site for 2 dwellings and garages Address: Immediately South of 7 Desertmartin Road, Moneymore, Decision: Decision Date:  Ref ID: I/1976/036401 Proposal: REPLACEMENT BUNGALOW Address: DESERTMARTIN ROAD, MONEYMORE Decision: Decision Date:  Ref ID: I/1976/0364 Proposal: NON-SUBSIDY BUNGALOW Address: DESERTMARTIN ROAD, MONEYMORE Decision: Decision Date:  Ref ID: I/1992/0507	

Proposal: Domestic Garage  
Address: 9 DESERTMARTIN ROAD, MONEYMORE, COOKSTOWN.  
Decision:  
Decision Date:

Ref ID: I/1986/0315  
Proposal: DOMESTIC GARAGE AND STORE  
Address: 7 DESERTMARTIN ROAD, MONEYMORE  
Decision:  
Decision Date:

Ref ID: I/2011/0285/F  
Proposal: Proposed 3 no. dwellings and garages (Amended roads details)  
Address: Adjacent to 2 and 4 Mountview Drive, Moneymore,  
Decision:  
Decision Date: 24.04.2012

Ref ID: I/2003/0055/F  
Proposal: 9 No. detached dwellings and garages  
(Amended Scheme) (RE-ADVERTISEMENT)  
Address: 1,2,3,4,5,6,7,9,11 Mountview Drive Moneymore  
Decision:  
Decision Date: 13.11.2003

Ref ID: I/2004/0936/F  
Proposal: Proposed 11no Detached Dwellings and Garages.  
Address: 8,10,12,14,15,16,17,18,19,21,23 Mountview Drive, Moneymore.  
Decision:  
Decision Date: 06.07.2005

Ref ID: I/1978/0101  
Proposal: PETROL FILLING STATION AND KIOSK  
Address: DESERTMARTIN ROAD, MONEYMORE  
Decision:  
Decision Date:

Ref ID: I/1979/0334  
Proposal: BUNGALOW  
Address: DESERTMARTIN ROAD, MONEYMORE  
Decision:  
Decision Date:

Ref ID: I/1978/0372  
Proposal: DOMESTIC GARAGE  
Address: DESERTMARTIN ROAD, MONEYMORE  
Decision:  
Decision Date:

Ref ID: I/1982/0229  
Proposal: RESIDENTIAL DEVELOPMENT  
Address: DESERTMARTIN ROAD, MONEYMORE  
Decision:  
Decision Date:



<b>Summary of Consultee Responses</b>
<b>Notification to Department (if relevant)</b>
<b>Drawing Numbers and Title</b>  Date of Notification to Department: Response of Department:  Drawing No. 01 Revision 1 Type: Site Location Plan Status: Submitted  Drawing No. 02 Revision 1 Type: Site Layout or Block Plan Status: Submitted



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0346/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of dwelling in substitution for dwelling approved under M/2006/0855 and retention of dwelling on applicant's farm holding	<b>Location:</b> 120m NW of 81 Killyliss Road Dungannon
<b>Referral Route:</b>  Recommended approval to committee – 1 objection received.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Gary McCann 54 Kilnacart Road Dungannon BT70 1PD	<b>Agent Name and Address:</b> C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DAERA - Enniskillen	Consulted in Error
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DfI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	DAERA - Omagh	Substantive Response Received

### Representations:

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

### Summary of Issues

The application relates to the retention of a pair of semi-detached dwellings in the countryside. The applicant has outlined that one of the dwellings is a replacement/substitution for a previously approved dwelling on the site and that the second of the dwellings is to be assessed as a dwelling on a farm. NI Water, DfC Historic Environment Division, DfI Roads and DAERA were consulted and responded to this application. One third party objection has been received which has been assessed and considered along with all other material considerations below.

### Characteristics of the Site and Area

The application site is located at 75 Killyliss Road, 120m NW of 81 Killyliss Road, Dungannon. The site is located in the open countryside, outside any defined settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is largely characterised by agricultural land, farm holdings and dispersed dwellings, with the village of Eglisish approximately 1.65km north west.

The site comprises 2no. two storey semi-detached dwellings finished with render external walls painted white, dark concrete roof tiles and white uPVC windows. The building is set on a spacious plot of land which is accessible from the Killyliss Road via an existing laneway. The two dwellings occupy an L shaped plan, with one orientated to face northwards and the other fronting the road to the east. The dwelling includes shared in-curtilage parking and private amenity space for the two dwellings. Existing trees and hedging of approximately 2 meters define the east, west and south boundary treatment. The site is accessed via a graveled laneway with a post and wire fence defining the north boundary.

### **Description of Proposal**

The proposal seeks full planning permission for the retention of a pair of semi-detached dwellings at 75 Killyliss Road, Dungannon.

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

#### **Planning Policy**

Under the provisions of the Planning Act (Northern Ireland) 2011, all decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. Dungannon and South Tyrone Area Plan 2010 is the relevant, extant Development Plan for the site. Account will also be taken of the relevant provisions of the SPPS and retained Planning Policy Statements (PPSs). The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 confirms that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained PPSs and other relevant documents together with the provisions of the SPPS itself.

Dungannon and South Tyrone Area Plan 2010: The Plan offers no specific guidance on this proposal.

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

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. For the purpose of this document the countryside is defined as land lying outside of settlement limits as identified in development plans.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

#### **RELEVANT PLANNING HISTORY**

LA09/2017/1423/F - 75 Killyliss Road, Dungannon - Retention of two dwellings - first dwelling in substitution for previous planning permission M/2006/0855 and second as a dwelling on a farm - Permission Refused 19/01/18

LA09/2016/1034/F - 75 Killyliss Road, Dungannon - Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application) - Permission Refused 12/06/17

M/2014/0295/F - 75 Killyliss Road, Dungannon - Construction of two 2 storey dwellings with detached garages and associated site works-change of previously approved house types - Permission Granted 29/07/14

M/2009/0417/RM - 75 Killyliss Road, Dungannon - Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage - Permission Granted 16/09/09

M/2006/2062/O - 75 Killyliss Road, Dungannon - Proposed replacement dwelling with new access to Killyliss Road - Permission Granted 20/03/07

M/2009/0408/F - 50m North West of 75 Killyliss Road Dungannon - Proposed two storey dwelling and garage - Permission Granted 17/08/09

### CONSULTATION

- NI Water – No objections subject to conditions
- DFC Historic Environment Division – No objections
- DFI Roads – No objections subject to conditions
- DAERA - Category 1 Business since March 2013 (5 years 8 months). SAF claimed for BPS 2015 to 2018

### REPRESENTATION

One (1) neighbouring property was notified and press advertisement has been carried out in line with the Council's statutory duty. One letter of representation was received from the occupier of 65 Derrygortreavy, Eglis. The issues raised by the objector on this application is summarised below:

#### Previous Refusal

The objector has noted that the application has already been assessed under planning reference LA09/2016/1034/F and the grounds and reason for refusal are still valid. The planning application before me has been validated for determination. The applicant has provided supporting information relating to the previous reasons for refusal with respect an active and established farm business and therefore I am satisfied the proposal before me merits assessment. However, it should be noted Sections 46 and 47 of the Planning Act 2011(NI) give the Council the discretionary power to decline to determine subsequent (repeat) applications for planning permission.

#### Enforcement Action

The objector states the application was a result of enforcement action following the applicant applying for and receiving building control approval for the erection of 2 dwellings on this site and proceeding to construct these 2 dwellings without the benefit of planning permission. He asserts the semi-detached units cannot therefore be considered as a change of use. Mid Ulster District Council have addressed the unlawful development through enforcement action and the invitation of a planning application. The planning application is for the retention of two dwellings and will be considered on this basis. No weight will be given to policy for conversion of an existing dwelling or change of use.

#### Policy Concerns

The objector has stated the application is not applicable as a semi-detached dwelling in a rural location and should not be assessed under policy CTY 10 – A Dwelling on a Farm.

Notwithstanding the concerns of the objector as to the establishment of the farm dwelling, the application before me relates, in part, to a dwelling on a farm and as such must be assessed against applicable policy which will be carefully assessed below.

### **ASSESSMENT OF PLANNING ISSUES/MATERIAL CONSIDERATIONS**

Article 45 of the Planning Act (NI) 2011 requires the planning authority, 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. The Dungannon and South Tyrone Area Plan (2010) identifies the site within a rural area outside any settlement limits. The Strategic Planning Policy Statement published in September 2015 retains PPS 21 which is the main policy consideration for this application. CTY1 – Development in the Countryside in PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside.

The principle of one dwelling on site has been established with the earlier planning approval (M/2006/2062/O). The proposal now seeks retrospectively an additional farm dwelling on the site. It is necessary to first establish if an additional dwelling unit on this site is acceptable. The applicant has highlighted that the first of the two dwellings is in substitution of the previously approved dwelling and that the second is for a dwelling on a farm. The applicant has presented evidence in support of a dwelling on an existing farm.

PPS 21, Policy CTY 1 states that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. Policy CTY 10 establishes that the principle of a dwelling on a farm is acceptable where all of the following criteria is 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 where practicable, access to the dwelling should be obtained from an existing lane.

Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s). In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

With respect to Criteria (a), DAERA were consulted on this application and advised the farm business ID quoted on the accompanying P1C Form has been in existence since March 2013. This fails to demonstrate an active and established farm business for a minimum of six years which is necessary under the first criteria of the policy. The applicant has provided supplementary information to demonstrate the existing farm business is both established and active. The supplementary information includes a solicitor's letter confirming the farm holding was purchased in July 2012, as well as receipts for materials and works carried out on the lands dating back to July 2012.

With regard to (b) there are no records indicating that any 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 respect to (c) it is noted that the application site is located in close proximity to and would be visually linked with an existing farm building to the east of the application site. The proposed dwelling utilises the existing access lane, which was approved under the previous consent and although there is an intensification in the use DFI Roads were consulted on the application and responded highlighting that they were content with the proposal.

In terms of other key planning considerations, I am satisfied that the site benefits from a satisfactory degree of enclosure and meets the integration tests of policy CTY 13. The form and appearance of the dwellings as built is not dissimilar to the approved development in terms of its size, scale and siting. As a large dwelling of a similar scale and massing was approved by the Department, I do not have any concerns about the proposed development in terms of its integration or impact on the character of the rural area. In my opinion, the external alterations would not detrimentally impact the surrounding character, particularly given that there is a cluster of semi-detached roadside dwellings approximately 0.4km from the application site, to the north on Killyliss Road. Whilst with an agricultural justification, the committee was correct to refuse on rural character as semi-detached dwellings are not in keeping with building tradition. However having discussed with the Planning Manager, in light of the farm case it is clear this is clustering with the existing building on the farm and as it is existing it is suggested that the impact may be less than a detached dwelling.

DFI Roads were consulted on this application and raised no concerns. Therefore, I am content that the proposal would not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

### Conclusion

This application relates to the retention of a pair of semi-detached dwellings in the countryside on a site that had planning permission for a large detached dwelling. The applicant has outlined that the application relates to the substitution of the previously approved dwelling and the provision of a second dwelling – a dwelling on a farm. On balance, although the applicant has not demonstrated through their farm business ID that the farm business has been active and established for more than 6 years, the proposal is treated as an exception to policy given the specifics of the case and that the proposal would not adversely alter the character of the area.

### Neighbour Notification Checked

Yes

### Summary of Recommendation:

Approve subject to the below conditions and informatives.

### Conditions of Approval:

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

Reason: This is a retrospective application.

2. The vehicular access, including visibility splays of (2.4m \* 80.0m) and any forward sight distance shall be provided in accordance with Drawing No. 02 bearing the date stamp 07/03/18, within 3 months of the date of this permission. 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.

3. The existing natural screenings of the site, along the northern, western and southern boundaries 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: In the interests of visual amenity.

4. If within a period of 5 years from the date of this planning approval any tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the 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 the Council gives its written consent to any variation.

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

#### **Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.
5. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.
6. Provision shall be made to the satisfaction of Roads Service, to ensure that surface water does not flow from the site onto the public road.
7. Provision shall be made to the satisfaction of Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

**Signature(s)**



<b>Date:</b>
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<b>ANNEX</b>	
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<b>Date Valid</b>	7th March 2018
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<b>Date First Advertised</b>	22nd March 2018
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<b>Date Last Advertised</b>	
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<b>Details of Neighbour Notification</b> (all addresses)	
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Joe Hughes 65 Derrygortreavy Eglish Dungannon Co. Tyrone BT70 1NU The Owner/Occupier, 65 Killyliss Road Dungannon Tyrone	
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<b>Date of Last Neighbour Notification</b>	21st March 2018
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	Yes /No
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<b>Planning History</b>
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Ref ID: LA09/2018/0346/F Proposal: Retention of dwelling in substitution for dwelling approved under M/2006/0855 and retention of dwelling on applicant's farm holding Address: 120m NW of 81 Killyliss Road, Dungannon, Decision: Decision Date:
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Ref ID: LA09/2017/1423/F Proposal: Retention of two dwellings - first dwelling in substitution for previous planning permission M/2006/0855 and second as a dwelling on a farm. Address: 75 Killyliss Road, Dungannon, Decision: PR Decision Date: 19.01.2018
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Ref ID: LA09/2016/1034/F Proposal: Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application) Address: 75 Killyliss Road, Dungannon, Decision: PR Decision Date: 12.06.2017
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Ref ID: M/2014/0295/F

Proposal: Construction of two 2 storey dwellings with detached garages and associated siteworks-change of previously approved house types

Address: 75 Killyliss Road, Dungannon,

Decision: PG

Decision Date: 29.07.2014

Ref ID: M/2009/0417/RM

Proposal: Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage

Address: 75 Killyliss Road, Dungannon

Decision:

Decision Date: 16.09.2009

Ref ID: M/2006/2062/O

Proposal: Proposed replacement dwelling with new access to Killyliss Road

Address: 75 Killyliss Road, Dungannon

Decision:

Decision Date: 20.03.2007

Ref ID: M/2009/0408/F

Proposal: Proposed two storey dwelling and garage

Address: 50m North West of 75 Killyliss Road Dungannon

Decision:

Decision Date: 17.08.2009

Ref ID: M/2006/0182/O

Proposal: Proposed two storey dwelling and garage

Address: 50m North West of 75 Killyliss Road, Dungannon

Decision:

Decision Date: 03.05.2006

Ref ID: M/1994/4030

Proposal: Repairs to dwelling

Address: 75 KILLYLISS ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/0416

Proposal: Alterations to dwelling

Address: 75 KILLYLISS ROAD DERRYGORTREVEY DUNGANNON

Decision:

Decision Date:

Ref ID: M/2006/0581/O

Proposal: Proposed site for new dwelling & garage

Address: Adjacent to 75 Killyliss Road, Derrygortrevy, Dungannon

Decision:

Decision Date: 27.09.2006

Ref ID: M/2006/0855/O

Proposal: Proposed Site for New Dwelling & Garage

Address: Approximately 105 M North West of 75 Killyliss Road, Derrygortreavy, Dungannon

Decision:

Decision Date: 11.04.2007

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Elevations and Floor Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0522/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed Dwelling and Garage under CTY 2a	<b>Location:</b> Approx 40m NE of 18 Mulnavoo Road Derrynoyd Draperstown
<b>Referral Route: Contrary to CTY 1, CTY 2a, CTY 13 &amp; 14 of PPS21</b>	
<b>Recommendation:Refusal</b>	
<b>Applicant Name and Address:</b> Teresa Bradley 81 Moneyneena Road Draperstown BT45 7EP	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toome BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

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

### Summary of Issues

Refusal recommended – contrary to CTY 1, 2a, 13 & 14 of PPS21

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

The proposal site is located within a roadside agricultural field on Mulnavoo Road. The site is bounded on the west, south and north by a post and wire fence while the east is undefined as the proposal site is half of a large agricultural field. The southern boundary also consists of a sparse hedge, grass verge and one mature tree while the northern consists of a mature hedge and vegetation also.

The proposal site is relatively flat. Located west is an access serving dwelling located north of the proposal site, this property was not visible from the public road when carrying out the site visit. Immediately opposite the proposal site are several dwellings with associated outbuildings. Located North east of the proposal site is a line of 3 dwellings however the proposal site and the remaining of the field east provide a very definite and important separation.

### **Description of Proposal**

Outline application for proposed dwelling and garage under CTY 2a.

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 1 - General Principles

Planning Policy Statement 21 - Sustainable Development in the countryside.

Consultees: - Environmental Health were asked to comment and responded on 17.05.2018 with no objections subject to advice.

NI Water were asked to comment and responded on 06.05.2018 with no objections

DfI were asked to comment and responded on 08.06.2018 with no objections subject to conditions.

Neighbours: Owners/Occupiers of Nos. 14, 14a and 14b Cloane Road and No 18, 18a and 19 Mulnavoo Road were notified of this proposal on 04.05.2018, no objections have been received to date.

In line with legislation this proposal was advertised in the local press on 03.05.2018, no representations have been received to date.

According to CTY 2a of PPS21 - New Dwellings in Existing Clusters, planning permission will be granted for a dwelling at an existing cluster of development provided all of the following criteria are met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- the cluster 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 identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;



- 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;
- development would not adversely impact on residential amenity.

This proposal site is located approx. 60m from the crossroads of Cloane Road and Mulnavoo Road and the proposal site is clearly separated from any neighbouring development. The existing development surrounding the site does not appear as a visual entity in the local landscape. The site does not provide a suitable degree of enclosure with poor sporadic vegetation and post and wire fencing only on all boundaries. The proposal site is only bounded by development on one side (No. 16 Mulnavoo Road). Development of the site could not be absorbed through the rounding off and consolidation as it is my opinion that the development of the proposal site would significantly alter the character of the locality and visually intrude into the open countryside. Development of the site would not adversely impact on residential amenity of any existing development in the locality.

According to CTY 13 of PPS21 - Integration and Design of Buildings in the Countryside 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. A new building will be unacceptable where:

- it is a prominent feature in the landscape;
- the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape
- it relies primarily on the use of new landscaping for integration
- ancillary works do not integrate with their surroundings
- the design of the building is inappropriate for the site and its locality
- it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;
- in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm.

The proposal site would not be considered a prominent site however it is my consideration that the proposal site lacks long established natural boundaries and would be unable to provide a suitable degree of enclosure to facilitate the integration of a dwelling. This is an outline application so no design has been proposed at this stage. As such this proposal fails to satisfy the criteria of CTY 13.

Finally the proposal should be considered against the requirements of CTY 14 of PPS21 - Rural Character. According to this policy 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.

A new building will be unacceptable where:

- a) it is unduly prominent in the landscape; or
- b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- c) it does not respect the traditional pattern of settlement exhibited in that area; or
- d) it creates or adds to a ribbon of development; or
- e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

As previously discussed the proposal site is not unduly prominent. However if an approval was granted I do feel a dwelling located on the proposal site would result in a suburban style build-up of development when viewed with the existing development NE and South. As such I feel this proposal fails to meet the requirements of CTY 14 and a recommendation of refusal would be the most appropriate action.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> Refusal recommended – Contrary to CTY 1, CTY 2a, CTY 13 & 14 of PPS21	
<b>Reasons for Refusal:</b>  1. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwelling, the cluster does not appear as a visual entity in the local landscape, the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.  2. 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.  3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to (further erode) the rural character of the countryside.  4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape	
<b>Signature(s)</b>  <b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	16th April 2018
<b>Date First Advertised</b>	3rd May 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14 Cloane Road Draperstown Londonderry The Owner/Occupier, 14a Cloane Road Draperstown The Owner/Occupier, 14b Cloane Road Draperstown The Owner/Occupier, 18 Mulnavoo Road Draperstown Londonderry The Owner/Occupier, 18a Mulnavoo Road Draperstown The Owner/Occupier, 19 Mulnavoo Road Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	4th May 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0522/O Proposal: Proposed Dwelling and Garage under CTY 2a Address: Approx 40m NE of 18 Mulnavoo Road, Derrynoyd, Draperstown, Decision: Decision Date:  Ref ID: H/2004/1208/RM Proposal: Proposed Dwelling Address: Opp 18 Mulnavoo Road, Draperstown Decision: Decision Date: 18.02.2005  Ref ID: H/2003/0013/O Proposal: Site of dwelling and garage. Address: Opposite 18 Mulnavoo Road, Draperstown. Decision:	

<p>Decision Date: 13.08.2003</p> <p>Ref ID: H/2002/0406/O</p> <p>Proposal: Site for Dwelling &amp; Garage.</p> <p>Address: Opposite 18 Mulnavoo Road, Draperstown.</p> <p>Decision:</p> <p>Decision Date: 29.11.2002</p>
<p><b>Summary of Consultee Responses</b></p>
<p><b>Drawing Numbers and Title</b></p>
<p>Drawing No. 01</p> <p>Type: Site Location Plan</p> <p>Status: Submitted</p> <p>Drawing No. 02</p> <p>Type: Site Layout or Block Plan</p> <p>Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0527/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling and garage	<b>Location:</b> Land adjacent to 106 Tirkane Road Maghera
<b>Referral Route:</b> Contrary to CTY 8 & 14 of PPS21	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Paul Convery 106 Tirkane Road Maghera	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

### Representations:

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

### Summary of Issues

Proposal contrary to CTY 8 & 14 of PPS21

### Characteristics of the Site and Area

The proposal site is located within a roadside agricultural field. The site is located immediately north of a detached 2 storey dwelling (No 106 Tirkane Road) which is set back approx. 40metres from the roadside with agricultural land between it and the roadside however being visible from the public road. NW of the proposal site approx. 85metres from the roadside is a further

detached dwelling (No 108 Tirkane Road), there is also an agricultural field between No 108 and the roadside.

The proposal site is bounded on the northern side by mature trees and vegetation, on the southern side by a post and wire fence and small hedge, on the roadside boundary by a post and wire fence and small grass verge and on the rear boundary by mature trees and vegetation. The levels within the site rise up from the roadside levels and the site is flanked by agricultural land.

### **Description of Proposal**

Outline approval for 'proposed infill dwelling and garage'

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable development in the Countryside

Consultees: - Environmental Health were asked to comment and responded on 17.05.2018 with no objections

NI Water were asked to comment and responded on 06.05.2018 with no objections

DfI were asked to comment and responded on 08.06.2018 with no objections subject to conditions.

Neighbours: - Owners/Occupiers of Nos. 106 & 108 Tirkane Road were notified of this proposal on 03.05.2018, no representations have been received to date.

In line with legislation this proposal was advertised in the local press on 03.05.2018, no representation have been received to date.

According to policy 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 max. of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. 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.

The proposal site is located within a piece of land which is roadside, on the south eastern boundary is a detached 2 storey dwelling which is visible from the Tirkane Road when travelling in either direction. To the rear of this dwelling are several detached buildings however these are completely unseen from the public road due to mature vegetation surrounding them. West of the proposal site are several agricultural buildings however due to the topography and mature vegetation these are completely unseen from the roadside, in addition there is a separate agricultural field to the front of these buildings so even if the vegetation was gone the visual linkage would not be achieved.

Due to vegetation and landform and lack of visual linkage no substantial or continuously built up frontage has been achieved and as such this proposal fails to meet this policy.

In addition to assessing the proposal against the policy above it should also be assessed against the requirements of CTY 13 & CTY 14

According to policy 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. A new building will be unacceptable where:

- it is a prominent feature in the landscape; or
- the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
- it relies primarily on the use of new landscaping for integration
- ancillary works do not integrate with their surroundings
- the design of the building is inappropriate for the site and its locality;
- it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;
- in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm.

The proposal site could adhere to the criteria of CTY 13.

Under CTY 14 a dwelling is not acceptable where:

- it is unduly prominent in the landscape; or
- it results in a suburban style build-up of development when viewed with existing and approved buildings;
- it does not respect the traditional pattern of settlement exhibited in that area
- it creates or adds to a ribbon of development
- the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

This proposal if approved would not respect the traditional pattern of development exhibited in the area and would result in the creation of a ribbon of development, thus not being able to adhere to the criteria of CTY 14.

Having taken into consideration all of the above information I consider the proposal as presented fails to adhere to the requirements of CTY 8 & CTY 14 of PPS21 and as such a recommendation of Refusal should be given.

#### Neighbour Notification Checked

**Yes**

#### Summary of Recommendation:

Refusal recommended

#### Reasons for Refusal:

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Tirkane Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to (further erode) the rural character of the countryside.



<b>Signature(s)</b>  <b>Date:</b>

<b>ANNEX</b>	
<b>Date Valid</b>	18th April 2018
<b>Date First Advertised</b>	3rd May 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 106 Tirkane Road Maghera Londonderry The Owner/Occupier, 108 Tirkane Road Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	3rd May 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0527/O Proposal: Proposed infill dwelling and garage Address: Land adjacent to 106 Tirkane Road, Maghera, Decision: Decision Date:  Ref ID: H/2008/0315/F Proposal: Proposed alterations and extension to provide additional living sleeping accommodation Address: 108 Tirkane Road, Maghera Decision: Decision Date: 17.12.2008	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Submitted	

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0723/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of use from communal land to extension of dwelling curtilage.	<b>Location:</b> 30m East of 345 Hillhead Road Knockloughrim Magherafelt BT45 8QT.
<b>Referral Route:</b> Contrary to PPS 8 – Open Space, Sport and Outdoor Recreation	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Aubery Shields 6 Fireside Close Knockloughrim Magherafelt BT45 8SD	<b>Agent Name and Address:</b> Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Proposal contrary to PPS 8 – Open Space, Sport and Outdoor recreation

## Characteristics of the Site and Area

The proposal site is located immediately adjacent to No. 345 Hillhead Road, Knockloughrim, a two storey detached dwelling on the eastern boundary of the proposal site. The proposal site is currently an area of public open space for the small housing development north of the proposal site. A small portion of this open space was agreed to be used for a further dwelling approved under LA09/2016/1388/O however the remainder of the open space was to remain.

## Description of Proposal

Full application for 'proposed change of use from communal land to extension of dwelling curtilage'.

## Planning Assessment of Policy and Other Material Considerations

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 3 - Access, Movement & Parking

Planning Policy Statement 8 - Open space, Sport and Outdoor Recreation

The proposed site for development is located within the settlement development limits of Knockloughrim as per the Magherafelt Area Plan 2015.

Site Visit carried out on 27.06.2018.

Site History - H/2007/0602/F - Proposed New Housing Development consisting of 3 no. Terraced Townhouses, 4 no. Semi-detached Dwellings & Detached garages, 1 no. Detached Dwelling & Detached Garage & conversion of ex public bar/dwelling to 3 no. Town Houses.

LA09/2016/1388/O - approval granted for 2 storey detached town house

08.02.2017

LA09/2017/0408/RM - approval granted for 2 storey detached town house

03.07.2017

LA09/20

Consultees: - NI Water were asked to comment and responded on 20.06.2018 with no objections.

Environmental Health were asked to comment and responded on 03.07.2018 with no issues of concern arising.

DfI Roads were asked to comment and responded on 09.08.2018 stating that as the proposal does not include for access onto the public road network DfI Roads do not offer an objection to the proposal.

Neighbours: - Owners/Occupiers of Nos. 2 \_ Lurganagoose Road, 345 Hillhead Road, 5 & 6 Rock Villas, 6 Fireside Close and Knock House, Lurganagoose Road were notified of the proposal on 18.06.2018, no objections have been received to date.

In line with legislation this proposal was advertised in the local press on 07.06.2018, no objections have been received to date.

Within the original approval H/2007/0602/F when the housing development north of this proposal site was approved this portion of land was included as public open space. This area was retained as an area of open space and was seen as an important village space, providing an important outlook for the occupants and providing an attractive landscaped area to help soften the development. In order to maintain this a condition was imposed on the approval which stated:

'None of the residential units hereby approved shall be occupied until a signed legal agreement is submitted to and approved by the Department to show how the communal space area in the SW part of the site as indicated in green on the stamped approved Drawing No. 02/8 bearing Planning service date stamp received 20th April 2011 shall be managed and maintained in perpetuity by a management company supported by a charitable trust or properly constituted residents association with associated management arrangements, or other such arrangements agreeable to the Planning Service.'

Reason: To ensure successful establishment and maintenance in perpetuity of the open space and amenity areas in the interests of visual and residential amenity.'

In initial discussions for H/2007/0602/F over-development of the site was one of the Departments concerns when this area of land was proposed to be developed. The number of units was reduced in order to maintain the open space and only then found to be acceptable.

Following on from this approval the application LA09/2016/1388/O was approved 08.02.2017. This permission was for a dwelling and garage immediately adjacent to No 345 Hillhead and involved the removal of a small side extension of No 345 Hillhead road and a small portion of the existing open space in order to facilitate this dwelling. As the portion of open space proposed to be used was only very small and the majority of the open space was to remain this situation was considered to be acceptable.

LA09/2018/0501/O - An application for a dwelling and garage to be adjacent to no. 6 Fireside Close. A refusal was issued on 06.09.2018, the refusal reason stated:

'The proposed development is contrary to policy QD1 of PPS7 Quality Residential Environments, & associated guidance in that it would if permitted not respect the surrounding context, result in over development of the site creating undesirable living conditions for prospective residents due to overlooking and insufficient private amenity space. The proposal, if permitted, would also be harmful to the living conditions of existing residents through overlooking, dominance and loss of private amenity space. The proposed development would therefore fail to create a quality residential environment.'

This proposal was immediately adjacent to this proposal site on the NE boundary.

According to Planning Policy Statement 8 - Open Space, Sport and Recreation development will not be permitted that would result in the loss of existing open space or land zoned for the provision of open space. 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 open space. It is my consideration that the loss of this open space would not bring any community benefits and as such fails to meet the criteria for an exception to be granted for this proposal.

The policy also states that 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 either of the following circumstances occur:

1) 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 in terms of size, usefulness, attractiveness, safety and quality - the proposal site is an area of existing open space, no alternative provision for the open space has been supplied.

Having considered all of the site history both on the proposal site and adjacent I feel the existing open space is an important element and focus both for the adjacent resident but also for the village of Knockloughrim as a whole and the loss of it would have a severe negative impact on the surrounding character of the area. Open space is essential in any community for both amenity and recreation purposes and contributes positively to the character, attractiveness and vitality of the village. It provides areas for play - an essential element in the development of all children - and enhances the quality of the residential environment. Ultimately open space and the use of such space contributes to the health and quality of life for all.

In the original application for the housing north of this proposal site this area of open space was insisted upon and without it the development was going to be refused thus I feel this should be recognised and accepted that the same issues are important and relevant, in addition the proposal does not adhere to Planning Policy Statement 8 and as such I recommend a refusal and would suggest the committee agree with this recommendation.

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

Contrary to PPS 8 – Open Space, Sport and Outdoor recreation

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

1.The proposal is contrary to Planning Policy Statement 8 – Open Space, Sport and Outdoor recreation in that the development would, if permitted, adversely affect the environmental quality of the urban area by reason of the loss of recreational open space.

**Signature(s)****Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	24th May 2018
<b>Date First Advertised</b>	7th June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Lurganagoose Road, Knockloughrim The Owner/Occupier, 345 Hillhead Road Knockcloghrim Londonderry The Owner/Occupier, 4 Lurganagoose Road, Knockloughrim The Owner/Occupier, 5 Rock Villas, Knockloughrim The Owner/Occupier, 6 Fireside Close Knockcloghrim Londonderry The Owner/Occupier, 6 Rock Villas, Knockloughrim The Owner/Occupier, Knock House, Lurganagoose Road, Knockloughrim	
<b>Date of Last Neighbour Notification</b>	18th June 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0723/F Proposal: Proposed change of use from communal land to extension of dwelling curtilage. Address: 30m East of 345 Hillhead Road, Knockloughrim, Magherafelt, BT45 8QT., Decision: Decision Date:  Ref ID: LA09/2018/0501/O Proposal: Proposed site for new 2 Storey attached town house. Address: Adjacent to No.6 Fireside Close, Knockloughrim, Magherafelt., Decision: Decision Date:  Ref ID: LA09/2017/0408/RM	

Proposal: Proposed site for new 2 storey detached town house and attached garage  
Address: Adjacent to 345 Hillhead Road, Knockloughrim, Magherafelt,  
Decision: PG  
Decision Date: 03.07.2017

Ref ID: LA09/2016/1388/O  
Proposal: Proposed Site for 2 Storey Detached Town House  
Address: Adjacent to 345 Hillhead Road, Knockloughrim, Magherafelt,  
Decision: PG  
Decision Date: 08.02.2017

Ref ID: H/2007/0602/F  
Proposal: Proposed New Housing Development consisting of 3 no. Terraced Townhouses, 4 no. Semi-detached Dwellings & Detached garages, 1 no. Detached Dwelling & Detached Garage & conversion of ex public bar/dwelling to 3 no. Town Houses.  
Address: Site No's 1,3 & 5 Quarry Road, Knockloughrim, Magherafelt(amended scheme)  
Decision:  
Decision Date: 09.05.2011

Ref ID: H/2003/1007/F  
Proposal: Alterations and additions to nite club area.  
Address: Fireside Inn, Quarry Road, Knockloughrim.  
Decision:  
Decision Date: 05.07.2005

Ref ID: H/1977/0384  
Proposal: BAR EXTENSION AND CONVERSION OF OUTHOUSING  
Address: FIRESIDE INN, KNOCKLOUGHRIM  
Decision:  
Decision Date:

Ref ID: H/1991/0514  
Proposal: CONVERSION OF STORES TO EXTEND LICENSED PREMISES  
Address: 1-3 QUARRY ROAD KNOCKLOUGHRIM  
Decision:  
Decision Date:

Ref ID: H/1988/0622  
Proposal: ALTS AND ADDS TO LICENSED PREMISES  
Address: FIRESIDE INN 3 QUARRY ROAD KNOCKLOUGHRIM  
Decision:  
Decision Date:

Ref ID: H/1996/0628  
Proposal: NEW TOILETS AND PUBLIC BAR  
Address: FIRESIDE INN QUARRY ROAD KNOCKLOUGHRIM  
Decision:  
Decision Date:

Ref ID: H/2003/0263/F  
Proposal: Dwelling and garage.  
Address: 25m West of 2 Termoneany Road, Knockloughrim.  
Decision:  
Decision Date: 25.09.2006

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0783/F	<b>Target Date:</b>
<b>Proposal:</b> Alterations and extension to original nursing home building with front extension to incorporate new build home constructed as per approval LA09/2017/0210/F and rear extension. Proposed retention of existing access to Ballyheifer Road previously approved to be closed off.	<b>Location:</b> Milesian Manor Nursing Home 9 Ballyheifer Road Magherafelt
<b>Referral Route:</b> Objection received	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Macklin Group 26 Wellington Park Belfast	<b>Agent Name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

This application is for the Milesian Nursing Home, 9 Ballyheifer Road, Magherafelt. The site is characterised by a two storey detached red brick building set back approx. 80m from the road. Parking spaces are provided in curtilage. The front boundary of the site is defined by a post and wire rail fence. The southern side boundary is defined by hedging approx. 2m in height however towards the rear of the site the boundary is defined by a post and rail fence only. The rear and NE boundaries are also defined by a post and rail fence. The land to the NE of the site sits at a slightly higher level, a housing development is under construction along the northern boundary of the proposal site. On the Southern boundary a new detached dwelling has been constructed with associated outbuildings for an existing landscaping business. Grange Avenue lies to the west of the site and there is a max separation distance of 45m between the existing building and the residential properties.

### **Description of Proposal**

Full application for 'Alterations and extension to original nursing home building with front extension to incorporate new build home constructed as per approval LA09/2017/0210/F and rear extension. Proposed retention of existing access to Ballyheifer Road previously approved to be closed off.'

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 3 - Access, Movement and Parking

DCAN 9 - Residential and Nursing Homes

Planning Policy Statement 15 - Planning \_ Flood Risk

Consultees: - Environmental Health were asked to comment and responded on 03.07.2018 with no issues of concern arising

DfI were asked to comment and responded on 09.08.2018 with no objections subject to conditions and advice.

NI Water were asked to comment and responded on 27.06.2018 with no objections subject to advice.

Neighbours: Owners/Occupiers of Nos: 1 Limetree Manor, Nos. 8, 8a, 10, 15 Ballyheifer Road, Nos 2, 6, 8, 10, 12, 14, 16, 18 Grange Avenue \_ No. 2 Castle Drive were notified of the proposal on 27.06.2018. One objection has been received.

In line with legislation this proposal was advertised in the local press on 21.06.2018.

Objection: An objection was received from Mr \_ Mrs G Fulton \_ Mr C Brown of No 2 Castle Drive dated 11.07.2018. Within this objection the main points raised are:

- LA09/2018/0783/F may have a negative impact on the objectors current application LA09/2018/0968/F which is for a dwelling and garage sited adjacent to the Milesian Manor, specifically regarding access.

With regards this objection DfI have been asked to comment on the proposal and have responded positively for both applications.

In addition I feel it is important to note that under LA09/2017/0210/F when an approval was granted for a new nursing home very similar to this current proposal all the same neighbours

were notified of the proposal and no objections were placed at that time. This approval is still within date.

Relevant Site History - LA09/2017/0210/F - Erection of nursing home granted 04.04.2017  
 LA09/2016/0959/F - Front and rear extensions and alterations to existing nursing home, provision of additional car parking, new access etc granted approval 04.04.2017.  
 H/2010/0550/F - Approval granted on site for extension to nursing home  
 H/2006/0533/F - Approval granted for proposed alterations and extension to existing nursing home 03.10.2006

A recent approval was granted on site which was 'Phase 1' of the refurbishment and extension to Millesian Nursing Home. This current proposal is 'phase 2' and involves the refurbishment of the rear portion of the building. The existing site curtilage is not proposed to be altered. The site is roadside and located adjacent to existing residential areas. The site is located within the settlement limits of Magherafelt as defined by Magherafelt Area Plan 2015.

As stated previously DfI were asked to comment and responded on 09.08.2018 with no objections subject to conditions and advice. Within this proposal parking has been indicated to the rear and one side of the site with the existing access to remain open and also with the introduction of a new access point on the northern boundary into the newly developed housing developed, this access point was previously approved.

There is a pumping station to the rear of the site and this is shown to be kept clear and accessible. The site is unaffected by flooding and/or natural heritage or archaeological issues. The finished floor level is to match that of the front portion of the nursing home in phase 1. This second phase does involve an increase in floor space however a relatively small amount in comparison to the overall site and the increase is in keeping with the overall development and refurbishment. The proposal would not increase levels of overlooking or overshadowing for any neighbouring properties or land uses. The finishes of the building are to match those of the remaining unit.

Landscaping details have been shown on submitted plans to an acceptable level both retaining and augmenting where required.

The ridge height of the proposed extension is in keeping with that of the front portion of the building.

As such having considered all of the above points I would recommend the Planning Committee grant an approval.

#### Neighbour Notification Checked

**Yes**

#### Summary of Recommendation:

Approval recommended

#### Conditions:

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

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

2. The vehicular access shall be provided in accordance with the approved drawings and the area within the 4.5 x 90metre visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 02 bearing the date stamp 04 June 2018 to provide adequate facilities for parking, servicing and circulation 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.

4. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the 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 the Council gives its written consent to any variation.

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

#### Informatives

1. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfL Roads drainage system.

2. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.

Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp)

All services within the development should be laid underground.



None of the development hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans. None of the developments shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.  
Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th June 2018
<b>Date First Advertised</b>	21st June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Limetree Manor Magherafelt Londonderry The Owner/Occupier, 10 Ballyheifer Road Magherafelt Londonderry The Owner/Occupier, 10 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 12 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 14 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 15 Ballyheifer Road Magherafelt Londonderry The Owner/Occupier, 16 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 18 Grange Avenue Magherafelt Londonderry Dr & Mrs G Fulton 2 Castle Drive, Castledawson, Londonderry, Northern Ireland, BT45 8RS The Owner/Occupier, 2 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 6 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 8 Ballyheifer Road Magherafelt Londonderry The Owner/Occupier, 8 Grange Avenue Magherafelt Londonderry The Owner/Occupier, 8a Ballyheifer Road Magherafelt	
<b>Date of Last Neighbour Notification</b>	27th June 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

## Planning History

Ref ID: LA09/2015/0985/F

Proposal: 1No. dwelling and attached garage including relocation of the existing portal frame shed (for domestic use only) to the rear of the proposed dwelling.

Address: Lands opposite 8 Ballyheifer Road, Magherafelt, BT45 5EQ,

Decision: PG

Decision Date: 08.03.2016

Ref ID: LA09/2018/0783/F

Proposal: Alterations and extension to original nursing home building with front extension to incorporate new build home constructed as per approval LA09/2017/0210/F and rear extension. Proposed retention of existing access to Ballyheifer Road previously approved to be closed off.

Address: Milesian Manor Nursing Home, 9 Ballyheifer Road, Magherafelt,

Decision:

Decision Date:

Ref ID: LA09/2016/1040/F

Proposal: Retrospective application for the retention of the single storey portal frame shed (for storage/distribution in association with a landscaping business) and associated site works.

Address: Lands opposite 8 Ballyheifer Road, Magherafelt,

Decision:

Decision Date:

Ref ID: LA09/2016/0959/F

Proposal: Front and rear extensions and alterations to existing nursing home, provision of additional car parking, new access (approved under H/2010/0177/F), landscaping and associated site works

Address: Milesian Manor Nursing Home 9 Ballyheifer Road Magherafelt,

Decision: PG

Decision Date: 19.12.2016

Ref ID: LA09/2017/0210/F

Proposal: Erection of nursing home, provision of additional car parking, new access ,landscaping and associated site works

Address: Milesian Manor Nursing Home, 9 Ballyheifer Road, Magherafelt,

Decision: PG

Decision Date: 05.04.2017

Ref ID: H/2003/0853/F

Proposal: Housing development - 35 no. units, detached, semi-detached and terraced.

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt.

Decision:

Decision Date: 15.04.2005

Ref ID: H/2005/0446/F

Proposal: Erection of Housing Development

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt

Decision:

Decision Date:

Ref ID: H/2012/0006/F

Proposal: Housing development to include 32 units

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt,

Decision: PR

Decision Date: 19.11.2012

Ref ID: H/1974/0099

Proposal: 11KV O/H LINE (C.2922)

Address: BALLYHEIFER, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1987/0527

Proposal: NURSING HOME

Address: BALLYHEIFER ROAD TOWNS PARK WEST MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1996/0701

Proposal: FRONT PORCH/SITTING AREA TO NURSING HOME

Address: MALESIAN NURSING HOME BALLYHEIFER ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2010/0177/F

Proposal: Construction of new housing development consisting of 38 No. dwellings and alteration to access of milesian manor nursing home

Address: Lands Adjacent to 9 Ballyheifer Road, Magherafelt

Decision: PG

Decision Date: 24.01.2014

Ref ID: H/2010/0550/F

Proposal: Extension to the front and rear with internal alterations to existing nursing home.

Address: Milesian Manor Nursing Home, 9 Ballyheifer Road, Magherafelt, BT45 4DX,  
Decision:  
Decision Date: 18.01.2011

Ref ID: H/2006/0533/F

Proposal: Proposed alterations and extension to existing nursing home. Extending to the front with single storey E.M.I unit and to the rear with 2 storey additional accomodation to Nursing Home.

Address: Milesian Manor, 9 Ballyheifer Road, Magherafelt, BT45 5D

Decision:

Decision Date: 10.10.2006

Ref ID: H/2010/0171/Q

Proposal: Proposed Residential Development

Address: Ballyheifer Road, Magherafelt

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

Drawing No. 03  
Type: Proposed Plans  
Status: Approved

Drawing No. 04  
Type: Proposed Plans  
Status: Approved

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

Drawing No. 06  
Type: Existing Plans  
Status: Approved

Drawing No. 07  
Type: Existing Plans  
Status: Approved

Drawing No. 08  
Type: Existing Plans  
Status: Approved

Drawing No. 05  
Type: Proposed Plans  
Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> Nov 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0805/F	<b>Target Date:</b> 24/9/18
<b>Proposal:</b> Proposed dwelling with attic accommodation and integrated garage with loft	<b>Location:</b> 1.2Km S.W. of 64 Alderwood Road Crockacleaven Fivemiletown
<b>Referral Route:</b> Refusal – contrary to Policy CTY 3.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Markus Fuchsenthaler Im Winkel A1 Dietmannsried Germany	<b>Agent Name and Address:</b> Neil Irvine Design Limited Unit 5 The Buttermarket 132 Main Street Fivemiletown
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Standing Advice

### Representations:

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

### Summary of Issues

Exception to Policy CTY 3 of PPS 21 - all four walls are not substantially intact. No representations received.

### Characteristics of the Site and Area

The site is located approx. 1.2km South West of 64 Alderwood Road, Fivemiletown in the rural countryside as defined by the Dungannon and South Tyrone Area Plan 2010. Within the red line is the existing access arrangements and the existing structure which is proposed for replacement. The surrounding area is defined by agricultural land uses predominantly, Crockacleaven Lough is located to the East of the site.

### Description of Proposal

Full planning permission is sought for a proposed replacement dwelling with attic accommodation and integrated garage with loft.

### Planning Assessment of Policy and Other Material Considerations

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours notified under this specific application. At the time of writing, no third party representations have been received.

#### Planning History

It is not considered there is any relevant planning history associated with this site.



Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside

Dungannon and South Tyrone Area Plan 2010

The site is located outside any defined Settlement Limit, situated south east of Fivemiletown Settlement Limit. It has no other zonings or designations within the Plan.

Strategic Planning Policy Statement (SPPS)

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. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping. It doesn't offer any change in policy direction with regards to replacement dwellings.

Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY 1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside, one of these being a replacement dwelling in accordance with Policy CTY 3. Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. The structure in question does not have all walls intact and it is clear it has been derelict for a considerable length of time, however there is some evidence to suggest it was a dwelling at a time. The existing structure includes some walls, including window detailing associated with a dwelling. There is also evidence of chimney features. The applicant/agent provided a copy of legal evidence documenting a dwelling house. However, the proposal fails to comply with policy CTY 3 in that all four walls are not substantially intact and therefore refusal is recommended.

CTY 3 also states that in addition to the above, proposals for a replacement dwelling will only be permitted where all the following criteria are met:

- the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;
- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building;
- the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;
- all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and
- Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

The proposed dwelling is sited approx. 20m West outside of the established curtilage of the existing structure. It is considered that the proposed dwelling would not have a visual impact significantly greater than the existing structure, given it is set back a considerable distance from the roadside. Views of the site from any public viewpoints would be virtually non-existent. The design of the proposal presents a modern interpretation of a traditional dwelling accepted in the countryside. The materials proposed include a render and natural stonework finish with black natural slate tiles on the roof, all of which are considered acceptable materials in this locality. There are no concerns with relation to the necessary services which would be needed for the proposal. The proposal intends to utilise an existing access provision to the public road. Dfl

Roads were not consulted on this application due to the fact there is no demonstrable increase of intensification of the existing use. The proposal is for a replacement dwelling and the applicant has highlighted that the existing access is not to be altered.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. 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. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Due to the size and scale of the proposal and given its set back location it is not considered a dwelling would appear prominent in this location. There is sufficient vegetation in place to screen the site from any public viewpoints. I have no concerns in relation to the proposed dwelling.

The existing trees and hedges are to be permanently retained along the site boundaries, therefore the proposal will not be relying primarily on new landscaping to integrate successfully into the area. In this locality, there is a mixture of bungalows and two storey dwellings and therefore it is not considered that this proposal would appear prominent or out of keeping with the surrounding area. The proposal has a ridge height of approx. 8m and a frontage of approx. 14m and an overall footprint which isn't much greater than the current structures on site at present.

The site boundary is within 10m of a waterway or 50m of a spring or borehole and as such NIEA were consulted. The Drinking Water Inspectorate (DWI) and Water Management Unit has no specific comment on this proposal.

**Neighbour Notification Checked:** Yes

**Summary of Recommendation:**

It is considered that the proposal is contrary to policy CTY 3 in that all four walls are not substantially intact and therefore refusal is recommended.

**Conditions/Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	8th June 2018
<b>Date First Advertised</b>	28th June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) N/A	
<b>Date of Last Neighbour Notification</b>	N/A
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2016/0793/PAD Proposal: Shooting Centre, comprising of a 300m Rifle Range, a 100m Rifle Range, a Compak Sporting Clay Pigeon Range, a Carpark and Clubhouse and associated ground works Address: Crockacleaven, Alderwood Road, Fivemiletown, Decision: Decision Date:  Ref ID: M/2012/0415/F Proposal: Improvements to include installation of gates, way markers signage and information panels, vegetation management and resurfacing to parts of the existing path. Address: Crocknagrally Forest, Cooneen, Fivemiletown, Co Fermanagh, Decision: PG Decision Date: 30.10.2012  Ref ID: LA09/2018/0805/F Proposal: Proposed dwelling with attic accommodation and integrated garage with loft Address: 1.2Km S.W. of 64 Alderwood Road, Crockacleaven, Fivemiletown, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  No issues. Informatives provided.	
<b>Drawing Numbers and Title</b>	

Drawing No. 06 Rev A  
Type: Proposed Plans  
Status: Submitted

Drawing No. 05 Rev A  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04 Rev A  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03 Rev A  
Type: Roads Details  
Status: Submitted

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0862/RM	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage/store	<b>Location:</b> 40m South of 82 Sherrigrim Road Stewartstown
<b>Referral Route:</b> Recommendation to Approve	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mrs Alison Rea 20 Stiloga Road Dungannon	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

There does not appear to be any significant changes on site or in the immediate vicinity from the outline application on site with the exception that the foundations of the proposed dwelling and garage have been dug. As such the characteristics of the original site and area remain as per LA09/2017/1430/O.

### Description of Proposal

This is a reserved matters application for a dwelling and domestic garage/store to be located on a site 40m South of 82 Sherrigrim Road Stewartstown. This proposal gained outline approval under outline application LA09/2017/1430/O on the 14th March 2018.

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

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

Regional Development Strategy 2030 (RDS)

Cookstown Area Plan 2010 (CAP)

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 3 (PPS3) - Access, Movement and Parking

Planning Policy Statement 21 (PPS21) - Sustainable Development in the Countryside with particular reference to -

Policy CTY 1 - Development in the Countryside

Policy CTY 2A - New Dwellings in Existing Clusters

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

Policy CTY 14 - Rural Character

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

### Relevant Planning History on Site

LA09/2017/1430/O – outline permission for a dwelling - granted 14th March 2018.

Consideration

### Key Consideration

The site is located in the rural countryside outside any settlement defined in the Cookstown Area Plan. The SPPS and PPS 21 therefore apply.

The principle of development has already been established on this site under outline planning application LA09/2017/1430/O. This approval was granted under the provisions of CTY 2A of PPS 21 - a New Dwellings in Existing Clusters.

This Reserved Matters proposal complies with the planning conditions set at outline stage under LA09/2017/1430/O.

The size, scale and siting of the dwelling and ancillary domestic garage is considered acceptable for the site and locality in that they should integrate onto this site and into the landscape, respecting the existing development pattern.

The design of the dwelling and garage is relatively simplistic and reflective of traditional rural design. The proposal does not offend policy CTY 14 or CTY13 of Planning Policy Statement 21, and the design is generally in keeping with the rural design principles set out in 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The dwelling which fronts unto the adjacent Newmills Rd is single storey with a 6m ridge height. It has a simple rectangular floor plan and pitched roof construction, extended only by small pitched roof front porch. The garage (approx. 5.8m ridge height) which is to be located to the rear of the dwelling in the north eastern corner of the site, adjacent the party boundary with no. 82 Sherrygrim Rd also has a rectangular shaped floor plan and pitched roof construction. Finishes to the dwelling and garage are as follows:

Walls: k rend finish (light grey/cream) with natural black (locally sourced) stone to front porch

Roof: black flat concrete tiles

Windows: upvc doubl glazed black

Rainwater goods: black half round seamless gutters and black uPVC downpipes

Fascia and Barges: black uPVC

There are no issues regarding this proposal impacting the residential amenity of any neighbouring properties in terms of overlooking or overshadowing. The closet neighbour is no. 82 Sherrygrim Rd and although the proposed dwelling has an upper floor / attic window in its northern gable facing no. 82 there should be no significant issues given the separation distance between the existing and proposed property. Additionally the design of no. 82 and the position of the proposed dwellings garage will protect the private amenity space to the rear of no. 82.

Transport NI were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives.

#### Other material considerations

An objection letter was received in relation to this application on the 17th July 2018 from Simmons Meglaughlin & Orr Solicitors on behalf of their client Mr Colin Stewart of 82 Sherrygrim Road, Newmills, owner / occupier of the property immediately adjacent and north of the current site. They highlighted, their client failed to be 'neighbour notified' by the Planning Office on the previous outline application on site. That they understood Planning are aware of this and acknowledged it was an error on their part. They stated their client was disappointed he did not have the opportunity to object to the planning application from the outset and raised his concern that the buildings (dwelling & garage) granted under the outline application (now the subject of this application) may encroach on his Soakaway Easement. They enclosed a land registry map showing Mr Stewarts Soakaway Easement together with a copy Transfer Deed which created this easement showing same.

Whilst Planning acknowledges Mr Stewart did not get the chance to comment on the initial outline application on site the concern he has now raised relates to a soakaway. We have tried to the best of our ability to ascertain the location of this soakaway, to which he has legal easement, even offering all parties the opportunity to meet on site to establish its location and / or impact on the soakaway, but to no avail. The drawings we have, to the best of our knowledge appear to show the development will not impact on the Soakaway Easement as detailed and identified in the legal documents submitted by Mr Stewarts solicitor. The foundations of the proposed dwelling and garage are dug and have been inspected on site by Planning and it doesn't appear the development will be near the soakaway. It is also noted the ground under the soakaway is sand soil which would allow a very good soakaway from the site. Therefore as no other concerns/issues have been raised it is recommended this reserved matters application be approved as it meets with the conditions of the outline approval, other relevant policies and considerations as detailed above.

Recommend: Approve

**Neighbour Notification Checked**

**Yes**

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

#### Conditions

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.

2. All proposed landscaping as detailed on drawing number Drawing No 02 (Rev.01) bearing the date stamp received 31<sup>st</sup> August 2018, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

3. The vehicular access, including visibility splays of 2.4 x 90m in both directions, shall be provided in accordance with Drawing No 02 (Rev.01) bearing the date stamp received 31<sup>st</sup> August 2018, prior to the commencement of any other works or other development hereby permitted.

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

4. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

5. The access gradient(s) shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

#### Informatives

- 1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
- 2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
- 3. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.
- 4. Transport NI comments:

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land

owned or managed by the Department of Infrastructure for which separate permissions and arrangements are required.

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- The developer should note that this planning approval does not give consent to discharge water into a DfI Transport NI drainage system.

Notwithstanding the terms and conditions of the Mid-Ulster Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughry Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.

**Signature(s)**

**Date:**



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1059/RM	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and domestic garage/store based on Policy CTY 10 - Dwelling on a farm	<b>Location:</b> Approx 30m East/NE of No 52 Five Mile Straight Draperstown
<b>Referral Route:</b> The applicant's father is Councillor McGuigan.	
<b>Recommendation:</b>	APPROVAL
<b>Applicant Name and Address:</b> Mr Aidan McGuigan 52 Five Mile Straight Draperstown BT45 7HS	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues – No Issues

### Characteristics of the Site and Area

The site is located within a roadside field and set to the east of an existing single storey dwelling which is the applicant's father's home. The site is a road frontage field which falls gently towards the eastern boundary. The field to the rear rises up gently towards the west and a mature thorn hedge. The topography of the general area rises steeply towards a mountain ridgeline to the north. The road frontage is defined by a 1.5m high thorn hedge with a 0.3m wide grass verge. There is a small garage to the rear of and associated with no.52 which is identified as a building on the farm along with the existing dwelling. The front, road frontage boundary to no.52 is defined by a post and rail fence. No.48 is a large two storey dwelling which also occupies a road frontage site. The access point to the site is located close to a crest of a hill with the road falling to the east and west.

The entire eastern boundary of the blue lands as identified on the site location map is defined by mature trees, with a low thorn hedge along the rear, northern boundary of the site, which falls

gently towards the eastern side of the field. The site sits approximately 1m below the ground level of no.52. There will be critical views of the site on approach from the east from a point in front of the access laneway to no.53. Due to the mature headline along the western boundary of the associated farm lands, which runs between no's 48 and 52, there will be no views of the site on approach from the west, until reaching the front of no.52.

### **Description of Proposal**

The proposal is a reserved matters application for a single storey dwelling with loft conversion and detached garage.

The proposed dwelling has a 13m frontage with a gable depth of 8.8m and has a ridge height of 6.5m above finished floor level. Two side projections, a rear return and a small porch are also proposed. The chimneys are expressed on the ridge, the wall finishes are grey stone chip dash and locally sourced basalt stone to porch and the roof finish is either flat non - profile tiles or slates - colour blue/black or dark grey.

The detached garage measures 9m x 6.6m and has a ridge height of 5.8m above ground level and the finishes will be as above.

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

#### **Relevant Site History:**

LA09/2017/0625/O - Proposed dwelling and domestic garage/store based on policy CTY 10 - dwelling on a farm. Approved 7th March 2018.

#### **Representations:**

4 neighbour's notification letters were sent to the occupiers of Nos 47a, 48, 49 & 51 Five Mile Straight, Draperstown

No letter of representation have been received.

#### **Development Plan and Key Policy Consideration:**

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

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

The principle of development has been established on the proposal site. The site was initially approved under CTY 10 – A Dwelling on the Farm. The main considerations in the processing of this application are adhering to the outline conditions, siting, design, finishes and sewage disposal.

Under CTY13 a new building will be unacceptable where the design of the building is inappropriate for the site and its locality. In terms of design the proposed dwelling has become fairly standardised in rural areas and does consist of elements which are considered traditional (i.e. vertically emphasised windows, good ratio solid to void, linear form). The finishes include blue/black or dark grey tiles/slates and grey stone chip dash and natural stone walls are generally acceptable and will not appear incongruous in the location. The orientation of the proposed dwelling fronts onto the public road which is in keeping with the existing character of the area.

#### **Other Policy and Material Considerations**

I am satisfied that the proposal is adequately sited and designed to avoid a significant adverse impact on third party neighbour amenity and that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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#### **Summary of Recommendation: That planning permission be approved subject to the following conditions.**

##### Conditions

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.

2. The vehicular access, including visibility splays of 2.4m x 120m in both directions, shall be in place, in accordance with drawing No. 02 which was received on 2nd August 2018, prior to the commencement of any other works or other development hereby permitted.

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

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

4. The existing natural screening along the northern boundary of the site shall be permanently retained at not less than 2 metres and trees allowed to grow on except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to the commencement of any works

Reason: In the interests of visual amenity.

5. All planting comprised in the approved details of drawing No 02 which was received on 22nd August 2018 shall be carried out during the first planting season following the commencement of

the development and any tree, shrub or hedge, which, within a period of five years from the date of planting, dies, is removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species.

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

6. During the first available planting season after the occupation of the dwelling a hawthorn or native species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the amenity afforded by existing hedges is maintained.

7. The proposed stone work shall be locally quarried natural basalt stone only.

Reason: In the interest of visual amenity and to maintain the rural character of the area.

8. Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no walls, gate pillars, fences or other structures, other than the development permitted shall be erected along the front boundary of the site without the written consent of the Council.

Reason: To preserve the amenity of the countryside.

#### Informatives

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4. The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

5. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

6. All construction plant and materials shall be stored within the curtilage of the site.

7. Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Transport NI Section Engineer whose address is DfI Roads & Rivers, 49 Tullywiggan Road, Cookstown, Co. Tyrone, BT80 8SG. A monetary deposit will be required to cover works on the public road.

8. It is the responsibility of the developer to ensure that:

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
- The developer should note that this planning approval does not give consent to discharge water into a DRD Roads Service drainage system.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	2nd August 2018
<b>Date First Advertised</b>	16th August 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 45 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 47a Five Mile Straight Draperstown The Owner/Occupier, 48 Five Mile Straight, Draperstown, Londonderry, BT45 7HS The Owner/Occupier, 49 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 51 Five Mile Straight Draperstown Londonderry The Owner/Occupier, 53 Five Mile Straight Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1059/RM Proposal: Dwelling and domestic garage/store based on Policy CTY 10 - Dwelling on a farm Address: Approx 30m ENE of No 52 Five Mile Straight, Draperstown, Decision: Decision Date:  Ref ID: LA09/2017/0625/O Proposal: Proposed dwelling and domestic garage / store based on policy CTY 10 - dwelling on a farm Address: Approx 30mts East/N.E of no 52 Five Mile Straight, Draperstown, Decision: PG Decision Date: 09.03.2018  Ref ID: H/1992/0106 Proposal: NEW ENTRANCE POSITION Address: ADJ TO 48 FIVE MILE STRAIGHT DRAPERSTOWN Decision: Decision Date:  Ref ID: H/1990/0186 Proposal: SITE OF BUNGALOW AND GARAGE	

Address: ADJ TO 48 FIVE MILE STRAIGHT CARNAMONEY DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1990/0494  
Proposal: BUNGALOW AND GARAGE  
Address: FIVE MILE STRAIGHT DRAPERSTOWN  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Drawing No. 03  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 04  
Type: Garage Plans  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> Nov 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1124/O	<b>Target Date:</b> 5 <sup>th</sup> Dec 2018
<b>Proposal:</b> Proposed dwelling and domestic garage/store based on policy CTY 8 (infill/gap site).	<b>Location:</b> 20m East N/East of No.22 Strawmore Road Straw, Draperstown BT45 7JE.
<b>Referral Route:</b> Approval is recommended however the proposal is considered an exception to policy so must be presented to Planning Committee for their agreement.	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Mr Steven McGlade 22 Strawmore Road Straw, Draperstown, BT45 7JE	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road, The Creagh Toomebridge, BT41 3SQ
<b>Executive Summary:</b> This application fails to comply with policy CTY 8 of PPS 21 in that the site is not located within a substantial and built up road frontage as is explicitly defined in the policy, however it is located on a site that cannot be critically viewed from the public road due to the presence of adjacent buildings and vegetation. A dwelling on this site therefore will not negatively impact on the rural character of this particular area and approval is recommended in this instance.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert for this proposal was placed in local newspapers and adjoining landowners were consulted by letter. To date, no objections have been received.

There have been no objections to this proposal from any consultee.

### Characteristics of the Site and Area

The application site is a 0.4 hectare parcel of un-zoned land located approx. 40m NE of 22a Strawmore Road, Draperstown. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site is set back from the public road and is accessed via an existing laneway which is also used to access a dwelling at number 20 Strawmore Road. The site is flat and its current use is agricultural. There are 4 detached dwellings and several outbuildings located to the West/South West of the site and 2 detached dwellings to the East of the site. The laneway into the site is vegetated along its Northern side.

This area is rural in character with a relatively flat topography. It has a low and dispersed settlement pattern with the predominant form of development being detached dwellings and agricultural buildings.

### **Description of Proposal**

This is an outline application for a dwelling and domestic garage/store to be considered as an infill dwelling. There are no planning histories on or adjacent to the site to be considered in this assessment.

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

The following policies will be considered in this assessment:

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS 21 – Sustainable Development in the Countryside

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

This site is outside any settlement defined in the Magherafelt Area Plan 2015 and is not subject to any area plan designations, therefore existing planning policy must be adhered to (ie) PPS 21

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

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. This proposal for a single dwelling is located where there are no known interests of acknowledged importance. It is not adjacent to any Listed Buildings nor is it in an area of archaeological potential.

The SPPS gives specific provision for development in the countryside subject to a number policy provisions. This includes infill development. There has been no change in policy direction in the SPPS in respect of infill development, therefore policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal will involve the use of an existing laneway onto the Strawmore Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 50m splays in both directions and a 50m forward sight distance. This can be dealt with by condition.

## **PPS21 – Sustainable Development in the Countryside**

### **Policy CTY 8 – Ribbon Development**

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. *A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.*

This site is located down an existing laneway and is nestled to the rear of 2 detached dwellings at 22 and 22a Strawmore Road. Another dwelling and domestic garage, number 20, is located at the end of the laneway. There are no dwellings or buildings to the North of the site. Numbers 22, 22a, along with 24 and 26 Strawmore Road, all front onto and have individual accesses coming off the public road. It would appear that the applicant is considering the dwelling at number 20 as being part of this built up road frontage. Whilst the policy does acknowledge that a road frontage can include a laneway and that buildings sited back can still be considered as part of the ribbon it does states that they should have a common frontage or be visually linked. In this particular situation I would be of the view that number 20 actually fronts onto the lane and has limited visual linkage with the other adjacent dwellings due to its set back position along with the presence of mature vegetation along the laneway. On this basis I do not believe that this site constitutes a gap within this particular frontage.

Despite not meeting the policy test contained within CTY 8, I am however convinced that a dwelling on this site will cluster with existing dwellings and will not be subject to any critical views when travelling either direction along the Strawmore Road. As such, it would not harm the rural character of this area, which is already built up with dwellings and outbuildings. Members are therefore advised that in this instance an exception to policy should be accepted.



### **Policy CTY 13 – Design and Integration**

The proposed site sits at a similar level to the public road as well as being set back. As such, a single storey dwelling on this site would not appear overly prominent in the local landscape. The site also benefits from a vegetated laneway and it is somewhat enclosed by buildings to the West and South West. This would also aid the integration of a dwelling at this location. Design and ancillary works are matters reserved.

**Policy CTY 14 – Rural Character**

For the reasons stated above I am content that an appropriately scaled dwelling would not appear overly prominent at this location. In this particular area there is already a degree of build-up. An additional dwelling would therefore not result in the creation of a suburban style build-up of development. Given the amount of adjacent development it is my opinion that another dwelling would not erode the rural character of this rural area. It could be argued that the rural character is already eroded due to a build-up of dwellings and outbuildings.

**Neighbour Notification Checked****Yes**

24 C added following my site inspection.

**Summary of Recommendation:**

Although the site cannot be fully considered as being located within a substantial and built up frontage as defined in policy, a dwelling on this site will do no harm to the rural character of this area and approval is recommended subject to members agreeing an exception to policy.

**Conditions:**

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is 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: Time Limit

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

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

3. The proposed dwelling shall exhibit the traditional elements of rural design, particularly in form, proportion and finishes, as set out in the Department of Environment's Sustainable design guide for the Northern Ireland countryside, 'Building on Tradition'.

Reason: To ensure the dwelling is in keeping with the character of the rural area.

4. The proposed dwelling shall have a ridge height of 5.5 metres or less above finished floor level.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21 - Sustainable Development in the Countryside.

5. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those 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 and along all new boundaries of the site. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

6. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 50m and a 50m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. 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)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	24th August 2018
<b>Date First Advertised</b>	6th September 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 20 Strawmore Road Draperstown Londonderry The Owner/Occupier, 22 Strawmore Road Draperstown Londonderry The Owner/Occupier, 22a Strawmore Road Draperstown The Owner/Occupier, 24 Strawmore Road Draperstown Londonderry The Owner/Occupier, 24C ,Strawmore Road,Draperstown,Londonderry,BT45 7JE, The Owner/Occupier, 26 Strawmore Road Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	12th September 2018
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	N/A
<b>Planning History</b>  Ref ID: LA09/2018/1124/O Proposal: Proposed dwelling and domestic garage/store based on policy CTY 8 (infill/gap site). Address: 20m East N/East of No.22 Strawmore Road, Straw, Draperstown, BT45 7JE., Decision: Decision Date:  Ref ID: H/2014/0268/F Proposal: Proposed stables and storage building - domestic use. Address: 22A Strawmore Road, Draperstown., Decision: PG Decision Date: 23.09.2014  Ref ID: H/2006/0254/RM Proposal: Dwelling & Garage Address: 100m East of 22 Strawmore Road, Draperstown	

Decision:  
Decision Date: 19.09.2006

Ref ID: H/2004/0251/F  
Proposal: Dwelling and garage.  
Address: Rear of 22 Strawmore Road, Draperstown.  
Decision:  
Decision Date: 21.04.2005

Ref ID: H/2004/0941/O  
Proposal: Site of Dwelling and Garage.  
Address: 100 metres East of 22 Strawmore Road, Draperstown  
Decision:  
Decision Date: 19.08.2005

Ref ID: H/2006/0204/O  
Proposal: Site of Dwelling and Garage  
Address: 220m North East of 26 Strawmore Road, Draperstown  
Decision:  
Decision Date:

Ref ID: H/1998/6034  
Proposal: SITE OF BUNGALOW BEHIND 22 STRAWMORE ROAD DRAPERSTOWN  
Address: BEHIND 22 STRAWMORE ROAD  
Decision:  
Decision Date:

Ref ID: H/1995/0091  
Proposal: ALTS AND ADDS TO DWELLING  
Address: 24 STRAWMORE ROAD DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1977/0362  
Proposal: SUBSIDY BUNGALOW  
Address: STRAW, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/2012/0296/F  
Proposal: Grant aided works to dwelling including ground floor bedroom and ensuite bathroom.  
Address: 22a Strawmore Road, Draperstown,  
Decision: PG

<p>Decision Date: 28.12.2012</p> <p>Ref ID: H/2013/0254/F</p> <p>Proposal: NIHE disabled facilities (internal alterations and ramped access)</p> <p>Address: 22a Strawmore Road, Draperstown,</p> <p>Decision: PG</p> <p>Decision Date: 27.08.2013</p>
<p><b>Summary of Consultee Responses</b></p> <p>DFI Roads – No objections subject to standard conditions</p>
<p><b>Drawing Numbers and Title</b></p>
<p>Drawing No. 01</p> <p>Type: Site Location Plan</p> <p>Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> November 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1128/O	<b>Target Date:</b> 7 <sup>th</sup> December 2018
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 40m West of 55 Annaghmore Road, Castledawson, Magherafelt
<b>Referral Route:</b> Refusal is recommended	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr A McMullan 55 Annaghmore Road Castledawson BT45 8DU	<b>Agent Name and Address:</b> Russell Finlay 350 Hillhead Road Knockcloghrim Magherafelt, BT45 8QT
<b>Executive Summary:</b> This proposal fails to comply with CTY 1, CTY 2a, CTY 8 and CTY 14 of PPS 21. It is not located within an existing cluster of development. It does however represent undesirable backland development along a ribbon of development. It is not associated with a focal point and is not located at a cross roads. It is not bounded on at least 2 sides by other development. It does not represent a gap site within a substantial and built up road frontage and it will negatively impact on rural character as it will contribute to build-up and fails to respect the traditional settlement pattern in the area.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error

### Representations:

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

### Summary of Issues

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert for this proposal was placed in local newspapers and adjoining landowners were consulted by letter. To date, no objections have been received.

## Characteristics of the Site and Area

The application site is a 0.18 hectare parcel of agricultural land located to the immediate rear of number 55 Annaghmore Road, Castledawson. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site is accessed via a short and informal laneway that cuts between number 55 and a new dwelling under construction to the immediate North of number 55. There are 2 detached dwellings to the South of number 55, both of which front onto the Annaghmore Road. To the North of the dwelling under construction is a second dwelling under construction, another existing dwelling and a small community hall, all are fronting onto the Annaghmore Road. The application site sits at a slightly higher level than the public road. It is bounded along its Southern boundary by a high leylandii hedgerow. Its SW boundary is defined by a low level thick gorse hedgerow. Its Northern boundary is undefined on the ground. The boundary with number 55 is defined by a wire and post fence and domestic hedgerow.

This area is generally rural in character with a gently undulating topography. It has a fairly low development pressure with the predominant form of development being detached dwellings fronting onto the public road. The new/realigned A6 is located just to the North of the site.

## Description of Proposal

This is an outline application for a dwelling.

## Planning Assessment of Policy and Other Material Considerations

### Planning History

There are no planning histories on the application site.

Approval was granted for 2 infill dwellings to the North of the site on the 22.9.14 under H/2014/0091/F. These 2 dwelling were then subject to a change of house type application, LA09/2017/1517/F, which was approved on the 6.2.18.

An application for a dwelling in a cluster to the North of the site, H/2014/0406/F, was refused on the 24.04.14

The following policies will be considered in this assessment:

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS 21 – Sustainable Development in the Countryside

### Magherafelt Area Plan 2015

This site is outside any settlement defined in the Magherafelt Area Plan 2015 and is not subject to any area plan designations, therefore existing planning policy must be adhered to (ie) PPS 21

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

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development

plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. This proposal for a single dwelling is located where there are no known interests of acknowledged importance. It is not adjacent to any Listed Buildings nor is in an area of archaeological potential.

The SPPS gives specific provision for development in the countryside subject to a number policy provisions. This includes infill development. There has been no change in policy direction in the SPPS in respect of infill development, therefore policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal will involve the use of an existing laneway that directly accesses onto the Annaghmore Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 90m splays in both directions and a 90m forward sight distance. This can be dealt with by planning condition.

### **PPS21 – Sustainable Development in the Countryside**

No supporting statement has been provided with this application to put forward a farming, business or personal circumstance case. Based on the site location, the proposal will be assessed under policies CTY 2a (Dwelling in a Cluster) and CTY 8 (Ribbon Development)

#### **Policy CTY 2a – New Dwellings in Existing Clusters**

Policy CTY 2a of PPS 21 grants planning permission for a dwelling at an existing cluster of development subject to 6 criteria:

*The cluster lies outside of a farm and consists of 4 or more buildings (excluding ancillary buildings such as garages and outbuildings and open sided structures) of which at least 3 are dwellings.*

The site lies outside of a farm, as is evident from the absence of farm buildings and the absence of any farm details provided with the application. There are more than 4 buildings in the immediate locality.

*The cluster appears as a visual entity in the local landscape.*

Along this section of the Annaghmore Road are 4 detached dwellings and an additional 2 under construction. All front onto the public road. To the immediate East of the site, at the opposite side of the Annaghmore Road are another 2 dwellings. It could be argued, given the number of dwellings concentrated in this particular area, that this grouping has a visual entity in the local landscape. It does however appear more like a ribbon rather than a cluster.

*The cluster is associated with a focal point or is located at a crossroads.*

Approx. 160m NNE of the site is a small community hall. Whilst a community hall can be considered a focal point in its own right, it is my opinion that the settlement pattern here is that of a ribbon emanating away from the community hall rather than a cluster associated with and surrounding the community hall. Any visual linkage with the community hall is limited.

*The site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The site is located to the rear of number 55 Annaghmore Road on what can be described as backland. It is only bounded on one side by development.

*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.*

As I do not agree that the existing development constitutes a cluster, then rounding off or consolidation cannot be considered. Any development of this site will be at odds with the existing settlement pattern in this area and will alter the character of this rural area.

*Development would not adversely impact on residential amenity*

The site does sit at a higher level than number 55 Annaghmore Road and a dwelling in this location may have the potential to impact negatively on the privacy and amenity of that dwelling. However, it is noted that this is an outline application whereby no detail house plans have been submitted so it is difficult to say for sure what level this impact will be. It is acknowledged that the applicant's father lives in number 55 Annaghmore. This information was relayed to me on the day of my site inspection.

#### Policy CTY 8 – Ribbon Development

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is very evident that a dwelling on this site does not respect the existing development pattern along this section of the Annaghmore Road. All dwellings along this stretch of road front directly onto the road and have a similar building line. The proposed site sits to the rear of the building line and for this reason cannot be considered as an infill/gap dwelling along a built up road frontage. Approval of a dwelling in this location will detract from the existing traditional settlement pattern in the immediate area.

#### Policy CTY 13 – Design and Integration

The site sits back from the public road, to the rear of existing development and on ground that is at a higher level than the public road. There is potential that a dwelling on this site would appear overly prominent if it was not appropriately scaled. The site does not benefit from mature boundary treatment however it does benefit from a back drop of rising land. It sits to the rear of existing buildings which would provide some degree of integration in their own right. As this is an outline application design is not a consideration and is a matter reserved.

#### Policy CTY 14 – Rural Character

My main concern with respect to rural character is that a dwelling on this site is a form of backland development which is out of keeping with the traditional settlement pattern in this area. A similar application (H/2014/0406/F) to the North of this site was refused under CTY 2a and CTY 14 on



the 24.4.14. A dwelling on this site would also result in a suburban style build-up of development when viewed with the existing dwellings in this locality.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

I recommend the application to be refused on the grounds that the proposal is contrary to Policy CTY2a, CTY 8 and CTY 14 of PPS 21. It is not located within an existing cluster of development. It does however represent undesirable backland development along a ribbon of development. It is not associated with a focal point and is not located at a cross roads. It is not bounded on at least 2 sides by other development. It does not represent a gap site within a substantial and built up road frontage and it will negatively impact on rural character as it will contribute to build up and fails to respect the traditional settlement pattern in the area.

**Refusal Reasons**

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

2.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the cluster does not appear as a visual entity in the local landscape
- the cluster is not associated with a focal point and it is not located at a cross roads
- the proposed site is not bounded on at least two sides with other development in the cluster
- the dwelling would if permitted visually intrude into the open countryside

3.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it can not be considered as a gap site within a substantial and built up road frontage and it does not respect the existing development pattern along the frontage.

4.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings
- the building would, if permitted not respect the traditional pattern of settlement exhibited in that area

and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th August 2018
<b>Date First Advertised</b>	13th September 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 51 Annaghmore Road, Castledawson, Londonderry, BT45 8DU, The Owner/Occupier, 52 Annaghmore Road, Castledawson, Londonderry, BT45 8DU, The Owner/Occupier, 55 Annaghmore Road, Castledawson, Londonderry, BT45 8DU, The Owner/Occupier, 57 Annaghmore Road, Castledawson, Londonderry, BT45 8DU, The Owner/Occupier, 58 Annaghmore Road, Castledawson, Londonderry, BT45 8DU, The Owner/Occupier, 59 Annaghmore Road, Castledawson, Londonderry, BT45 8DU,	
<b>Date of Last Neighbour Notification</b>	12th September 2018
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	N/A
<b>Planning History</b>  Ref ID: LA09/2018/1128/O Proposal: Dwelling and garage Address: 40m West of 55 Annaghmore Road, Castledawson, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2017/1517/F Proposal: Proposed change of house type for 2 dwellings and detached garages from that approved under H/2014/0091/F Address: Between 51 and 55 Annaghmore Road, Castledawson, Decision: PG Decision Date: 06.02.2018  Ref ID: H/1984/0409 Proposal: HOUSE AND GARAGE Address: ANNAGHMORE ROAD, CASTLEDAWSON	

Decision:  
Decision Date:

Ref ID: H/2014/0091/F  
Proposal: Proposed 2no. Infill Dwellings  
Address: Between 51 & 55 Annaghmore Road, Castledawson,  
Decision: PG  
Decision Date: 22.09.2014

**Summary of Consultee Responses**

DFI Roads – No objections subject to standard conditions

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> Nov 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1139/O	<b>Target Date:</b>
<b>Proposal:</b> Replacement Dwelling and Garage.	<b>Location:</b> 100m West of 39 Gortindarragh Road Galbally Dungannon Co Tyrone.
<b>Referral Route:</b> Refusal – contrary to PPS 21 – CTY 3. Principle of development is not met.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Eugene & Patricia Hackett 19 Camaghy Road South Galbally Dungannon BT70 2NL	<b>Agent Name and Address:</b> Paul Maguire 16 Caulfield Glen Castlecaulfield Dungannon BT70 3DN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Error
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

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

### Summary of Issues

Contrary to PPS 21 - CTY 3 - the principle of development is not met. No representations have been received.

### Characteristics of the Site and Area

The site is located approx. 100m west of 39 Gortindarragh Road, Galbally in the rural countryside as defined by the Dungannon and South Tyrone Area Plan 2010. Within the red line is an existing structure which is proposed for replacement. The topography of the site varies, with the lands rising from north to south and is bounded by hedging and post and wire fencing. The surrounding area is defined by agricultural land uses predominantly, interspersed with single dwellings and their associated farm buildings.

### Description of Proposal

Full planning permission is sought for a replacement dwelling and garage.

### Planning Assessment of Policy and Other Material Considerations

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 39 Gortindarragh Road. At the time of writing, no third party representations have been received.

#### Planning History

It is not considered there is any relevant planning history associated with this site.

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

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside

#### Dungannon and South Tyrone Area Plan 2010

The site is located outside any defined Settlement Limit, situated north of Galbally Settlement Limit. The site accesses onto the National Cycle Network and there are no other zonings or designations related to the site.

#### Strategic Planning Policy Statement (SPPS)

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. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping. It doesn't offer any change in policy direction with regards to replacement dwellings.

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

Policy CTY 1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside, one of these being a replacement dwelling in accordance with Policy CTY 3. Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. The structure in question is linear in shape and single storey, with all walls intact. It has a corrugated iron pitched roof with a lean-to at the side and the rear. There is a wide agricultural type opening along with another smaller opening on the eastern gable, both with sheet metal barn doors. On the southern gable wall there is another small opening, again with a sheet metal barn door. To the rear of the structure, there is an additional opening and a cattle crush. The internal arrangement of the structure appears to be that typical of an agricultural building also.

Although the agent/applicant has provided evidence in the form of historical maps, the wording of Policy CTY 3 requires that the current building to be replaced exhibits the essential

characteristics of a dwelling. As noted in Appeal Ref: 2018/A0019 “while the intervening use of a building may change, policy still requires that the subject building presently possess the essential characteristics of a dwelling”. While these characteristics are not prescribed in the policy, the current structure presents both internally and externally as an agricultural building. Even though all external walls are substantially intact, the current structure does not exhibit the essential characteristics of a dwelling which is contrary to the policy requirement. It does not therefore represent or qualify for a replacement opportunity in accordance with Policy CTY 3.

The remainder of CTY 3 sets out five criteria to meet once the principle of development has been established. As this is an outline application, there are no details submitted in terms of the siting or design of the proposed dwelling as this would be dealt with at reserved matters stage if the principle of development were to be agreed. I see no reason why a modest sized dwelling could not be designed and sited to integrate successfully within this site.

NI Water and Environmental Health have no objection to the proposal. DfI Roads made no comment.

<b>Neighbour Notification Checked:</b>	Yes
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**Summary of Recommendation:**

It is considered that the proposal does not fulfil the policy requirements of PPS 21, Policy CTY 3 and thus, refusal is recommended.

**Conditions/Reasons for Refusal:**

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building does not exhibit the essential characteristics of a dwelling.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	30th August 2018
<b>Date First Advertised</b>	13th September 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 39 Gortindarragh Road Pomeroy Dungannon	
<b>Date of Last Neighbour Notification</b>	3rd September 2018
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1139/O Proposal: Replacement Dwelling and Garage. Address: 100m West of 39 Gortindarragh Road, Galbally, Dungannon, Co Tyrone., Decision: Decision Date:  Ref ID: M/1992/0213 Proposal: Extension to Dwelling Address: 40 GORTINDARRAGH ROAD GALBALLY DUNGANNON Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  No issues.	
<b>Drawing Numbers and Title</b>	



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

Drawing No. 05  
Type: Existing Plans  
Status: Submitted

Drawing No. 04  
Type: Existing Plans  
Status: Submitted

Drawing No. 02  
Type: Existing Plans  
Status: Submitted

Drawing No. 03  
Type: Existing Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> Nov 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1221/F	<b>Target Date:</b> 31/12/18
<b>Proposal:</b> Provision of 4No 5m Columns on access road, 8No 5m Columns in existing car park (Twin Head) and 6No 5m Columns in existing car park	<b>Location:</b> Derrylaughan Kevin Barry's GAC 92 Ballybeg Road Dungannon
<b>Referral Route:</b> Approval – application submitted by MUDC.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Jack Corr Muintir na Mointeach 15 Ferry Road Washing Bay Coalisland	<b>Agent Name and Address:</b> Mid Ulster District Council (MUDC) Burn Road Cookstown BT80 8DT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

No issues. No representations recieved.

### Characteristics of the Site and Area

The site is located at 92 Ballybeg Road, Dungannon. Within the red line is The Washingbay Centre and an existing carpark. There are two pitches and clubhouse for Derrylaughan GAA which adjoin the site and are sited within blue lands. The surrounding landform is one of undulating countryside and the land falls slightly towards Lough Neagh. The surrounding area characteristics are open countryside with farmland defined by post and wire fence with individual dwellings dotted throughout some, which are roadside frontage.

**Description of Proposal**

Full planning permission is sought for the provision of 4No 5m Columns on access road, 8No 5m Columns in existing car park (Twin Head) and 6No 5m Columns in existing car park.

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

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours advertised under this application. At the time of writing, no third party representations have been received.

Planning History

LA09/2016/1653/F - 90 Ballybeg Road, Washingbay, Coalisland - Erection of a ball wall – PERMISSION GRANTED – 20.02.2017

LA09/2017/0405/F - Washingbay Centre 92 Ballybeg Road, Aughamullan Dungannon - Proposed side extension with toilets and kitchen to cater for outstanding need of additional community facilities – PERMISSION GRANTED – 10.11.2017

Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Regional Development Strategy 2035
- Strategic Planning Policy Statement (SPPS)
- PPS 21- Sustainable Development in the Countryside

The site is located outside any defined settlement limit, in the rural countryside as identified in the Dungannon and South Tyrone Area Plan 2010. The site is located South of Brockagh/Mountjoy settlement limit. The site is located within Countryside Policy Area, Area of Constraint of Mineral Developments and Tourism Opportunity Zone. The application site is adjacent to Lough Neagh Area of Special Scientific Interest (ASSI), Lough Neagh and Lough Beg Special Protection Area (SPA) and within Lough Neagh and Lough Beg RAMSAR site, which are of international and national importance.

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.

The key issues in relation to this proposal are the design of the proposal and the impact which it might have on residential amenity. It is considered that the proposed lighting arrangements would not have an adverse impact on the character and appearance on the surrounding area, especially given that there is existing lighting already on the site. The design of the proposal is typical of street lighting. It is also considered that there would be no adverse impact on neighbouring amenity as there is sufficient separation distances and boundaries between the application site and any neighbouring properties with the closest neighbouring property being located approx. 35m away.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

The proposal is considered to be in compliance with the relevant planning policies and subsequently planning approval is recommended.

**Conditions/Reasons for Refusal:**

**Conditions**

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

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

**Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	14th September 2018
<b>Date First Advertised</b>	4th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) N/A	
<b>Date of Last Neighbour Notification</b>	N/A
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2016/1653/F Proposal: Erection of a ball wall Address: 90 Ballybeg Road, Washingbay, Coalisland, Decision: PG Decision Date: 20.02.2017  Ref ID: LA09/2017/0405/F Proposal: Proposed side extension with toilets and kitchen to cater for outstanding need of additional community facilities Address: Washingbay Centre 92 Ballybeg Road, Aughamullan Dungannon, Decision: PG Decision Date: 10.11.2017  Ref ID: LA09/2018/1221/F Proposal: Provision of 4No 5m LED street lights to existing access road and 9 No. 8m LED street lights to existing car park Address: Derrylaughan Kevin Barry's GAC, 92 Ballybeg Road, Dungannon, Decision: Decision Date:  Ref ID: M/1974/0082 Proposal: ERECTION OF HOTEL Address: WASHINGBAY CORNER, AGHAMULLAN, COALISLAND Decision: Decision Date:  Ref ID: M/1974/0388	

Proposal: PUBLIC RECREATION AND AMENITY AREA.  
Address: WASHING BAY, AUGHAMULLAN AND DERRYLAUGHAN, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1975/0270  
Proposal: ERECTION OF HOTEL  
Address: AUGHAMULLAN, COUNTY TYRONE  
Decision:  
Decision Date:

Ref ID: M/1980/0102  
Proposal: ACCESS ROADS AND CAR PARKS  
Address: WASHING BAY, PHASE 1, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1990/0174  
Proposal: Extension to existing Amenity Area to provide access to  
Lough Shore  
Address: AUGHAMULLAN, WASHINGBAY, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/2000/0145/F  
Proposal: Proposed extension and regrading of existing District Council playing pitch,  
erection of spectator stand, flood lighting, boundary fence, 4No catch nets, and alteration  
to access road.  
Address: Derrylaughan Gaelic Football Club, 3 Ballybeg Road, Washingbay Coalisland  
Decision:  
Decision Date: 18.10.2000

Ref ID: M/2002/0036/O  
Proposal: Small Community building to include small hall, display area, tea room and  
toilets.  
Address: 200m East of 255 Washingbay Road, Coalisland, Dungannon  
Decision:  
Decision Date: 07.06.2002

Ref ID: M/2004/0430/F  
Proposal: Community facility  
Address: Site at 220m north east of 5 Ferry Road, Washing Bay, Coalisland  
Decision:  
Decision Date: 15.06.2004  
Ref ID: M/2006/1452/F

Proposal: Alterations to community hall to include wind turbine and installation of 12 No solar panels on south facing roof  
 Address: Washingbay (Aughamullan- Townland) 200m east of 255 Washingbay Road, Coalisland, Dungannon, Co.Tyrone  
 Decision:  
 Decision Date: 18.12.2006

Ref ID: M/2006/1797/F  
 Proposal: Construction of Reed Bed to Complete Satisfactory Discharge from a Septic Tank - See Outline Design Criteria from Northern Ireland Reed Bed Company  
 Address: Washingbay (Aghamullan) Coalisland, Co.Tyrone  
 Decision:  
 Decision Date: 01.03.2007

Ref ID: M/2006/2015/F  
 Proposal: Addition to Wetlands Park site to include the construction of a boardwalk and canoe access at Washingbay.  
 Address: Washingbay Wetlands Park, Ballybeg Rd, Aughamullan, Coalisland, Dungannon, Co.Tyrone  
 Decision:  
 Decision Date: 24.11.2007

Ref ID: M/2007/0679/F  
 Proposal: Existing community building to be enlarged.- Existing kitchen increased in size and existing storage area increased in size.  
 Address: 200m East of 255 Washingbay Road, Coalisland, Dungannon. Washingbay (Aughamullan-townland) Coalisland, Dungannon  
 Decision:  
 Decision Date: 13.09.2007

Ref ID: M/2012/0219/F  
 Proposal: The development relates to the installation of a solar array on the rear south facing roof of the building  
 Address: 92 Ballybeg Road, Coalisland (on the South facing roof of building),  
 Decision:  
 Decision Date: 08.06.2012

### **Summary of Consultee Responses**

N/A

### **Drawing Numbers and Title**



Drawing No. 02 Type: Amended site location plan Status: Submitted  Drawing No. 01 Type: Site & Detailed Drawings Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> Nov 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1221/F	<b>Target Date:</b> 31/12/18
<b>Proposal:</b> Provision of 4No 5m Columns on access road, 8No 5m Columns in existing car park (Twin Head) and 6No 5m Columns in existing car park	<b>Location:</b> Derrylaughan Kevin Barry's GAC 92 Ballybeg Road Dungannon
<b>Referral Route:</b> Approval – application submitted by MUDC.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Jack Corr Muintir na Mointeach 15 Ferry Road Washing Bay Coalisland	<b>Agent Name and Address:</b> Mid Ulster District Council (MUDC) Burn Road Cookstown BT80 8DT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

No issues. No representations recieved.

### Characteristics of the Site and Area

The site is located at 92 Ballybeg Road, Dungannon. Within the red line is The Washingbay Centre and an existing carpark. There are two pitches and clubhouse for Derrylaughan GAA which adjoin the site and are sited within blue lands. The surrounding landform is one of undulating countryside and the land falls slightly towards Lough Neagh. The surrounding area characteristics are open countryside with farmland defined by post and wire fence with individual dwellings dotted throughout some, which are roadside frontage.

### Description of Proposal

Full planning permission is sought for the provision of 4No 5m Columns on access road, 8No 5m Columns in existing car park (Twin Head) and 6No 5m Columns in existing car park.

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

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were no neighbours advertised under this application. At the time of writing, no third party representations have been received.

#### Planning History

LA09/2016/1653/F - 90 Ballybeg Road, Washingbay, Coalisland - Erection of a ball wall – PERMISSION GRANTED – 20.02.2017

LA09/2017/0405/F - Washingbay Centre 92 Ballybeg Road, Aughamullan Dungannon - Proposed side extension with toilets and kitchen to cater for outstanding need of additional community facilities – PERMISSION GRANTED – 10.11.2017

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

- Dungannon and South Tyrone Area Plan 2010
- Regional Development Strategy 2035
- Strategic Planning Policy Statement (SPPS)
- PPS 21- Sustainable Development in the Countryside

The site is located outside any defined settlement limit, in the rural countryside as identified in the Dungannon and South Tyrone Area Plan 2010. The site is located South of Brockagh/Mountjoy settlement limit. The site is located within Countryside Policy Area, Area of Constraint of Mineral Developments and Tourism Opportunity Zone. The application site is adjacent to Lough Neagh Area of Special Scientific Interest (ASSI), Lough Neagh and Lough Beg Special Protection Area (SPA) and within Lough Neagh and Lough Beg RAMSAR site, which are of international and national importance.

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.

The key issues in relation to this proposal are the design of the proposal and the impact which it might have on residential amenity. It is considered that the proposed lighting arrangements would not have an adverse impact on the character and appearance on the surrounding area, especially given that there is existing lighting already on the site. The design of the proposal is typical of street lighting. It is also considered that there would be no adverse impact on neighbouring amenity as there is sufficient separation distances and boundaries between the application site and any neighbouring properties with the closest neighbouring property being located approx. 35m away.

#### **Neighbour Notification Checked**

Yes

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

The proposal is considered to be in compliance with the relevant planning policies and subsequently planning approval is recommended.

Conditions/Reasons for Refusal:

**Conditions**

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

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

**Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	14th September 2018
<b>Date First Advertised</b>	4th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) N/A	
<b>Date of Last Neighbour Notification</b>	N/A
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  <p>Ref ID: LA09/2016/1653/F            Proposal: Erection of a ball wall            Address: 90 Ballybeg Road, Washingbay, Coalisland,            Decision: PG            Decision Date: 20.02.2017</p> <p>Ref ID: LA09/2017/0405/F            Proposal: Proposed side extension with toilets and kitchen to cater for outstanding need of additional community facilities            Address: Washingbay Centre 92 Ballybeg Road, Aughamullan Dungannon,            Decision: PG            Decision Date: 10.11.2017</p> <p>Ref ID: LA09/2018/1221/F            Proposal: Provision of 4No 5m LED street lights to existing access road and 9 No. 8m LED street lights to existing car park            Address: Derrylaughan Kevin Barry's GAC, 92 Ballybeg Road, Dungannon,            Decision:            Decision Date:</p> <p>Ref ID: M/1974/0082            Proposal: ERECTION OF HOTEL            Address: WASHINGBAY CORNER, AGHAMULLAN, COALISLAND            Decision:            Decision Date:</p> <p>Ref ID: M/1974/0388</p>	

Proposal: PUBLIC RECREATION AND AMENITY AREA.  
Address: WASHING BAY, AUGHAMULLAN AND DERRYLAUGHAN, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1975/0270  
Proposal: ERECTION OF HOTEL  
Address: AUGHAMULLAN, COUNTY TYRONE  
Decision:  
Decision Date:

Ref ID: M/1980/0102  
Proposal: ACCESS ROADS AND CAR PARKS  
Address: WASHING BAY, PHASE 1, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1990/0174  
Proposal: Extension to existing Amenity Area to provide access to  
Lough Shore  
Address: AUGHAMULLAN, WASHINGBAY, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/2000/0145/F  
Proposal: Proposed extension and regrading of existing District Council playing pitch,  
erection of spectator stand, flood lighting, boundary fence, 4No catch nets, and alteration  
to access road.  
Address: Derrylaughan Gaelic Football Club, 3 Ballybeg Road, Washingbay Coalisland  
Decision:  
Decision Date: 18.10.2000

Ref ID: M/2002/0036/O  
Proposal: Small Community building to include small hall, display area, tea room and  
toilets.  
Address: 200m East of 255 Washingbay Road, Coalisland, Dungannon  
Decision:  
Decision Date: 07.06.2002

Ref ID: M/2004/0430/F  
Proposal: Community facility  
Address: Site at 220m north east of 5 Ferry Road, Washing Bay, Coalisland  
Decision:  
Decision Date: 15.06.2004  
Ref ID: M/2006/1452/F

Proposal: Alterations to community hall to include wind turbine and installation of 12 No solar panels on south facing roof  
 Address: Washingbay (Aughamullan- Townland) 200m east of 255 Washingbay Road, Coalisland, Dungannon, Co.Tyrone  
 Decision:  
 Decision Date: 18.12.2006

Ref ID: M/2006/1797/F  
 Proposal: Construction of Reed Bed to Complete Satisfactory Discharge from a Septic Tank - See Outline Design Criteria from Northern Ireland Reed Bed Company  
 Address: Washingbay (Aghamullan) Coalisland, Co.Tyrone  
 Decision:  
 Decision Date: 01.03.2007

Ref ID: M/2006/2015/F  
 Proposal: Addition to Wetlands Park site to include the construction of a boardwalk and canoe access at Washingbay.  
 Address: Washingbay Wetlands Park, Ballybeg Rd, Aughamullan, Coalisland, Dungannon, Co.Tyrone  
 Decision:  
 Decision Date: 24.11.2007

Ref ID: M/2007/0679/F  
 Proposal: Existing community building to be enlarged.- Existing kitchen increased in size and existing storage area increased in size.  
 Address: 200m East of 255 Washingbay Road, Coalisland, Dungannon. Washingbay (Aughamullan-townland) Coalisland, Dungannon  
 Decision:  
 Decision Date: 13.09.2007

Ref ID: M/2012/0219/F  
 Proposal: The development relates to the installation of a solar array on the rear south facing roof of the building  
 Address: 92 Ballybeg Road, Coalisland (on the South facing roof of building),  
 Decision:  
 Decision Date: 08.06.2012

### **Summary of Consultee Responses**

N/A

### **Drawing Numbers and Title**

Drawing No. 02  
Type: Amended site location plan  
Status: Submitted

Drawing No. 01  
Type: Site & Detailed Drawings  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2015/0782/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Change of Use to Storage and Distribution Unit - (Class B4) (Additional information received in relation to the proposed access)	<b>Location:</b> Site 60m North of 52 Ballymoghna Road Magherafelt
<b>Applicant Name and Address:</b> Cloane Properties Ltd 9 Cloane Road Draperstown BT45 7LW	<b>Agent name and Address:</b> Kevin Cartin Architects Ltd Unit 5 Belmont Office Park 232-240 Belmont Road Belfast BT4 2AW
<b>Summary of Issues:</b>  No further objections have been received in respect of this proposal since the the application was previously presented to Committee.	
<b>Summary of Consultee Responses:</b>  Following the final consultation with Transportni on 18th September 2018 Council have been advised DfI Roads have reviewed the Roads Access Statement and will not offer an objection to the proposed development subject to the suggested conditions. EHD requested a noise report which was found to be acceptable.	
<b>Description of the proposal:</b>  The description as stated on the P1 form is 'Change of use to a storage and distribution unit – (Class B4)'. Within the Planning (Use Classes) Order (NI) 2015, Use Class B4 is stated as 'Use for storage or as a distribution centre.'  Although the site layout and detailed floor plans only relate to the existing enclosed yard which contains the industrial type building and the security hut, it should be noted that the site location map includes the existing concrete yard, industrial type building and security hut, all of which are enclosed within a secure yard in addition to also including two separate areas of agricultural land	

and two dwellings and their associated out buildings. Therefore the proposal is effectively for a change of use for all lands within the red line.

### **Characteristics of Site**

The site is comprised of two dwellings with associated garage and amenity spaces, a large industrial type shed set within a concrete yard to the rear of the dwellings with an agricultural field to its rear in addition to part of a second agricultural field fronting onto the Ballymoughan Road.

The site set to the rear of two dwellings on the Ballymoughan Road and is accessed via an existing laneway which runs between the two dwellings. The site contains a large industrial type building measuring approximately 35.7m x 18.6m with an eaves height of 6.0m and a ridge height of 7.2m. There is a small rear annex to the rear south-eastern corner. There is a small security building located at the south western side of the entrance gates which are located at the north-western end of the access laneway.

The existing industrial type buildings are set within a large concrete yard which is enclosed and well screened by a mature hedgerow along the south western boundary.

The existing large industrial building within the concrete yard was originally approved under application H/2009/0519/F as 'Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghán Road (retrospective)' on 10.03.2010. This building is currently being used as a storage and distribution centre by Teknos as a paint distribution centre. There is a small office in the front, south eastern corner with kitchen and toilet facilities located in the rear north-western corner. The remainder of the building is being used to store paint on pallet racking and is currently well stocked with large 20/25 litre drums of paint.

An employee stated at the time of site inspection that deliveries are made to the store and then forwarded on to customers by courier. At the time of site inspection, there were three staff present but no customers. However, there was a courier van, Fastway Couriers, arrived during this time. There was one company Ford Transit van and one car in the car park at this time.

### **Characteristics of Area**

The site is located in a rural area which is predominantly farmland with dwellings dotted along the road on both roadside sites and also set back off the road. At this location, there are four dwellings with a number of associated outbuildings, all of which access the Ballymoughan Road at the same point as the subject site.

### **Planning History**

Planning approval was granted under H/2009/0519/F on 10.03.2010 for 'Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghán Road (retrospective)'. A condition of that approval was that 'The shed hereby approved shall be used only for domestic purposes ancillary to No 54 Ballymoghán Road, Magherafelt.  
Reason: To prohibit an unacceptable change of use.

### **Deferred Consideration:**

This application was initially presented to Committee on 9th January 2017 with an opinion to refuse for the following reasons:-

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

2. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse would, if permitted; unduly affect the amenities of nearby residents; the nature and scale of the proposed non-residential use is not appropriate in this countryside location; and access to the public road will prejudice road safety.

3. The proposed development is contrary to PPS 3 - Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

The application was deferred for an office meeting with the Planning Manager to consider alternatives and the issue relating to the proposed access arrangements. That meeting took place with Dr. Boomer on 25th January 2017 and was attended by the applicant, his agent, planning consultant and roads engineer.

The application was reconsidered in light of the deferred office meeting and was returned to Committee in June 2018 with a recommendation to refuse for the following reasons:-

1. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse would, if permitted; unduly affect the amenities of nearby residents; the nature and scale of the proposed non-residential use is not appropriate in this countryside location; and access to the public road will prejudice road safety.

2. The proposed development is contrary to PPS 3 - Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

The application was again deferred to allow the applicant to explore if there was way they could address the refusal reasons. A subsequent office meeting took place on 14th June 2018 and was attended by Dr Boomer, M Bowman (MUDC), Councillor B McGuigan, C Cassidy (agent), B Carey (Roads Engineer) and the applicant.

At that meeting the following was discussed:-

The question was raised if access could be achieved in a different way adjacent to No 52. The red line didn't include these lands / some discussion followed about the actual ownership of this piece of land – it was agreed the P1 was correct.

The meeting also considered what the minimum splays were that could be achieved – BC was of the view that the minimum DCAN 15 figures were achievable if we could agree the exact road edge.

In order to take the case forward and clarify the above it was agreed a site meeting would be arranged with DFI to establish and agree the road edge.

A site meeting was held on 17th July 2018 and was attended by M Bowman (MUDC), A Alderdice (Roads) and C Cassidy and B McMullan (agent). The purpose of the site meeting was to agree the exact road edge. This was agreed by all parties and in doing so it was accepted by A.A that the min required splays could be achieved. A.A requested that a site survey / plan be submitted to clearly show what was available and to detail splays to both sides.

The required plans were submitted and following consideration by DfI Roads, A Alderdice advised that DfI Roads would not offer an objection subject to the suggested condition and informatives.

In relation to the impact on residential amenity, Environmental Health have not raised any issues regarding noise, therefore, the only potential to impact on residential amenity would be from disturbance from traffic attempting to access the site. However, as DfI Roads have now accepted that the access is acceptable and will not prejudice road safety, I am now of the opinion that there will be no detrimental impact on the residential amenity of neighbouring properties.

As the refusal reasons previously presented to Committee in June 2018, have now been resolved, the proposal is considered to be acceptable and can be recommended for approval subject to the conditions listed below:-

**Conditions:**

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.

2. The change of use of the premises hereby approved shall be used only for Use Class B4: Storage and Distribution, and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 and shall be operated in conjunction with the applicant's farm business.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order and to ensure that the storage unit continues to operate as part of the farm diversification scheme.

3. The works detailed on drawing no.09 date stamped 12th September 2018 to provide visibility splays of 2.4m x 54m in a westerly direction and 2.4m x 45m in an easterly direction shall be completed within 2 months of the date of this decision and shall be permanently maintained thereafter. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Signature(s):**

**Date**



## 2<sup>nd</sup> Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2016/0848/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed Dwelling and Garage under CTY 2a	<b>Location:</b> 24M North of 93 Five Mile Straight Bracaghreilly Maghera
<b>Applicant Name and Address:</b> Colm Lynn 4 Orchard Way Portglenone	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  <p>Summary of the issues raised in the objections are as follows:</p> <ul style="list-style-type: none"> <li>- Primary issue over the ownership of the laneway down the west of proposed site, the applicant included it as part of his initial red line. However issues raised that this laneway is under the control of No. 93 and 95, in that permission has not been sought or gained for use of the laneway. In addition to this stated that permission would not be granted therefore requiring a long laneway to the road, which will deteriorate the existing amenity and visual character of the area.</li> <li>- Both objections raised an issue that this application is for a two storey house, one referring to Regional Planning Policies: Policy DES 6 Rural Character, which is not in-keeping with the area as the neighbouring dwellings are either bungalows or storey and a half. From this the proposed dwelling would be unduly prominent and does not have the necessary natural boundaries that would be required to provide necessary enclosure as stated in CTY 13.</li> <li>- Reference was made to PPS 21 stating that planning permission for new dwellings in the countryside under a number of conditions, one of which is that of development is within a dispersed rural community. As per the Magherafelt Area Plan 2015, the proposed site is not within a dispersed rural community.</li> <li>- Continued to say that CTY 2a of PPS 21 allows for a “clachan” style development of up to 6 houses at an identified focal point such as a social/community building/facility or is located at crossroads. Stated that the identifying the Lisnamuck crossroads is incorrect, in that the existing dwellings are not built around the crossroads. They are located some distance from the crossroads which are separated by agricultural fields meaning this is not a cluster and does not appear as a visual entity in the landscape. From the dwellings positioning being currently spread out in small groups means they do not form a cohesive cluster.</li> <li>- As per CTY 2a the proposed development does not bound on at least 2 sides with other development within the “cluster”. The proposed development is only bounded at the rear with No.</li> </ul>	

93 but the remainder of the boundaries are bounded by agricultural fields. Any development therefore would visually intrude on the landscape and will create a ribbon of development which is contrary to PPS 21 policies CTY 8 and 14.

- Issue raised that the proposed dwelling is located extremely close to the boundary of No 93 and from this has the potential to diminish the amenity of this property.

- Finally the proposed development will become a prominent feature in the landscape as it also lacks long established natural boundaries which means the inability of providing a suitable degree of enclosure to allow integration. One final point that the understanding was that the land was zoned for agricultural uses and not residential.

Reviewing the issues raised in the objections, the first issue has since been dealt via the submission of an amended red line reducing it to no longer include the laneway. However the resulting need for a proposed laneway to the dwelling is an issue, however since this is an outline application, details of such have not been provided and would be dealt in the reserved matters application. As a result this issue is noted but cannot be considered at this early stage. Both objectors raised concerns that the proposed dwelling is to be two storey, however in reviewing the file there has been no reference or plans stating this. Again since this is an outline application the size and design details have not been submitted therefore I am unsure where this issue has derived from. As a result and on the basis of the information provided this concern cannot be considered. One objector made reference to Policy DES 6 Rural Character, however this policy has since been superseded by Planning Policy Statement 21 and is already being considered under this policy. Therefore no additional weight is given to the concerns with Policy DES 6 Rural Character. Comments were made that this is not a dispersed rural community even though I agree with the comments made but again the applicant/agent has not put forward an argument for this therefore the application must be considered under CTY 2a which has been presented. The final issue raised referred to CTY 2a itself, however the application has already been reviewed under this and a recommendation has already been made.

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

#### **Description of Proposal**

This is an outline application for a proposed dwelling and garage under CTY 2a at 24m North of 93 Five Mile Straight, Maghera.

#### **Characteristics of the site and environs**

The site is located approximately 2.5km south west of Glen, in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is identified as 24m North of 93 Five Mile Straight, the red line however has extended into two fields with a site marker identified above 93 Five Mile Straight. Both fields included in the red line are agricultural fields which are relatively flat and are bounded with post wire fencing with hedging and trees along the boundaries. An amended location plan was submitted prior to objection letters being received, stating that the previous plan was incorrect and the applicant did not have a right of way over the laneway. The amended plan therefore removed the laneway from the red line.

#### **Representations**

There were four neighbour notifications sent out, in which two objections were received.

### **2<sup>nd</sup> Deferred Consideration:**

This application was presented before the Planning Committee in February 2017 with a recommendation to refuse based on the following 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.

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
- the identified site is not bounded on at least two sides with other development in the cluster;

3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Five Mile Straight, and does not represent a gap site.

The application was deferred for an office meeting with the Planning Manager which was held on 16th February 2017.

Following the deferred office meeting the agent provided additional information which was duly considered before the application was returned to Committee on 8th January 2018 for the following reasons:-

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
- the identified site is not bounded on at least two sides with other development in the cluster;

3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Fivemile Straight, and does not represent a gap site.

The Committee agreed to a second deferral for one month for the submission and reconsideration of additional information. However, to date no additional information has been provided and subsequently the application is being returned to Committee with a recommendation to refuse for the same reasons.

### **Refusal Reasons**

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;



- the identified site is not bounded on at least two sides with other development in the cluster;

3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Five Mile Straight, and does not represent a gap site.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2016/1513/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed erection of new store and 1 no. residential apartment	<b>Location:</b> 2 - 4 Glen Road Maghera
<b>Applicant Name and Address:</b> Mr Peter McKenna 2 - 4 Glen Road Maghera BT46 5AW	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Issues:</b> Scheme has been reduced from two to one residential unit to ensure policy considerations have been met.	
<b>Summary of Consultee Responses:</b>  No objections. TNI have provided informatives.	
<b>Characteristics of the Site and Area:</b>  The proposal site is located within the town centre of Maghera. The siting is to the rear of an existing public house within the existing yard area. At present there are 4 storage sheds within the site which is all within the existing yard area of the public house. There is an existing laneway running along the Western boundary which serves several residential properties and businesses. There are residential properties directly opposite the site on the Western side which sit at a higher level, these properties are 2 storey and have off street parking. Immediately adjacent to the northern boundary is the Glen Road and further residential properties.	

**Description of Proposal**

Full application for 'Proposed erection of new store and 2 no residential apartments to rear of existing premises'.

**Deferred Consideration:**

The application was deferred at Committee and an office meeting held with Dr. Boomer on 14 June 2018.

Following this meeting the proposal has been reduced from store and 2 residential units to 'Proposed erection of new store and one residential unit'.

In the original proposal one of the existing sheds was to remain on site, which will now be demolished, allowing the apartment to be re-located closer to the road giving some level of amenity space to the rear, where previously there had been no amenity space.

The front elevation now denotes one residential unit and remains more in keeping with the existing streetscape than the two units previously proposed. It has a positive relationship with the existing street frontage. The development will make a positive contribution to Maghera in line with relevant policy requirements.

The refusal reasons have been adequately overcome and policy has been met, with approval now recommended.

**Conditions**

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

Reason: Time Limit.

**Signature(s):****Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2016/1793/F	<b>Target Date:</b>
<b>Proposal:</b> Housing development of 18 detached dwellings, associated site works and landscaping (amended layout plan)	<b>Location:</b> Lands opposite (South East) of 17-31 Benburb Road Moy
<b>Applicant Name and Address:</b> Chris Traynor 84 Armagh Road Dungannon BT71 7JA	<b>Agent name and Address:</b> McCreanor & Co Architects 85 Plantation Road Craigavon BT63 5NN
<b>Summary of Issues:</b> Housing development which is now in accordance with Policy.	



### Characteristics of the Site and Area:

The application site is a 1.1 hectare parcel of undeveloped land cut out of a larger field and located opposite and South East of number 17-31 Benburb Road, Moy. It is within the development limits of Moy as designated in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). The site is relatively flat and low lying, albeit there is a slight slope towards the NE boundary. The roadside boundary with the Benburb Road is void of any vegetation and is defined by a simple wire and post fence and grass verge. The NE boundary is defined by a high hedgerow and intermittent semi mature trees. The remaining boundaries are undefined on the ground.

This area is predominantly residential in character. Opposite the site are a row of detached dwellings on fairly generous sized plots and to the SW of the site is a housing development of detached dwellings "Clover Hill". There is a GAA playing field (zoned as existing recreation and open space) located further to the SW of the site and there is a Primary School to the NW of the site. To the immediate NE of the site is a Presbyterian Manse and to the East is a large detached dwelling. The River Blackwater flows to the SE of the site, along which is a designated Local Landscape Policy Area. Part of the site falls within a designated flood plain and the small section

of the NW corner of the site is located within an Area of Archaeological Potential (TYR 062:011). There is a Listed Building (St John the Baptist RC Church) located to the North of the site.

### **Description of Proposal**

This is a full application for a housing development of 18 detached dwellings, associated site works and landscaping. An application for 39.5km of pipeline (M/2008/0997/F) to transfer drinking water cuts through the site and was approved on the 7/12/09. There are no other relevant planning histories on the site to be considered in this assessment.

### **Deferred Consideration:**

A meeting took place with the applicant on the 10<sup>th</sup> Aug 2017 following a deferral of this application at a previous Committee meeting.

I subsequently visited the site in Aug 2017 and suggested that the following amendments be made to the proposed layout:

- Drop end unit to better respect building line and provide a softer 'open space' area there
- Suitably Double front the HT7 which is then left as the first unit along this row.
- Buffer to soften up edge of development to southern edge
- A notional pedestrian link from the development to the river to be shown

Amended plans were received on the 28 Feb 2018 and later PSD drawings which have been approved to the satisfaction of DFI Roads. These better respect the building line created by site Ns 1-6 along the Benburb Road and HT6 has been appropriately designed to provide a double frontage to the road and internal development road. A landscaped buffer is detailed at the southern edge of the site. A pedestrian link is noted on plan to provide pedestrian access to the river to the west of the site. I consider the proposal to respect the character of the locality and settlement by fronting detached units towards Benburb road, this is whilst acknowledging the set back and elevated arrangement of a mixture of design and house types opposite.

Whilst local objection had been received as summarised within the original officer's report, one further letter of objection has been received from No 25 Benburb Road since amended plans were notified to interested parties. This objection raises the following concerns:

1. That the ambience of the Moy should not be ignored, many visitors enjoy the historic village square and move thence along Benburb Road to the Castle and Blackwater battle site
2. The flood plain manifests itself yearly – this cannot be solved without moving the problem up river
3. The long term presence of badger setts requires to be referred to Badger Trust
4. Accident risk on Benburb Road – schools access and Church nearby increase accident potential.

In response:

1. I am satisfied that the form and density and degree of separation of the proposed development from the historic core of the Moy results in an acceptable and quality driven development.



2. No development is proposed within the floodplain and there are no objections from Rivers Agency
3. NED is content that badgers and their setts are highly unlikely to be impacted as a result of this proposal.
4. DFI Roads have approved all access plans

Examining the Policy requirements of PPS7 QD1 I am satisfied that the proposal, if approved, will represent the creation of a quality residential environment which is fully in keeping with the character of the area and surrounding development.

I note that NI Water at the time of consultation in Nov 2017 identified a capacity concern at the Moy WWTW.

SES have commented on the proposal as follows:

SES notes the response of NIW (27/07/2017) advising that WWTW are not available at present to serve this development. SES therefore requests that the applicant details an alternative method of foul water disposal for this development.

In response an on-site WWTW has been proposed and a discharge point located. SES have responded on the 25<sup>th</sup> Oct 2018 with no objections. Further Consent outwith Planning will be required from other Statutory Agencies in relation to this.

In considering the improvements of the amended scheme over that originally approved, I recommend that the application be approved subject to the below conditions.

#### **Conditions:**

1The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

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

2.The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 13/4 bearing the date stamp 14<sup>th</sup> June 2018, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3.The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

4. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The Mid Ulster Council/Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 13/4 bearing the date stamp 14<sup>th</sup> June 2018.

REASON: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

6. The visibility splays of 4.5 metres by 90.0 metres in the south west direction, 2.4 metres by 70.0 metres to the north east direction at the junction of the proposed main access road with the public road, 2.4 metres by 90.0 metres in the south west direction, 2.4 metres by 70.0 metres to the north east direction at the junctions of the proposed minor accesses with the public road shall be provided in accordance with Drawing No's. 13/4 bearing the date stamp 14<sup>th</sup> June 2018, 15/1 bearing the date stamp 14<sup>th</sup> June 2018.  
prior to the commencement of any other works or other development.

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.

7. The development hereby permitted shall not be occupied until the road works as indicated on Drawing No. 13/4 bearing the date stamp 14<sup>th</sup> June 2018 have been fully completed in accordance with the approved plans.

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

8. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development in accordance with approved plans



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

9. None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details on Drawing No 11/1.

REASON: In the interests of public health.

10. A detailed Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of the works or phase of works.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

11. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Department shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Department in writing, and subsequently implemented and verified to its satisfaction.

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

12. After completing any remediation works required under condition 1 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Department. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

**Signature(s): M.Bowman**

**Date 24/10/2018**



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/0628/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 60m West of 26 Ballydermot Road Bellaghy
<b>Applicant Name and Address:</b> Mr Declan Diamond 48A Deerpark Road Bellaghy	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toomebridge
<b>Summary of Issues:</b>  1. Summary of Issues including representations Two objections have been received in respect of this application and relate to the following:- <ul style="list-style-type: none"> <li>• History of the previous planning application on this same site;</li> <li>• Should a dwelling be approved on this site, the location of such a dwelling should be approximately 100m from the objectors dwelling and have a ridge height of 5.0m.</li> <li>• Inaccuracies in the supporting statement as this is a different site from H/2011/0211/F;</li> <li>• No neighbour notification letter received;</li> <li>• Inaccurate site location maps which show non-existing dwellings;</li> <li>• The site is not associated with a cluster as defined in CYY 2A with no focal point;</li> <li>• The proposal is also contrary to CTY 8 as it would result in ribbon development;</li> <li>• The size of the farm holding is not sufficient to consider it as being active;</li> <li>• No existing farm buildings nor existing farm laneway;</li> <li>• No need for a second dwelling on this holding;</li> <li>• The proposal would result in an erosion of rural character.</li> </ul>	
<b>Description of proposal:</b>  This is an outline application for a dwelling and garage associated with a farm holding, on a site 60m West of 26 Ballydermot Road, Bellaghy.	
<b>Characteristics of the site and area</b>	

This site is located within the rural countryside immediately West of and to the rear of 26 Ballydermot Road, Bellaghy. The red line of the site encompasses an agricultural field situated at the roadside and to the rear of an existing bungalow at No.26. The boundary between the site and No. 26 Ballydermot Road is defined by a post and wire fence and a 2.1m high close boarded fence. The north western boundary of the site consists of post and wire fence with partly 1-2m hedge, sparse hedging and some trees. The north eastern boundary consists of a thorn hedge approximately 3m high. There is a small cattle holding pen approximately 4m x 4m with a 3m cattle crush located mid-way along the north-eastern boundary. The southern, road frontage boundary is defined by a low cut thorn hedge.

### **Deferred Consideration:**

This application was presented before the Planning Committee in January 2018 with a recommendation to refuse based on the following 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.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane and no health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, as this is a proposed dwelling on a farm which would not be visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

Following a discussion at that meeting the application was deferred for an office meeting with the Planning Manager. Dr Boomer held a deferred office meeting on 24th January 2018 which was attended by Councillors Milne and McGuigan with C Cassidy (agent), D Diamond (applicant) and M McCrystal – Planning officer.

At that meeting the following was discussed:-

- The applicant leased field 5/021/153/3 in 2016 for the purpose of single farm payment but did not lease this in 2017 and as his claim fell under the minimum of 3ha was not entitled to claim SFP.
- The applicant buys and sells stock and is a part-time farmer.
- There is a need to check the farm business ID number to establish if the business has been in existence for more than 6 years and that it is still active.
- The applicant's animals are currently housed in his uncle's shed until March 2018 when they will be out in the fields. The farm shed is located at 74A Oldtown Road.
- C Cassidy stated that there are no buildings on the applicant's farm holding but the applicant intends to erect a farm building.
- D Diamond stated that his father's address is 74 Oldtown Road. His mortgage is secured on his dwelling and the field to the rear.

- CB requested that a neighbour notification letter be sent to 27A Ballydermott Road as the occupant's objection letter states that they did not receive such. This will avoid any confusion as the file shows that a N/N letter was sent to that address.
- MMC to inspect the site and assess if it is reasonable to have an access to a dwelling extending along the point where the existing access to the field is located at adjacent to the applicant's own dwelling at 48A Deerpark Road. It is not a matter simply of whether or not the visibility splays can be achieved but is it reasonable to have an access to another dwelling at that point. If such an access is reasonable then an approval on this application would be unlikely.
- If a dwelling were to be located 100m west of no.26 this would be unacceptable as an approval on the current application site would create infill opportunities. Therefore the only location which could be considered acceptable would be immediately adjacent to the western side of no.26.

I inspected the site to the rear of no.48A Deerpark Road on 9th May 2018 and found the following:-

No.48A is a one-and-a-half storey detached dwelling, approved under Ref: H/2011/0211/F, set back from the road edge by approximately 27m with a detached domestic garage to the side/rear.

Although the dwelling would appear to have been constructed as approved, it has been repositioned on site, as has the access and the garage. In effect, the dwelling has been moved closer to the southern boundary whilst the access and garage have been moved to the northern side. There is a second access to the northern side of no.48A which has a separate access point and this leads to the agricultural field at to the rear of no.48A. This access, which is around 4.5m wide, was also approved to the southern side of the site but has also been repositioned. There is a mature hedgerow along the northern boundary of the lane and a low level laurel hedgerow planted along the boundary line with no.48A. Mid-way along this laneway there is an access onto the driveway of No.48A. The boundary between the private amenity space of no.48A, which extends 24m from the rear of the dwelling, and the agricultural field is defined by a post and wire fence with a newly planted beech hedge.

A similar situation exists a short distance, approximately 200m, to the north of no.48A where there is a laneway between no's 38 and 40 and which leads to a dwelling to the immediate rear of no.38.

In my opinion, it would be entirely reasonable and practicable to have an access to a dwelling at the point of the existing laneway and which would lead to a dwelling at the rear of no.48A. Such a dwelling would also be visually linked with and would be sited to cluster with buildings on the applicant's farm. A dwelling on this site could also be designed to respect the private amenity of No.48A and the new dwelling.

## **Conclusion**

As detailed above, in my opinion, it is entirely reasonable to have an access for a dwelling at the point of the existing agricultural access. Such an access can utilise the existing access point and laneway without impinging on the access to the existing dwelling at no.48A and the two accesses can be paired and run alongside other.

Therefore, I do not accept that there is a case for siting a dwelling away from this group of buildings at another location, where there are no existing buildings associated with the

applicant's farm business. I therefore recommend that the proposed development be refused for the reasons as stated below:-.

**Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane and no health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, as this is a proposed dwelling on a farm which would not be visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

**Signature(s):****Date**



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/0864/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and basement garage	<b>Location:</b> To the rear of 14-16 Morgan Drive Cookstown
<b>Applicant Name and Address:</b> Ms Anne Mulligan 80 Fairhill Road Cookstown	<b>Agent name and Address:</b> Don Sonner 26a St Jeans Cottages Cookstown BT80 8DQ
<b>Summary of Issues:</b>  Three representations were made from neighbouring properties no.10,14 and 16 Morgan Drive.  Issues raised included; -differing ground levels. -problems arising from building works. -visual impact -road safety -residential amenity -overlooking, loss of privacy, noise disturbance	
<b>Summary of Consultee Responses:</b>  All consultees responded positively without objection.	
<b>Characteristics of the Site and Area:</b>  The site comprises a long narrow strip of land approx. 20-25 metres wide and 150 metres long. It is situated to the rear of dwellings at Morgan drive and Woodglen Crescent. The site is accessed via Woodglen Crescent, where it ends to the rear of number 11. The land falls from the rear of the houses to the NW of the site before rising to the next field to the West, there is an area of trimmed grass approx. 5 metres wide directly to the rear of the houses and then a further strip of over	

grown grass land, trees and other vegetation approx. another 15 metres wide. There is a variety of property boundaries separating the Eastern boundary of the site to the rear of the houses, including timber fences varying from 1 to 2 metres in height.

The site lies within the settlement limit of Cookstown towards the Northern Boundary. The site is on the edge of the current residential area, there are a wide mix of house types of high density to the South and agricultural land to the North.

### **Description of Proposal**

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

### **Deferred Consideration:**

This application was presented before the Planning Committee in January 2018 with a recommendation to refuse based on the following reason:

1. The proposal is contrary to Policy QD1 of Planning Policy Statement 7, Quality Residential Environment in that the proposed development will conflict with adjacent land uses and result in an unacceptable effect on existing properties in terms of overlooking and loss of privacy.

Following a discussion at that meeting the application was deferred for an office meeting with the Planning Manager, Dr Boomer. This meeting took place on 24th January 2018 and was attended by the applicant, D Sonner (agent), planning officers – R McAllister and M McCrystal. At that meeting the following issues were discussed:-

- the recommendation and in particular the potential to have an adverse impact on the adjacent dwellings;
- the Agent advised that the site sits below the ground level of the adjacent dwellings;
- It was agreed that it would require another site inspection to check site levels and the potential impact;
- The applicant stated that her daughter owns part of the site. Consequently the applicant was advised that the Planning Application Certificate as completed was incorrect as this states the applicant owns the site. This needs to be rectified and the correct certificate submitted;
- It was agreed that the application would be held for 21 days after the amended certificate is received. Notice should also be served on the land owner of the laneway;
- MMC is to assess the position of the dwelling to the rear of 16 Morgan Drive and 9 Woodglen Crescent; and
- The Agent agreed to submit the amended planning application certificate.

An amended Planning Application Certificate was duly submitted and this states that notice was served on two separate parties as affected land owners.

I re-inspected the site on 15th August 2018.

The existing ground levels at the suggested position of the dwelling as indicated on the map ie. to the rear of 16 Morgan Drive, are approximately 4m below the ground levels of no.16. and continue to fall approximately another 2-3m towards a watercourse running along the north west boundary. The boundary between the site and no.16 is defined by a

mature hedge which effectively screens the rear of no.16, which it should be noted site around 4m above the site. There is a copse of mature trees to the north of the suggested dwelling position, which provides effective screening from the cul-de-sac at the end of Woodglen Crescent. The site sits within a narrow slither of ground wedged between the existing Woodglen Crescent and Morgan Drive developments and the H29 residential zoning to the northwest.

I note that the original case officer held the opinion that this is an outline application and therefore the details of the siting and design have not been submitted, although a plan showing an indicative position of the dwelling has been provided. The case officer was of the opinion that the proposal did not respect the surrounding context as it would require a long access laneway into the site. In this context, I am not convinced that the provision of a laneway into the site would in itself would be sufficient to render the proposal unacceptable. Given the characteristics of the site, this is probably the only way the site could be developed, other than having a dwelling located at the extreme northern end. That alternative itself would create problems with overlooking of the adjoining no.11 Woodglen Crescent, as it sits on a similar ground level and the site is much narrower at that point.

A further issue of concern for the case officer was that the proposal was considered to be unacceptable in that a dwelling on this site would result in overlooking and cause a loss of privacy. I disagree with these concerns, as given that the site levels are around 4m below the adjoining ground levels of no.16 Morgan Drive and as there is a mature hedgerow between the existing dwelling and the site, a dwelling could easily be designed with no windows next to no.16, which would avoid any overlooking or loss of privacy. In addition the applicant has applied for a dwelling with a basement garage, and therefore such a dwelling could be restricted to a maximum ridge height of 6.5m above finished floor level with an under-build limited to 0.45m above existing ground level. This would allow for a dwelling to be designed to take account of the sloping site levels with a basement garage on the lower northern side of the site. The ridge of such a dwelling would therefore be around 3.0m above ground levels of no.16 Morgan Drive.

It is acknowledged that the proposed access will result in the loss of some trees/shrubbery to provide the access, however, this can be covered by way of condition requiring details to be submitted as part of any reserved matters application and should be kept to a minimum.

Having considered all of the above, it is my opinion that the proposal is acceptable and should be recommended for approval subject to the following conditions:-

**Conditions :**

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.

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.

3. The proposed dwelling shall be sited in the area shaded green on the approved drawing no. 01 date stamped 23rd June 2017.

Reason: In the interest of residential amenity and to prevent overlooking.

4. Full particulars, detailed plans, existing and proposed cross sections and levels of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to Mid Ulster District Council and shall be carried out as approved.

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

5. The dwelling hereby permitted shall be designed so as not to have any windows in the south eastern elevation.

Reason: To preserve the amenity and privacy of the adjacent residential properties and to prevent overlooking.

6. The dwelling hereby permitted shall have a ridge height of not greater than 6.5 metres above finished floor level with a depth of under-building between finished floor level and existing ground level not exceeding 0.45 metres at any point.

Reason: In the interest of residential amenity and to prevent overlooking.

7. A detailed scheme of structured landscaping for the site including along all boundaries, shall be submitted at Reserved Matters stage at the same time as the details of the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during the first available planting season after the occupation of the dwelling which is hereby approved.

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

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

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

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.

<b>Signature(s):</b>
<b>Date</b>



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/1112/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Approx 60m West / South West of no. 5 Cloane Lane Cloane Five Mile Straight Draperstown
<b>Applicant Name and Address:</b> Danny Grant 19a Cloane Lane Five Mile Straight Draperstown BT45 7EL	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge Toome BT41 3SG
<b>Summary of Issues:</b>  Main issue related to criteria of (c) of CTY10 in that sheds on site need to be in existence for 5 years and following an deferred meeting the agent submitted evidence to prove this, and therefore the relevant criteria can now be met for a dwelling on a farm.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.32km east of the settlement limit of Moneyneany and it is located in the open countryside as defined by the Magherafelt Area Plan 2015. The application is for an outline dwelling and garage on the farm and on the site sits a small agricultural shelter. The site is located in a portion of a larger agricultural field, the field in which is bounded on all boundaries by a mix of mature hedging and trees. The surrounding area is predominantly agricultural uses with a scattering of farm holdings and dwellings.	

**Description of Proposal**

This is an outline application for a proposed farm dwelling and detached domestic garage. The site is located approximately 60m South/ South West of No Cloane Lane, Five Mile Straight, Draperstown.

**Deferred Consideration:**

Following an office meeting held on 14 December 2017, the agent submitted additional information to support the case for a dwelling on a farm under CTY10. The main issue relates to the siting of a dwelling in relation to existing farm buildings/sheds on the site and if it meets criteria (c) of CTY10 of PPS21, which requires the dwelling to be visually linked or sited to cluster with an established group of buildings on the farm.

It was agreed the agent would investigate if a CLUD was required for the sheds on the site. Ortho photographs submitted show the sheds on site are not built in April 2009, but there are shown on site September 2012. There would be 5 year immunity by September 2017 and therefore no requirement for the submission of a CLUD.

As it can be accepted the sheds have been on the site for over 5 years, and they can be visually linked to a dwelling on the site, they do now meet all the criteria of CTY10.

**Conditions**

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

Reason: Time Limit.

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

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

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.

4. 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.

<b>Signature(s):</b>
<b>Date</b>



## 2<sup>nd</sup> Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/1371/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed 2 Storey dwelling and domestic garage/store based on Policy CTY10 Dwelling on farms	<b>Location:</b> 130m South of 38 Tirgan Road Tirgan Moneymore
<b>Applicant Name and Address:</b> Mr Declan Connery 25 Tirgan Road Tirgan Moneymore	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<p><b>Summary of Issues:</b> A late objection was received the day prior to the Committee meeting on 2<sup>nd</sup> October and was copied to members in the Addendum to that meeting. The late objection relates to the following issues :-</p> <ul style="list-style-type: none"> <li>• The applicant is not involved in agriculture;</li> <li>• The applicant is not involved in the relatives farm business;</li> <li>• The site is on farmland owned by the applicants father since 2014, therefore it has not been in existence for 6 years;</li> <li>• The applicant does not own the sheep grazing the land;</li> <li>• There is no access from the existing laneway into the site and this should be from the Craigmores Road.</li> <li>• No.38 is not vacant;</li> <li>• The trees providing the integration for the site are owned by the objector;</li> <li>• There was no attempt to engage with the objector following the deferred office meeting and the objector should have been alerted to the change of opinion to allow further representation to be made;</li> <li>• There is no apparent consideration of the objectors case;</li> <li>• The deferred recommendation appears to run contrary to the Judicial Review in the Lamont case;</li> <li>• The proposal is contrary to policy; and</li> <li>• The objector requests a further adjournment to allow the objector to engage with the Planning Department.</li> </ul> <p>In relation to the issues raised above;</p>	

- The applicant has provided clear details of his farm business ID no., herd no, flock no. and receipts and therefore it is accepted he is involved in agriculture;
- The applicant does not have to be involved in his relatives farm business;
- Policy CTY10 requires the farm business stated on the P1C to be active and established for more than 6 years. DAERA have confirmed this is the case;
- The applicant does not have to own the animals grazing his land;
- There is a clear access from the existing laneway into the site which is shown on the location map. The fact that there is also access to the farm lands via the Craigmole Road is irrelevant;
- If no.38 is occupied, this does not alter the consideration and no prejudice is caused as the objector has been aware of the application;
- The trees to the rear of the site are clearly within the ownership of the applicant and or his father and this is evident by way of land registry maps obtained by Council;
- As the objector only raised the issue of the proposal not being sited with existing buildings on the applicant's farm, further contact with the objector was not considered necessary following the deferred office meeting;
- The issue raised by the objector was fully considered by the initial case officer and in the deferred report;
- The proposal is a different scenario from the Lamont Judicial Review case as that was based on a site which was located beside a single farm building when there was an alternative group of buildings available. There are no farm buildings available on this holding;
- The issue relating to planning policy is considered in the report below.

#### **Summary of Consultee Responses:**

Environmental Health, DAERA and NI Water responded positively. DfI Roads advised that increased visibility splays of 2.4m x 70m are required and not the 2.4m x 45m as shown. However, this can be dealt with by way of condition.

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

The site is located approximately 2.75 miles south west of Desertmartin in open countryside in accordance with Magherafelt Area Plan 2015. The site outlined in red consists of an agricultural field set back 150m from the Tirgan Road. No 38, a large two storey dwelling and garage abuts the site along the northern boundary and Tirgan Hall is located 30m north east of the site. The site gradually rises from north to south and is bound by a vegetation along all boundaries. Access to the site is obtained via an existing shared laneway which wraps around the rear of No 38.

The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature.

#### **Description of Proposal**

The application seeks outline planning permission for a detached two storey dwelling and garage on the farm.

#### **Deferred Consideration:**

This application was presented before the Planning Committee in August 2018 with a recommendation to refuse based on the following reason:

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an

exceptional case in that it has not been demonstrated that the proposed new building is visually linked with the established group of buildings adjacent to the farm holding at No. 25 Motalee Road, Magherafelt.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed two storey is a prominent feature in the landscape and the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed two storey dwelling would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Following a discussion at that meeting the application was deferred for a meeting with the Planning Manager, Dr Boomer. This meeting took place on 16th August 2018 and was attended by C Cassidy – agent and planning officer M McCrystal. At that meeting the following was discussed:-

Dr Boomer advised that the applicant needs to show how he has been investing in the farm holding. This can be done through providing receipts/invoices for work done on the farm or materials purchased for use on the farm. The issue relating to the applicant's relative currently farming the holding was discussed and also the distance which exists between the site and the relative's main farmyard which is 5-6 miles. The distance between the applicant's current address and the site was also discussed, which is ½ mile.

CC explained that the applicant has obtained his own farm business ID no. and a sheep flock no. They are content to move the site of the dwelling closer to no.38 and the existing shed as a dwelling on this portion of the site would achieve better integration and also make use of the backdrop of mature conifers trees.

Dr. Boomer asked if there are any existing buildings on the farm holding and C Cassidy advised that there are no existing buildings and the proposed dwelling would be the first.

C Cassidy advised that he understood the ramifications if this were not the case and accepted that the proposed dwelling was being located at this location as it is an acceptable site in terms of integration where there are no existing farm buildings. He also undertook to provide evidence of how the applicant is investing in the farm.

### **Additional Information submitted**

The applicant submitted original copies of invoices, dated from March 2016 through to August 2018, for materials purchased for the farm business and for work done on the holding. Copies of these are retained on file.

### **Reconsideration**



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 proposal accords with PPS 21 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

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

CTY 10 – Dwellings on Farms which states that planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- (a) the farm business is currently active and has been established for at least 6 years; The applicant's father purchased the farm holding in recent years. This was previously owned by the applicant's uncle (the objector). The applicant has subsequently applied for and has been granted a farm business ID no. and a sheep flock no. The only issue in relation to these are that the applicant has not held these for the necessary 6 years, therefore they have applied for the dwelling using a relative's farm business ID no. The applicant's relative is stated as actively farming the land by grazing and DAERA have confirmed that the relative's farm business is both active and has been established for more than 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. A planning history check of the applicant's farm holding and the relative's farm holding have been conducted. Both have revealed that no planning approvals have been granted on either farm holding and no development opportunities have been sold off since 25th November 2008.
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s).

In this case, the farm business ID no. given belongs to a relative, which technically means this is the farm being used. Thus to comply, the applicant should site with buildings on that farm which are site several miles away. No health grounds have been given for not locating there.

In examining integration and rural character, CTY 13 and CTY 14, the original case officers report refers to the site as being that part of the field which has the annotation 'Site' located in the southern section. I disagree with this assumption as I believe the word site has only been used to identify the area outlined in red in its totality. If the southern section of the field only was to be the chosen location for a dwelling, the applicant would

presumably have identified that area as 'preferred location' and possibly shaded that area. As the entire field is outlined in red, then that is the area which can be considered as forming the site. Whilst agreeing that the southern section of the field would not be acceptable for a two storey dwelling, the northern half of the field is and this is acknowledged by the case officer in their report. This can be covered by way of condition and an area shaded to identify the acceptable portion of the field. By clustering the dwelling close to existing buildings, this will avoid creating infill opportunities thereby preventing unnecessary future build-up issues. A couple of dwellings set to the rear of a community hall, is in my opinion, not alien to the rural landscape but is typical to rural form.

In my opinion, although there will be critical views of the proposed dwelling, these will only be localised and will be between no.34 and the entrance to Tirgan Hall. However, over this short distance, the mature conifer trees to the rear of the site in addition to the rising ground of Slieve Gallion will provide an acceptable backdrop for such a dwelling. As detailed above, the site, subject to a siting condition, will be able to provide an acceptable degree of integration for a two storey dwelling as proposed. In addition to the above, it is acknowledged that the proposed access is taken off an existing lane which leads to a vacant dwelling, a redundant dwelling and additional farm lands.

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

The proposed development includes the access being taken off the existing farm lane which serves a dwelling (no. 38), a redundant dwelling and additional farm lands.

Transport NI advised that the visibility splays required to the north will be 2.4m x 70m and not 2.4m x 45m as indicated on the site location map. They also advise that if Council wish to approve the application without receipt of an amended red line, the suggested condition should be attached to the decision. In my opinion, the proposed access will not have any additional impact on the landscape and is therefore considered to be acceptable.

### **Recommendation**

On consideration of the above, and in applying the policy tests, in my view the only failure is that it does not cluster with existing buildings on the farm. This is a test which should not easily be set aside. However, there will always be justification for making exceptions outside of the stated policy. In my opinion, the fact that this provides a dwelling for a young part-time farmer to set up on land owned by his father is a consideration. Given that they do not own lands around the applicant's father's dwelling, this is not a potential location. Also, the distance from the buildings on the farm holding of the relative whose agricultural business ID no. has been used as stated, is several miles away. Therefore I do not feel that this offers a practical location for this applicant to tend his land. As the issues of integration and build-up are resolved in the conditions suggested below relating to siting, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

### **Conditions**

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.

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.

3. The proposed dwelling shall be in the area shaded green on the approved plan date stamped received 12th February 2018.

Reason: To ensure that the development hereby approved clusters with the existing buildings whilst avoiding creating an infill opportunity and a tendency to ribboning in accordance with the requirements of 'Building on tradition – A Sustainable Design Guide for the Northern Ireland Countryside.'

4. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

5. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

6. The dwelling hereby permitted shall have a ridge height of not greater than 8.0 metres above finished floor level, designed and landscaped in accordance with the Department of Environments Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

7. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: To ensure that the proposal is in keeping with the character of the rural area.

8. The existing natural screenings along the northern, eastern and western boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, 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.

9. The dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow with trees and shrubs of mixed woodland species planted on the inside.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

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

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

11. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

Reason: To ensure the continuity of amenity afforded by existing hedges/trees.

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

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

13. A plan at 1:500 scale (min.) 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 onto Tirgan Road in the interests of road safety and the convenience of road users, which meets the standards set out in PPS3 and DCAN15.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/1685/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site of infill dwelling and domestic garage for residential purposes	<b>Location:</b> 60m South West of 72 Deerpark Road Castledawson
<b>Applicant Name and Address:</b> Mr P Keenan 49 Hillhead Road Toomebridge	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Consultee Responses:</b>  No objections received	
<b>Characteristics of the Site and Area:</b>  <p>The site is located approximately 2 miles south of Bellaghy in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 20m south of No 72 Deerpark Road and consists of a cut out portion of a roadside triangular shape field. The northeast and west (roadside) boundaries are defined by 2m high hawthorn hedge, the south and east boundaries are undefined. Approximately 550m south of the site works is under way to construct the A6 Castledawson to Toome Dualling Scheme</p> <p>The surrounding area is characterised by dispersed roadside dwellings, farm buildings and relatively flat landscape. The predominant land use is of an agricultural nature.</p>	
<b>Description of Proposal</b>  <p>The application seeks outline planning permission for a proposed infill dwelling and garage</p>	

**Deferred Consideration:**

An office meeting was held on 18th September 2018 with Dr.Boomer. There was no issue that is a continuous and substantial built up frontage which includes a line of 3 or more buildings with a road frontage on Deerpark Road.

A site visit was carried out in 25 September 2018 to ascertain if the gap to be infilled was an important visual break in line with CTY8.

The adjacent dwelling (no.72) to the site was approved under H/2014/0005/O \_ H/2014/0202/RM and is a large 2 storey detached dwelling with a separate garage. This dwelling is defined with hedging and wooden fencing and the boundary line depicted on the location map is not defined on the ground with any hedgerow, although there are 2 trees on either side of the laneway, which opens up views of this site. Although there is strong hedging along the Deerpark Road, the site can be visually linked with No.72 and its associated garage travelling from north to south.

The site, and the field it is set within, has a strong roadside boundary, and whilst providing a short visual gap, it would not be viewed as an important visual break, due to the dwellings on either side of it which are clearly visible from the Deerpark Road.

The plot size reflects the two plots on either side of site, approx 70m, however No. 78, to the south has a much smaller plot size and road frontage of 14m, and a restricted curtilage. It is however set within a larger plot used a field/grazing area and can be viewed as such, and if this was used as a frontage, increases it to 60m, more in keeping with the other plots.

There is also a large 2 storey detached dwelling opposite the site which has begun to change the character of this part of Deerpark Road, this development along with No.72, which is a substantial size dwelling and plot, means on balance I do not feel a dwelling on the site would cause a detrimental impact on the existing character of the area. Approval is recommended.

**Conditions**

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

Reason: Time Limit.

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

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

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.

4. 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):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2018/0041/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and garage - infill	<b>Location:</b> Approx 50m South East of 94 Kilrea Road Portglenone
<b>Applicant Name and Address:</b> Mr Raymond Henry 94 Kilrea Road Portglenone	<b>Agent name and Address:</b> MDF Architecture 11 Blackthorn Road The Brambles Newtownabbey BT37 0GH
<b>Summary of Issues:</b>  No issues have been raised in relation to this proposed development.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.5miles north of Innishrush within open countryside in accordance with the Magherafelt Area Plan 2015. The site outlined in red encompasses two agricultural fields and the smaller field is identified as the 'proposed site'. Both fields have a frontage onto the private laneway whilst the larger field also has a frontage onto the public road. There is a detached single storey building (No 94 Kilrea road) located immediately north of the site. The site boundaries are defined by mature trees and hedgerows and the proposed site is accessed via an existing access. The surrounding area is characterised by roadside dwellings and undulating landscape and the predominant land use is of an agricultural nature.	
<b>Description of Proposal</b>  The application seeks outline planning permission for a proposed infill dwelling and garage.	



**Deferred Consideration:**

This application was presented before the Planning Committee in July 2018 with a recommendation to refuse based on the following 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.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent an infill opportunity and would, if permitted, result in the creation of ribbon development along this stretch of private laneway.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this stretch of laneway and therefore will result in a detrimental change to the rural character of the countryside.

Following a discussion at that meeting the application was deferred for an office meeting. The deferred office meeting took place on 19th July 2018 at which the following issues were discussed:-

In attendance:-

M Bowman – MUDC Planning  
 M McCrystal – MUDC Planning  
 P McGlone – MLA  
 M Francey – Agent  
 C Cassidy  
 R Henry – applicant  
 D Henry – Applicant's son

MB asked where the frontage is regarded to be as there appears to be two frontage.

CC advised that dwellings at no's 92, 94 & 98 all front onto the same laneway although this is dissected by a second laneway leading to the commercial yard. The laneway leading along the side of no.92 has always been there and is not a new laneway created for the purpose of this application.

PMG – All the dwellings and the business at this location are within the same family ownership. The entire development at this location reads as one frontage with little or no public perception from the public roadway.

MB – this will need to be reviewed in light of the revised site inspection.

Action – MMC to inspect the site with a view to assessing if the existing development can be regarded as being on one frontage and if the site is acceptable in this regard.

Following the deferred office meeting, I visited the site on 15th August 2018.

The site is undoubtedly bounded by two laneways, one extending along the southern boundary and leading to the Kilrea Road, while the second laneway runs along the rear of no's 98, 94 and continues past the end of the first laneway into the yard of no.90 from which the applicant runs a construction business. Although the area around the office building is concreted and may appear to form part of the yard, the access extends past and between the office building and a new dwelling built at no.92, into a separate compound to the south of these two buildings. In effect, the laneway could be regarded as continuing between no's.90 and 92 as no.90 fronts onto this area, which then leads past no.90 and into a separate compound area. If Committee were of a mind to accept that rationale, then in my opinion, a dwelling on the proposed site would be acceptable as it would be located within a continuously built up frontage of at least three buildings, ie. no's 90, 94 and 98. In that case a dwelling should be positioned to the rear of the site and in line with the existing dwellings at no.'s 94 and 94, thereby maintaining the existing building line. Given the mature boundary hedgerows around the site, there are no critical views of the site from the public road system. In these circumstances, a two storey dwelling with a ridge height of not more than 8.0m could achieve a satisfactory degree of integration on the site without any detrimental impact on rural character, provided it is sited within the small field to the immediate south of no. 94 and the existing mature hedgerow to the eastern boundary of that field is fully retained at its mature height.

## **Conclusion**

Given the above situation, it is my opinion that the proposed site could be considered as being acceptable and could be approved subject to the conditions listed below:-

## **Conditions**

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.

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.

3. The dwelling hereby permitted shall have a ridge height of not greater than 8.0 metres above finished floor level, designed and landscaped in accordance with the Department of Environment's Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

4. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

5. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

6. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: To ensure that the proposal is in keeping with the character of the rural area.

7. The existing natural screenings along the eastern and western boundaries of this site, shall be retained at their mature height, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, 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.

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

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

9. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

Reason: To ensure the continuity of amenity afforded by existing hedges/trees.

10. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the

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

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

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

Reason: In order for the applicant to create a safe access onto Drummard Lane which meets the standards set out in PPS3 and DCAN15.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2018/0042/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Development for 1 house only	<b>Location:</b> 20m West of 15 Derrynoyd Lane Moneyneena Draperstown. Co. Derry
<b>Applicant Name and Address:</b> Aaron Kelly 2A Moneyneena Road Draperstown	<b>Agent name and Address:</b> Colm McGurk 33 King Street Magherafelt BT45 6AR
<b>Summary of Issues:</b>  Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  <p>The site is located approximately 1.47 km from Moneyneena and is defined to be in the open countryside as per the Magherafelt Area Plan 2015. The site is located in the eastern portion of a large agricultural field wherein the site has an undulating land form where the site rises from the roadside to the North West corner. The northern, eastern and south/south western boundaries are all defined by a mix of hedging with mature trees along the roadside. There are two dwellings to the east of the site identified as Nos 11 and 15, with another dwelling further west of the site. The immediate locality is characterised by residential development, with the wider surrounding area is characterised by agricultural land uses.</p>	
<b>Representations</b>	

There were five notification letters sent out however no representations were received on this application.

### **Description of Proposal**

This is an outline application for development of 1 house only located at Derrynoyd Lane, Draperstown.

### **Deferred Consideration:**

This application was presented before the Planning Committee in July 2018 with a recommendation to refuse based on the following 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.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the Derrynoyd Lane.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Following a discussion at that meeting the application was deferred for an office meeting.

The deferred office meeting took place on 19th July 2018, which was attended by M Bowman and M McCrystal MUDC and F Rainey (Agents), and at that meeting the following was discussed:-

FR contended that the building line as indicated on a new block plan (submitted for information) would set all dwellings back off Derrynoyd Lane. In addition to this a dwelling on the western part of the adjoining field would need to be set back behind this building line and to the centre of this part of the field so as not to intrude on the view from the front of the adjoining dwelling indicated as 'Building 1'. This would then result in such a dwelling being more central on the adjoining field which would render the eastern part of that same field unsuitable for accommodating a dwelling. The green shaded area on the map submitted would indicate the area unsuitable for development as a third dwelling.

It was accepted that on looking at the photos in the supporting statement and in particular Image 2, that there was a degree of visual linkage between the two dwellings at either end of the proposed gap. The right to a view from Building 1 is not a material consideration and this view is not protected by policy. The mature boundary to the SW of the site would have to be retained as it aids the integration potential of any dwelling.

The approved site (LA09/2015/0427/F) and its frontage length on the opposite side of the Derrynoyd Lane needs to be taken into consideration as this would be representative of the frontage lengths in the area.

It was agreed to inspect the site and give consideration to the issues raised above.

I visited the site on 15th August 2018 and am of the opinion that the site is a small wedged shaped site with a larger field to the west. The site has a road frontage of around 24m but gets wider towards the northern side. The larger field which is almost triangular in shape has a road frontage of around 118m but this tapers off into a point adjacent to the proposed site.

In essence, while the entire undeveloped frontage may appear to be large enough to accommodate more than two dwellings, given the overall shape of the field to the west of the proposed site, I am not convinced that more than two dwellings could be developed within this frontage, whilst respecting the existing built form.

At the deferred office meeting, the agent submitted a concept plan indicating the areas which could reasonably be expected to be developed. This concept also indicated the portion of the adjoining field, which due to its shape and tapering nature, would be unpracticable to accommodate a dwelling. Therefore, in this instance, it is my opinion that given the above circumstances, the gap between the existing buildings could accommodate up to two dwellings whilst respecting the existing development pattern along the frontage in terms of size, scale and plot size.

On approach along the Derrynoyd Lane from the east, there is a visual linkage between the existing dwellings at 11, 15 and 21 Derrynoyd Lane which frame the gap site. A dwelling on the proposed site would be visually linked with the existing dwellings and would be read as part of an existing ribbon. As a dwelling on this site would be read with the existing buildings and would be regarded as being within the existing ribbon, it would not have a detrimental impact on visual amenity or rural character. The existing mature boundaries around the southern, eastern and western boundaries are sufficiently strong to enable a single storey dwelling to integrate into the surrounding landscape.

## **Conclusion**

Given the above situation, it is my opinion that the proposed site satisfies the policy tests and can be approved subject to the conditions listed below:-

## **Conditions:**

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.

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.

3. The proposed dwelling shall be in the area shaded green & the proposed curtilage shall be restricted to the area shaded brown on the approved plan date stamped received 11 May 2015 and the remainder of the land within the red outline of the application site shall be retained as agricultural land.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of 'Building on tradition – A Sustainable Design Guide for the Northern Ireland Countryside.'

4. The dwelling hereby permitted shall have a ridge height of not greater than 5.5 metres above finished floor level, designed and landscaped in accordance with the Department of Environment's Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

5. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

7. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: To ensure that the proposal is in keeping with the character of the rural area.

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

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

9. The existing natural screenings along the southern, eastern and western boundaries of this site, shall be retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, 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.



10. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

Reason: To ensure the continuity of amenity afforded by existing hedges/trees.

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

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

12. 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):**

**Date**



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0467/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and domestic garage for residential purposes	<b>Location:</b> 100m North East of 15 Ballydermot Road Castledawson
<b>Applicant Name and Address:</b> Mark Diamond 107 Ballymacombs Road Bellaghy	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Issues:</b>  Proposal fails to comply with all the criteria contained within Policy CTY2a of PPS21.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The application site is a 0.45 hectare rectangular field located 100m NE of 15 Ballydermot Road, Castledawson. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site is relatively flat and all three boundaries are defined by thick hedgerow. A concrete laneway runs along the Eastern site boundary. This laneway is used to access several detached dwellings. There are 3 detached dwellings to the immediate North of the site, 2 of which front onto the Ballydermot Road and 1 which fronts onto Ballydermot Lane. To the West of the site is a detached dwelling and several ancillary outbuildings. There is no development to the immediate South of the site.  This area is generally rural in character. It has a low development pressure with the predominant form of development being single dwellings and agricultural outbuildings. The site is also partially in an area of archaeological potential (LDY042:026)	

**Description of Proposal**

This is an outline application for dwelling and domestic garage for residential purposes. A cluster concept plan has been submitted to be considered in this assessment. There are no relevant planning histories on the site.

**Deferred Consideration:**

Following the office meeting held on 19/07/18, where the issues relating to the proposal were discussed regarding Policy CTY2a. In terms of meeting this policy the main issue is if the junction could be accepted as a focal point that a cluster could be associated with.

Policy CTY2a states permission will be granted for a dwelling at an existing cluster of development provided certain criteria is met. One of this criteria includes the cluster to be associated with a focal point such as a social/community building, or Located at a cross roads. In this case there is no focal point and I feel also there is no cross roads. The road staggered opposite Ballydermot Lane is a concreted dead end laneway, and although it serves a number of existing dwellings, is not a road that could be included in definition of a 'crossroads' within the policy.

As it is not agreed the site consists of a cluster, then rounding off cannot be considered, therefore it is considered any development of the site will erode the rural character of the area.

The agent was offered the opportunity to submit a farm dwelling case, but has advised it is not a viable option in this case, so CTY10 cannot be considered.

Refusal is recommended as previously as the proposal is contrary to CTY2a.

**Refusal Reasons**

1. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwellings;

the cluster does not appear as a visual entity in the local landscape;

the cluster is not associated with a focal point and is not located at a cross-roads;

the proposed site is not bounded on at least two sides with other development; and

the dwelling would if permitted significantly alter the existing character of the countryside.

**Signature(s):**

**Date**

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/0902/RM	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed One and a Half storey dwelling and garage with upper level office and associative site works as per outline approval LA09/2016/0065/O (amended address and plans)	<b>Location:</b> Site adjacent to 10 Derryloughan Avenue Coalisland
<b>Applicant Name and Address:</b> Gerard Mc Cann 20 Downshire Park Central Belfast	<b>Agent name and Address:</b> MMAS Second Floor Mew Mill Conway Mill 5-7 Conway Street Belfast BT13 2DE
<b>Summary of Issues:</b> Objections received relating to loss of amenity, revised plans submitted. Objectors have spoken on this application, applicant has not spoken on this application.	
<b>Summary of Consultee Responses:</b> Roads – advice	
<b>Characteristics of the Site and Area:</b>  With the exception of a new dwelling and garage located in the other (eastern) half of the large field from which the current site is cut there does not appear to be any other significant changes on site or in the immediate vicinity from the outline application on site, as such the characteristics of the original site and area by enlarge remain as per LA/2016/0065/O.  The site is located approx. 4 miles south east of Coalisland and is accessed from Derryloughan Avenue, a minor road off Derryloughan Road and within close proximity to Lough Neagh.	

Located some 200 metres from the junction with Derryloughan Road the site is flat and the levels within it similar to that of Derryloughan Avenue which runs along the southern boundary of the site.

The southern boundary of the site is defined by a low roadside hedge. The eastern boundary is undefined. The western boundary is defined by a post and rail fence. And the northern boundary by a low hedge.

To the west of the proposed site are 4 no. of dwellings one with some form of commercial activity evident.

To the east of the site located in the other half of the large field from which the current site is cut as aforementioned above is a relatively newly constructed dwelling and garage approved under outline application LA09/2016/0066/O and reserved matters application LA09/2016/1612/RM which were granted on the 31st May 2016 and 10th January 2017 respectively. Beyond this dwelling is two dwellings in tandem form.

On the opposite side of and on the immediate straight stretch of Derryloughan Avenue are 6 dwellings with the potential for at least one infill opportunity. Just beyond these dwellings after a bend in the road is another 3 dwellings including one at the very end of the Avenue bound by a no. of buildings/sheds.

The majority of the dwellings noted within the immediate vicinity are of bungalow appearance however 2 on the opposite side of the road (Derryloughan Avenue) to the site are one and half storey.

Views of the site are generally limited until passing along the roadside frontage of the larger field from which the site is cut due to its location within an existing line of development (dwellings) running along a straight stretch of road. Over a short distance when travelling along the Derryloughan Road to the north whilst on the approach to the junction of Derryloughan Avenue there will be views of the site, however these are long distant and limited by roadside vegetation.

### **Description of Proposal**

This is a reserved matters application for a dwelling and garage with upper level office and associative site works to be located on a site adjacent to 10 Derryloughan Avenue, Coalisland.

This proposal gained outline approval under outline application LA09/2016/0065/O on the 31st May 2016.

### **Deferred Consideration:**

Members are advised this application was before them last month as an approval, however there were objections from the neighbour and as such it was deferred to allow the parties to meet with the planning manager to try and find common ground. Dr Boomer met with Mr & Mrs McCanns, their architect and Mr & Mrs McGrath and explained there may be some degree of overlooking, but owners of the properties had a right to enjoy their own properties. Both parties were able to put forward their views as it was apparent they would be living beside each other and would not wish to have a fraught

relationship, the architect explained the rationale behind the design and that the neighbours were fully considered in the design of the property. From the discussions it was identified the issues relate to the downstairs living area window facing towards the objectors patio doors, the upstairs terrace at the back of the proposed dwelling overlooking the rear yard and the open boundary between the properties.

Amended plans were submitted which clearly show the provision of a native species hedge along the boundary, trellising along the remainder of the upstairs terrace and a reduction in the size of the living windows on the ground floor. The architect also provided a new window in the upstairs gable facing towards the road to conform with building regulations for fire escape windows. The dwelling is set back 30metres into the site and in line with the dwellings on either side as such I do not consider this window will have any significant impact on the amenity of any of the adjoining properties. The hedge can be allowed to grow to a height that will allow both parties to enjoy their properties without having any adverse impact on each other.

The amended plans were forwarded to Mr & Mrs McGrath on 15<sup>th</sup> October 2018 for their consideration. There has been no further comments on the plans at the time of writing the report.

As previously recommended I consider this development can be approved with conditions requiring landscaping along the boundaries and providing painting to be carried out and retained at the terrace.

**Conditions:**

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.

2. All proposed landscaping as detailed on drawing number 02 (Rev.04), bearing the date stamp received 15OCT 2018, shall be carried out during the first available planting season following the commencement of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

3. The new hedges along all boundaries of the site shall be allowed to grow to and be retained at a height no less than 2 metres.

Reason: In the interests of residential amenity.

4. The trellis and planting on the upper floor terrace as shown on drawing numbers 04Rev1, 05Rev1 and 07Rev1 bearing the stamp dated 15 OCT 2018, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any plants which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of residential amenity.

5. The vehicular access, including visibility splays of 2.0m x 45.0m and any forward sight distance shall be provided in accordance with drawing number 02 (Rev.04), bearing the date stamp received 15OCT2018, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

### **Informatives**

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

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

3. This permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

4. Transport NI comments:

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

Notwithstanding the terms and conditions of the Councils approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

Provision shall be made to the satisfaction of Roads Service, to ensure that surface water does not flow from the site onto the public road. In the interest of public safety and traffic management.

Provision shall be made to the satisfaction of Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site. In the interest of public safety and traffic management.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1148/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed construction of new vehicular access onto Old Eglish Road (Revised position)	<b>Location:</b> Dungannon United Youth Black Lane Mullaghanagh Dungannon
<b>Applicant Name and Address:</b> Dungannon United Youth c/o Joe McAree Black Lane Mullaghanagh Dungannon BT71 7AY	<b>Agent name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Summary of Issues:</b> New access road which has some retaining structures.	
<b>Summary of Consultee Responses:</b> Roads – concerns regarding pedestrians	
<b>Characteristics of the Site and Area:</b>  Dungannon United Youth is an existing sports facility located at the corner of Black Lane and Old Eglish Road, Dungannon. The site contains an existing building which is finished with brown brick walls and a low pitch blue clad roof with a car park to the north side of it. The existing building sits approx. 5m above the level of Old Eglish Road and contains an indoor football pitch ther area and a number of temporary buildings along its east elevation used for changing facilities and a coffee dock/meeting room. The site also has a full size football pitch at a higher level to the east. Access to the site is by an existing lane off Black Lane.	

There are detached and semi-detached private dwellings between the application site and Black Lane. Windmill Integrated Primary School is to the south, on Old Eglish Road and it has a MUGA pitch between the school car park and the application site.

### **Description of Proposal**

The proposal is for the construction of a new vehicular access onto Old Eglish Road between the existing building and the Old Eglish Road, this will require a retaining structure and reorganisation of car parking areas.

### **Deferred Consideration:**

Members are advised this application was deferred at the Committee Meeting on 2 October 2018 as the access position has changed and had not been considered. The access position has been moved from the original position on the south side of the DUY building, between it and Windmill Integrated Primary School, to the west side of the side, between the DUY building and Old Eglish Road. The position of the revised access is a steep grassed bank that slopes from the existing building and car park down to the rear of a paladin fence that is set behind the footpath on Old Eglish Road. It has been advertised in the local papers and neighbours have been notified about the revision.

The revised position will be more visible from the Old Eglish Road, as it runs parallel to it, the access road is 92m in length and will slope up from the Old Eglish Road to the existing car park. The proposal includes retaining structures between the proposed access roadway and the existing building and between the access road and the Old Eglish Road. The retaining structures will be concrete walling and a concrete crib wall system topped by a vehicle restraint system (crash barrier). The crib system will be a maximum of 4.5m and a minimum of 1.4m. in height, with a length of approx. 49m, it will retain the existing car park and building, it will allow plants to be inserted which will assist in softening the impact of the development. It is also proposed to provide landscaping between the access road and the Old Eglish Road, which I consider will help to reduce the impact of the proposed development on the street scene. On the opposite side of the Old Eglish Road is agricultural lands and as such I do not consider the proposed access will have any significant adverse impact on those lands. The new access road will require the 11 car parking spaces to be moved 1 metre further into the car park, which can be easily accommodated and as such I do not consider there is any loss of car parking as a result of the proposal.

Roads engineers have considered the revised access position and have raised a concern in relation to pedestrian access to the site. They advise this will be a private road, not adopted by the Department and as such it would not be subject to the same strict standards in terms of design. Generally they would require a footpath to be provided along with the vehicular access and have indicated there may be a safety issue with this. Members are advised there is an existing pedestrian access from Old Eglish Road into the site at present, this access will still be in place and open at the same times as the vehicular access. I have no doubt that pedestrians will utilise the vehicular access instead of the existing pedestrian access, however there is alternative provision for them and the

traffic speeds will be very low along this small stretch of road. I consider these factors will limit the potential safety concerns that Roads Engineers have. Roads Engineers have not raised any issues of road safety with the development provided the visibility splays are put in place before it is used.

I consider the proposed development is acceptable and can be approved.

**Conditions/Reasons for Refusal:**

**Conditions**

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

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

2. Prior to the vehicular access hereby approved becoming operational, visibility splays of 2.4m x 60.0m and forward sight line shall be provided in accordance with the approved drawing No 02 Rev 2 bearing the stamp dated 05 OCT 2018. 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 levels 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.

3. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 02 Rev 2 bearing the stamp dated 05 OCT 2018 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following the commencement of the use of the access hereby approved.

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

4. The (gradient of the access/gradients of the accesses) shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5. The gradient of the access shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

6. Prior to the commencement of the development hereby approved, a landscaping scheme for the crib retaining system shall be agreed with the Council. The landscaping scheme shall be implemented within the first planting season following the construction of the crib retaining wall.

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

### **Informatives**

1. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Regional Development for which separate permissions and arrangements are required.

2. The development shall not be (commenced/occupied) until a Certificate issued by a Chartered Structural Engineer certifying that the structure has been designed in accordance with the relevant standards and guidance, has been submitted to and accepted by DRD Roads Service. The certificate should state;

I/We certify all reasonable professional skill and care has been used in the design & check of the above named structure in accordance with the following design standards and advice notes

3. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashal, Dungannon. A monetary deposit will be required to cover works on the public road.

4. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

5. Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

**Signature(s):**

**Date**



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 2 October 2018 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Mallaghan, Chair

Councillors Cuthbertson, Gildernew, Glasgow, Kearney, McAleer, McEldowney, McKinney, McPeake, Robinson, J Shiels

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr McCrystal, Senior Planning Officer  
Ms McCullagh, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Ms McNally, Council Solicitor  
Ms Grogan, Democratic Services Officer

**Others in Attendance**

**Applicant Speakers**

LA09/2017/0126/F	Gavyn Smyth – Clyde Shanks
LA09/2017/0126/F	Dermot Monaghan – MBA Planning
	Michael Murphy – Sperrin Galvanisers
LA09/2018/0176/F	Chris Cassidy – CMI Planners
LA09/2018/0390/F	Oonagh Given
LA09/2018/0555/F	Theresa Cassidy – TC Town Planning
	Mr Lumber
	Joe Diamond – Architect
LA09/2018/0751/F	Katrina Kelly
LA09/20158/0902/RM	Mr & Mrs P McGrath
LA09/2016/0114/O	Chris Cassidy – CMI Planners
LA09/2016/1693/O	Chris Cassidy – CMI Planners
	Councillor McPeake
LA09/2016/1371/O	Sean Hagan - JPH LAW Limited

Councillor B McGuigan

The meeting commenced at 7pm.

**P127/18 Apologies**

Councillors Bell, Clarke, Mullan and Reid.

**P128/18 Declarations of Interest**

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

**P129/18 Chair's Business**

The Chair asked the Planning Manager for an update on the Coalisland Race Track Project.

The Planning Manager advised that planning permission was approved for the race track on 7 September 2017. He said that approval was granted following the securing of agreement with the applicant, that he would provide a link road around Coalisland, undertake the investigations and remedial works to ensure the site was safe from subsistence in relation to past mining and provision of off-site car parking for major events. Accordingly, the approval was conditional upon providing this.

He stated that on the 9 January the Head of Development Plan and himself met with the applicant's agent and other consultants for the scheme and to listen to difficulties he was having in relation to achieving the link road due to its cost and in relation to undertaking survey work. He said that the agent was advised that he wished to change any of the conditions he would need to apply to vary or remove these. On 19 February the Chief Executive, Director of Business and Communities, Director of Infrastructure and himself met with the applicant and his agent and reaffirmed that it was looked at changing the condition on the road if an application was submitted and officers were assured that a report on land stability would be submitted and that work on providing off site car parking was underway. He stated that he had discussed the possibility of revising the link road with Roads Service advising them of the importance of the proposal as a whole of Mid Ulster. The agreed subject to an application, they would be amenable to dropping the link subject to provision of off-site car parking and satisfactory single access to site.

Since then the only application made by the applicant was for the construction of off-site parking facilities to accommodate 385 cars at land adjacent to the service station at Ballynakelly Road, Dungannon, which is still under consideration.

The Planning Manager stated that following adverse press reports following the loss of the 2019 World Superbike Championship, the Director of Business and Communities and himself have arranged to meet the applicant and Geographic Survey NI on 10 October to explore the reasons for delay and to see what can be done to progress matters.

The Planning Manager referred to Performance Statistics and advised that the first quarter statistics show that for between 1 April and 20 June which show:

- 345 applications received, marginally higher than the previous year and third highest in NI and around 100 more than many of neighbouring Councils
- 319 issued, which is also much more than most authorities. However, because a backlog was accumulated over the winter due to staff shortage it shows this was being added to rather than cleared
- Council retained the highest approval rate although other Councils appear to now be approving a higher rate than they did previously
- 6 majors received, ABC received 7 and Belfast 8. Most other Councils received one or two. Three majors were approved. Only 25% were within the 30 week target, which was the 3<sup>rd</sup> best in NI. 100% was achieved in Antrim and Newtownabbey although the statistic is unreliable given they one application and one decision.
- On average processing time was 18.1 weeks and only 35.4% was in 15 week target. It was the third worst with only ABC and Causeway Coast performing



lower. This was not surprising given staff shortages and would not expect any improvement over the summer, although hopefully in September a corner has been turned.

- Enforcement opened 50 new cases although the complexity of cases seems to be rising due to issues surrounding quarrying/waste and commercial activity. Target has been achieved despite being down a team member although it was clear the team were under stress. Only 2 prosecutions were taken although most Councils took none. With 181 lives cases ongoing, MUDC remain one of the more efficient and have no doubt that as a result, would be confident that there was an avoidance of Ombudsman complaints.

He said that it was anticipated that the summer months would not show any improvement. However, two trainee officers were now in place on a two year contract and two other officers assisting on temporary contracts and also running is a competition for a permanent Planning Officer.

The Planning Officer referred to recent planning appeal for 4 no. 2 bedroom apartments at 32 Mullaghboy Lane, Magherafelt for Philip Donaghy advising that it was dismissed with the Planning Appeals Commission supporting both the Council's reasons for refusal in relation to lack of car parking and deterioration of highway safety.

Councillor Glasgow, Vice Chair referred to correspondence which he raised at the full council meeting last Thursday night regarding the retention of red telephone kiosk situated at 120 Lough Fea Road, near Ballybriest Orange Hall, Cookstown BT80 9QL and said that it was suggested that the matter be raised at the planning committee to see if Officers could investigate whether it would fall into a temporary listing category. He said that constituents had expressed concern that the payphone was five miles from the nearest village and that a lot of the payphones were for emergency use only and the fact that they were not used was a good sign but if there was an emergency, they would be needed.

The Planning Manager said that he was pleased to say that the Development Plan & Enforcement team had looked at 3 telephone kiosks and consulted with Historic Buildings, who advised that they would be worthy of a temporary listing and if the committee were happy with the verbal report that he would proceed to go ahead with a temporary listing.

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination. The Chair sought approval to have these applications deferred/withdrawn from tonight's meeting schedule –

Agenda Item 4.1 – LA09/2017/0126/F – Housing development of 37 units (reduction to number of alterations to house types from previous lapsed application H/2008/0216/F) at site at Magherafelt Road, Draperstown for Rea Developments – Deferred for further consideration.

Agenda Item 4.11 – LA09/2018/0751/F – Dwelling and garage (in substitution for previously approved H/2008/0398/RM & H/2004/1123/O at 20m N of 2 Lisgorgan Lane, Upperlands, Maghera – Deferred for an office meeting.

Agenda Item 4.17 – LA09/2018/1148/F – New vehicular access onto Old Eglish Road, Dungannon at Black Lane, Mullaghanagh, Dungannon for Dungannon United Youth – Deferred until further information is received on the provision of access.

Agenda Item 5.3 – LA09/2016/1693/O – Farm dwelling and garage, 195m SW of 146 Gulladuff Road, Bellaghy – Deferred until further information is received.

Proposed by Councillor Glasgow  
Seconded by Councillor Robinson and

**Resolved** That the planning applications listed above be deferred for an office meeting/ withdrawn from tonight's list for consideration.

### **Matters for Decision**

#### **P130/18 Planning Applications for Determination**

**LA09/2017/0126/F Housing Development of 37 Units (reduction to number of alterations to house types from previous lapsed permission ref H/2008/0216/F) at site at Magherafelt Road, Draperstown at Junction with Drumard Road for Rea Developments**

**Resolved** Application agreed to be deferred for further consideration earlier in the meeting.

**LA09/2018/0076/O Off site replacement dwelling and garage at 163 Davagh Road, Sixtowns, Draperstown for F Quinn**

Members considered previously circulated report on planning application LA09/2018/0076/O which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/0076/O be approved subject to conditions as per the officer's report.

**LA09/2018/0176/F Retrospective application for a shed to the rear of 140 Kilmascally Road, Dungannon for Martin O'Neill**

Mr Marrion, SPO presented a report on planning application LA09/2018/0176/F advising that it was recommended for refusal.

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

Mr Cassidy said that the application was made for the storage of 3 boats and working nets and a letter of support had been submitted from Lough Neagh Partnership confirming that he was a fisherman on the Lough. He advised that there were no

objections from neighbours and requested that the application be deferred for an office meeting.

The Planning Manager said that although there was not a policy for commercial fishing, there was a need to look at fishing as agricultural, taking into consideration the justification and ensuring no harm to amenity.

He said that the shed was very high in relation to the size of the boats and that when Officers went to the site they did see boats and nets, but there was also commercial vehicles, old lorry trailers, an old vehicles a small boat as well as empty diesel containers around the perimeter of the shed. The surrounding land is rural in nature with agricultural fields with a scattering of single dwellings along the roadside. He said that the yard from the neighbouring house to the shed was very small.

In the absence of a defined policy, he advised for members views as to how an applications for storage for commercial fisherman should be considered.

The Chair said that in the speaking rights it was suggested that parking of HGV's could be controlled by condition.

The Planning Manager said that if this was not done then action could still be taken because it would represent a change of use if Planners were made aware of it and enforcement issued. He said that the only way that amenity could be addressed was to redesign the turning yard.

Councillor Gildernew said that neighbours mustn't be that concerned as there were no objections to it and the shed may look high but this doesn't mean that its needed to fix boats and would be supportive having another look at it.

The Planning Manager agreed that it would be beneficial to investigate this further.

Councillor McKinney said that he would be supportive of the Planning Manager's suggestion of having it looked at in detail as fishing and farming were both part of agriculture.

Councillor McPeake agreed with the sentiments of the committee and said that this should be looked at within the emerging Development Plan with the fishing industry being considered. He referred to the issue of turning at the yard and said that it needed to be investigated whether or not the applicant was going for a commercial enterprise and if this was the case, then an application for the change of use would need to be made. He said that as no objections were made that this was a bonus.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/0176/F be deferred for a site meeting.

**LA09/2018/0390/F Non-compliance with condition 2 of planning permission  
I/2012/0280/F at approx 20m N of 129 Drum Road, Cookstown  
for Mr John Mulgrew**

Members considered previously circulated report on planning application LA09/2018/0390/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2018/0390/F be approved subject to conditions as per the officer's report.

**LA09/2018/0426/F Chimney at 139 Moneymore Road, Cookstown for Dale Farm Ltd**

Members considered previously circulated report on planning application LA09/2018/0076/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McEldowney and

**Resolved** That planning application LA09/2018/0076/O be approved subject to conditions as per the officer's report.

**LA09/2018/0446/RM Dwelling on a farm opposite no 296 Pomeroy Road, Lurganeden, Pomeroy, Dungannon for Ms Helen Brimage**

Members considered previously circulated report on planning application LA09/2018/0446/RM which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/0446/RM be approved subject to conditions as per the officer's report.

**LA09/2018/0551/F House/bar extension; conversion of existing dwelling house to apartments; extension to dwelling house to provide external stair enclosure; extension to existing covered smoking area at the rear and renovation/extension to existing bar at 36-38 Main Street, Donaghmore for Mr & Mrs McCausland**

Members considered previously circulated report on planning application LA09/2018/0551/F which had a recommendation for approval.

Proposed by Councillor McAleer  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2018/0551/F be approved subject to conditions as per the officer's report.

**LA09/2018/0555/F    Single Storey rear extension at 5 Grange Drive, Magherafelt for Caroline Bradley**

Ms McCullagh, SPO presented a report on planning application LA09/2018/0555/F and advised that it had recommended for approval.

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

Ms Cassidy advised that she was speaking on behalf of the objectors Mr & Mrs Lumber and wanted to highlight that whilst they are not opposed to the development in principle it was the location and height of the proposal that has raised concern and resulted in this submission.

She stated that an extension to a dwelling is currently being considered against prevailing planning Policy EXT 1 – Residential Extensions and Alterations of Planning Policy Statement 7 (Addendum). Criterion (b) and Policy EXT1 is of particular importance regarding this current application and states that *“the proposal does not unduly affect the privacy of amenity of neighbouring residents”*. The Strategic Planning Policy Statement (SPPS) also safeguards amenity as set out in paragraphs 4.11 and 4.12.

The proposal is located 30cms from the shared boundary with the bulk of the return measuring 3.5m to ridge height from finished floor level (ffl); however the overall height of the building is approximately 3.8m from ground level (gl).

Ms Cassidy advised that the applicant’s rear wall is flush with No. 7 and the first part of the rear return with a ridge height of 3.5m from ffl extends approximately 4.6m beyond this wall. The remainder of the extension measures 3.3m to the ridge from ffl and 3.6m from gl and extends approximately 1.9m. In total the projection of the rear return is 6.25m in length. The last paragraph of headnote Policy EXT 1 instructs that the guidance set out in Annex A (previously circulated) to be considered when assessing this type of development.

Sub heading “Residential Amenity” of Annex A states in paragraph A27 that:

*“The Department considers it important that the amenity of all residents is protected from “unneighbourly” extensions as these can cause problems through overshadowing/loss of light, dominance and loss of privacy...Single-storey extensions to the rear of semi-detached or terraced dwelling will generally be acceptable where the depth does not exceed 3.5 metres from the back wall of the original building, at the boundary with an adjoining dwelling”.*

Clearly, the application does not meet the provision – it is almost twice the length of that recommended in policy and will be overbearing given the proximity to the shared boundary. Although No. 7 is located to the north east of the application site, their dining room window which currently floods the said room and their living space with natural light, is the opening immediately adjoining the shared boundary. This has been annotated accordingly in Figure 1 for information. The natural light shining into the two main habitable rooms of the property will be severely and significantly reduced by the current proposal. In addition, the proposal will also cause considerable overshadowing

to their outside private amenity space projecting shadow lengths of more than 16 metres at times during winter months when there is very little daylight hours.

She said that Mr Lumber had calculated results using [suncalc.org](http://suncalc.org) based on a ridge height of 3.5m, however it is fair to say the shadows and loss of light will be more than those listed following as the overall height is 3.8 from gl. To date the applicant has not provided this degree of information and Figure 2 provides the assessment and demonstrates how the proposal will affect No. 7.

Referring to paragraph A34 and A35 Ms Cassidy advised that the significant problems of sunlight or daylight loss are most likely to occur in terraced or semi-detached housing situations and it is here that most care needs to be taken. An extension should be kept as far as possible from neighbouring windows and boundaries to minimise impact.

Given the very small space between the proposed rear return and the shared boundary Mr & Mrs Lumber are curious how maintenance to the extension will be carried out and also have concerns regarding overspill into their property that may occur from guttering and down pipes especially at times of torrential rain. The current proposal would appear to be at odds with paragraph A7 of Annex A which directs the reader to give consideration to maintenance and overhanging etc. The residents of No. 7 will have very little time at anytime of the year to enjoy the full benefits of natural light internally and externally with the configuration of the current proposal. The cumulative effects of the current proposal will result in a detrimental impact on their amenity values and this is wholly at odds with prevailing planning policy. The desire to extend No. 5 could still go ahead by reconfiguring the siting either by moving it the 2m suggested by Mr & Mrs Lumber or flipping it to the other side of the dwelling.

Ms Cassidy concluded by reiterating that Mr & Mrs Lumber did not object in principle but they wish to ensure that their current amenity values were not demonstrably harmed by the development – an appropriate solution could be reached in the interest of both parties.

Mr Lumber advised that his concerns relate to the impact of the loss of light and overshadowing and the oppressive and overbearing environment that would be created at his property 7 Grange Drive, Magherafelt by the positioning and aspect of the proposed extension at neighbouring property 5 Grange Drive, Magherafelt.

He said that from the outset the applicant has been aware of his objection to the positioning of the extension prior to the application being submitted to the planning department and yet the applicant has made no consideration for the amenities of the adjoining property. Every effort should be made to avoid the potential of overshadowing to a neighbour when drawing up plans for an extension. The rear of the property is South East facing therefore the aspect of the proposed extension will create considerable overshadowing and loss of amenity to her property. Direct sunlight fills his open plan living area through the rear dining room window immediately adjoining the shared boundary. The positioning of the proposed extension will create considerable overshadowing of the entire dining room window for long periods creating a dark, cold and depressive living space that will impact on his family's health.

Mr Lumber stated that the proposed extension would also cause considerable overshadowing of his rear garden and garage window which is used by his young son as a play area and play room. Access to daylight and sunlight is a vital part of a healthy environment which is an amenity which his family should continue to enjoy. He also highlighted the very close proximity of the proposed extension to the neighbouring fence i.e. only 30cms therefore, providing no access for maintenance. If the gutters are not maintained, they will become blocked and overflow onto neighbouring land causing flooding and damp issues.

He concluded by saying that he understood the role of the planning system was to protect the amenity and the environment to reduce the likelihood of overshadowing and trusted that the planning department would protect his amenity from the considerable overshadowing that would be created due to the aspect of the proposed extension when assessing this planning application.

In response to the Planning Manager's query on at time of the year overshadowing was most prevalent, Mr Lumber advised that it was mostly in the winter months and provided times as an example.

The Planning Manager said that an end development would always have some degree of overshadowing and it was quite reasonable to have a 60 degree distance, and from what he is was hearing, most of the day the sun is in the East and as it goes further into the afternoon it can cause some degree of overshadowing and although not pleasant, it really was only an issue in the winter months.

In response to Councillor McKinney's query about the problem of overshadowing to No. 7, the Planning Manager advised that this would only be an issue in the morning.

Proposed by Councillor Gildernew

To defer the application to see if the issue could be sorted amicably for both parties.

The Chair advised that further negotiations had already taken place and the applicant's agent has stated that there would be no more discussion on the matter.

In response to Councillor Cuthbertson's query regarding building too close to a boundary, the Planning Manager advised that the distance can be less than 3 metres and can be up to 3.45 metres to eaves and 4 metres in height as permitted development.

Councillor Cuthbertson said that in his opinion the compromise was still too close to the boundary would ask that this be investigated again.

The Planning Manager said that the case officer had looked at it and although it was agreed that there would be some loss of light, it wasn't enough to warrant a refusal of the application.

Councillor Glasgow said that he didn't see anywhere to go with a deferral and would be happy to accept the officers recommendation of approval.

Councillor Gildernew withdrew his previous proposal.

Proposed by Councillor Glasgow  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2018/0555/F be approved subject to conditions as per the officer's report.

**LA09/2018/0608/O Two dwellings opposite 29A Cranlome Road, Cranlome, Ballygawley for Joseph Bradley**

Mr Marrion, SPO presented a report on planning application LA09/2018/0608/O advising that it was recommended for refusal.

Proposed by Councillor Gildernew  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2018/0608/O be refused on grounds stated in the officer's report.

**LA09/2018/0715/F Permission to develop land without complying with conditions 2,3,4 and 5 of previous approval LA09/2018/0715/F (visibility splays, access gradient variation, access junction upgrade and access safety audit) at Drumcoo Recycling Centre, Coalisland Road, Dungannon for Mid Ulster District Council**

*All members declared an interest in application LA09/2018/0715/F.*

Members considered previously circulated report on planning application LA09/2018/0715/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/0715/F be approved subject to conditions as per the officer's report.

**LA09/2018/0751/F Dwelling and garage (in substitution for previously approved H/2008/0398/RM & H/2004/1123/O) at 20m N of 2 Lisgorgan Lane, Upperlands, Maghera for Shane and Katrina Kelly**

**Resolved** Application agreed to be deferred for a site meeting earlier in the meeting.

**LA09/2018/0801/O Site for dwelling and double domestic garage approx. 40m S of 25a Loup Road, Moneymore for Paul Stockman**

Members considered previously circulated report on planning application LA09/2018/0801/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McPeake and



**Resolved** That planning application LA09/2018/0801/O be approved subject to conditions as per the officer's report.

**LA09/2018/0902/RM One and a half Storey dwelling and garage with upper level office and associated site works at site adjacent to 10 Derryloughan Avenue, Coalisland for Gerard McCann**

Mr Marrion, SPO presented previously circulated report on planning application LA09/2018/0902/RM and stated that it was recommended for approval.

The Chair advised that a request to speak against the application had been received and invited Mr & Mrs McGrath to address the committee.

Mr McGrath stated that he had concerns about the approval of the application due to the direction of the dwelling not being kept in line with adjacent dwellings or on the opposite side of the road.

Mrs McGrath said that the first floor terrace area had views directly over her private amenity area and space and that the proposed orientation of the dwelling including the downstairs bathroom, dressing room and toilet at the back door look directly towards her back patio door/space/area as well as the back door. She continued to say that the 1 and half storey garage blocked out light and morning heat from the sun at her property.

The Chair suggested writing out to both parties to see if a compromise could be reached and if not will have to access the application.

Proposed by Councillor McKinney  
Seconded by Councillor Gildernew and

**Resolved** To write out to both parties to arrange a meeting to see if a compromise can be reached and if not proceed with the officer recommendation of approval.

The Planning Manager said that it would be both parties interest to resolve the matter.

**LA09/2018/0961/LBC Removal and replacement of main roof, treating and painting of existing trusses and rendering of exposed blockwork at Railway Yard, Cookstown for Mid Ulster District Council**

*Councillor Glasgow left the meeting at 8.12 pm.*

*All members declared an interest in application LA09/2018/0961/LBC.*

Members considered previously circulated report on planning application LA09/2018/0961/LBC which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2018/0961/LBC be approved subject to conditions as per the officer's report.

**LA09/2018/0977/O Infill site for 2 dwellings with demolition and removal of redundant agricultural buildings adjacent to and immediately SE of 26 Whitetown Road, Newmills, Dungannon for Mrs Muriel Magee**

Members considered previously circulated report on planning application LA09/2018/0977/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2018/0977/O be approved subject to conditions as per the officer's report.

**LA09/2018/1008/F Rear ground floor bedroom and shower room extension to dwelling at 57 Altmore Drive, Dungannon for James Cullen**

Members considered previously circulated report on planning application LA09/2018/1008/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/1008/F be approved subject to conditions as per the officer's report.

**LA09/2018/1148/F New vehicular access onto Old Eglish Road, Dungannon at Black Lane, Mullaghanagh, Dungannon for Dungannon United Youth**

**Resolved** Application agreed to be deferred for until further information is received on the provision of access.

**LA09/2018/1149/F Community and sports hub without complying with conditions 2 of the previous permission M/2014/0299/F (visibility splay condition) at Black Lane, Mullaghanagh, Dungannon for Dungannon United Youth**

Members considered previously circulated report on planning application LA09/2018/1149/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2018/1149/F be approved subject to conditions as per the officer's report.

**LA09/2016/0062/O Site for farm dwelling adjacent to 48 Killycon Road, Tyanee, Portglenone for Thomas Doherty**

Members considered previously circulated report on planning application LA09/2016/0062/O which had a recommendation for approval.

Proposed by Councillor Kearney  
Seconded by Councillor McPeake and

**Resolved** That planning application LA09/2016/0062/O be approved subject to conditions as per the officer's report.

**LA09/2016/0114/O Infill dwelling for 20m E of 6 Peace Haven Crescent, Rocktown, Bellaghy for Brendan O'Neill**

*Councillor McPeake declared an interest in application LA09/2016/0114/O.*

Mr McCrystal, SPO presented a report on planning application LA09/2016/0114/O advising that it was recommended for refusal.

*Councillor Glasgow returned to the meeting at 8.15 pm.*

The Chair advised that there had been a request to speak from Mr Cassidy but due to criteria set regarding deferred applications, Councillor McPeake spoke in favour of the application.

Councillor McPeake agreed that there had been a lapse, as the application had been deferred from January and no-one was made aware of it. He said that there was an indication that there was a site meeting but this ended up being a mix-up.

He said that he knows the site well and would be confident that it warrants an infill opportunity as it had shrubbery, briars and whines, with absolutely nothing significant about it. He said that he was aware of objections being made, but nothing major, only issues relating to sewage, which has now been addressed and felt that this was an opportunity to move forward. He felt that more could have been done with the drawings to incorporate into a single build rather than a double storey.

He advised that he was aware of the application coming before the meeting and took an interest as he felt that the site was only wasteland and should be utilised and that a site meeting would clarify this.

Councillor McPeake said that he was under the impression that Mr Cassidy was availing of the opportunity to address the committee tonight, but this didn't seem to be the case, even though it was taken of the schedule at the start of the other meeting, resulting in Mr Cassidy not ever having an opportunity.

*Councillor Cuthbertson left the meeting at 8.28 pm.*

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2016/0114/O deferred for a site meeting.

**LA09/2016/1693/O Farm dwelling and garage, 195m SW of 146 Gulladuff Road, Bellaghy for Seamus McCorry**

**Resolved** That planning application LA09/2016/1693/O be deferred until further information is received.

**LA09/2017/0387/O 2 Storey dwelling and domestic garage/store approx 20m N of 33 Oldtown Road, Bellaghy for Mrs Emma McCoy**

Members considered previously circulated report on planning application LA09/2017/0387/O which had a recommendation for approval.

Proposed by Councillor McPeake  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2017/0387/O be approved subject to conditions as per the officer's report.

**LA09/2017/1371/O 2 Storey dwelling and domestic garage/store 130m S of 38 Tirgan Road, Tirgan, Moneymore for Mr Declan Connery**

*Councillor McAleer left the meeting at 8.30 pm.*

Mr McCrystal, SPO drew attention to the previously circulated report and advised that it was originally on the list as an approval but that there were concerns raised by an objector.

The Planning Manager advised members that the case officer was satisfied that the application had met policy requirements, but would like to further investigate concerns highlighted by the objector and would suggest that it be deferred for further consideration before a final outcome.

**Resolved** That planning application LA09/2017/1371/O be deferred for one month until all concerns are investigated.

#### **Matters for Information**

**P131/18 Minutes of Planning Committee Meeting held on Tuesday 4 September 2018**

Members noted minutes of Planning Committee held on Tuesday 4 September 2018. The Chair said that he wanted to apologise to Councillor McPeake regarding application earlier in the meeting and stated that he wasn't aware that Mr Cassidy hadn't been given the opportunity to address members in a previous meeting and suggested that in future the Planning Department make it an item on the Agenda to state if an agent or person had already spoken on an application or not.

## **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Mallaghan  
Seconded by Councillor Gildernew

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P132/18 to P135/18.

### **Matters for Information**

P132/18 Confidential Minutes of Planning Committee held on Tuesday 4 September 2018

P133/18 Receive Update on Local Development Plan

P134/18 Enforcement Live Case List

P135/18 Enforcement Cases Opened

P136/18 Enforcement Cases Closed

### **P137/18 Duration of Meeting**

The meeting was called for 7 pm and concluded at 8.51 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

