

A

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 December 2016 in Council Offices, Ballyronan Road, Magherafelt

Members Present

Councillor Clarke, Chair

Councillors Bateson, Bell, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan (7.05 pm), McAleer, McEldowney, McKinney, McPeake, Mullen (7.30 pm), Reid, Robinson, J Shiels

Officers in Attendance

Dr Boomer, Planning Manager
Mr Bowman, Head of Development Management
Mr Marrion, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McKearney, Senior Planning Officer
Ms McNally, Solicitor
Miss Thompson, Committee Services Officer

Others in Attendance

Applicant Speakers

LA09/2016/0918/F Ms Gourley
LA09/2016/0935/F Mr Cassidy

The meeting commenced at 7.03 pm

P185/16 Apologies

None.

P186/16 Declarations of Interest

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

Councillor Cuthbertson declared an interest in planning application LA09/2016/0173/CA, listed on paper H.

Councillor Robinson declared an interest in planning applications LA09/2016/1183/F and LA09/2016/1437/F, listed on paper B.

P187/16 Chair's Business

Councillor McPeake raised concern at the length of time TransportNI were taking to respond to consultations and provided several examples of applications from July/August of this year on which TransportNI have yet to respond. Councillor McPeake felt that these delays were unacceptable and that applicants were being punished.

Councillor Mallaghan entered the meeting at 7.05 pm.

The Planning Manager agreed with the Councillor's remarks and stated that these delays were also a concern for the planning department, he advised that the delays of TransportNI over the summer period were reflected in planning performance and that the Head of Development Management had already raised concern regarding a number of applications with TransportNI. The Planning Manager stated that if the committee were advising him of their concerns then he would also write to the Divisional Roads Manager in that regard.

Councillor McPeake stated he would welcome the Planning Manager writing to the Divisional Roads Manager to express the concern of the committee as he felt it was incumbent of the Council to highlight and seek address of the issue.

The Chair, Councillor Clarke requested that the delegated list be issued to Members on a weekly basis.

The Planning Manager agreed to have the delegated list issued to Members on a weekly basis.

P188/16 Confirm Minutes of the Planning Committee Meeting held on Tuesday 1 November 2016

Proposed by Councillor Bell
Seconded by Councillor Bateson and

Resolved That the minutes of the meeting of the Planning Committee held on Tuesday 1 November 2016, (P170/16 – P179/16 & P184/16), were considered and, subject to the foregoing, signed as accurate and correct.

Matters for Decision

P189/16 Planning Applications for Determination

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

H/2014/0019/F Sand and gravel extraction using dry screeners/loading shovel; access road including passing bays, wheel wash and welfare facilities; construction of a noise attenuation bund at lands to the rear of 5 Brackaghlistea Road, Desertmartin for MEA

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

Proposed by Councillor Bateson
Seconded by Councillor McKinney and

Resolved That planning application H/2014/0019/F be approved subject to conditions as per the officer's report.

LA09/2015/0465/F Filling station, vehicle wash, shop, restaurant and ATM at site of former Customs Station, Monaghan Road, Aughnacloy and adjacent to Blackwater River for Mr Leo Daly

Application listed for approval subject to conditions as per the officer's report. Mr Marrion (SPO) also drew attention to addendum circulated which advised that an Environmental Assessment had been carried out for this application, pre committee, with a nil determination.

Proposed by Councillor Gildernew
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2015/0465/F be approved subject to conditions as per the officer's report.

LA09/2015/0878/F 1 replacement semi-detached and 1 additional detached dwelling at 15 Empire Avenue Dungannon, for Mr Malcolm Symington

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

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application LA09/2015/0878/F be approved subject to conditions as per the officer's report.

LA09/2016/0057/F Extension to small plant and hand tool store and associated offices in connection with existing auction sales business at Unit 2, 25m NW of 1 Loves Hill, Castledawson for Noel and Marie Lennon

Application listed for approval subject to conditions as per the officer's report. Attention was again drawn to the addendum circulated which advised the case officer's report be duly amended to add: -

'PPS4: Planning and Economic Development – Policies PED 3 and PED 9' under 'Planning Assessment of Policy and Other Material Considerations.'

Proposed by Councillor J Shiels
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/0057/F be approved subject to conditions as per the officer's report.

LA09/2016/0082/F 627sq m daycare building with ancillary offices, staff areas, central external play area and parking; ancillary office accommodation with associated car/lorry turning/turning at lands adjacent to and SE of 54 Brackaville Road, Coalisland for Mr Sean O’Hanlon

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

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/0082/F be approved subject to conditions as per the officer’s report.

LA09/2016/0132/F Retrospective change of use from industrial business/storage to display and sale of vehicles at lands at 8 Ballymoghane Road, Magherafelt for Henry Brothers (Magherafelt) Ltd

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

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/0132/F be approved subject to conditions as per the officer’s report.

LA09/2016/0457/O Two dwellings to replace one existing dwelling and outbuildings at 34 Empire Avenue, Dungannon for Mr Stephen Kelly

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

Proposed by Councillor Reid
Seconded by Councillor McAleer and

Resolved That planning application LA09/2016/0457/O be approved subject to conditions as per the officer’s report.

LA09/2016/0788/F Stables and midden at lands approx. 160m SE of 41 Knockanroe Road, Dungannon for Mrs Lisa Reid

Ms McCullagh (SPO) presented a report on planning application LA09/2016/0788/F advising that it is recommended for refusal.

The Chair, Councillor Clarke advised that a request to speak on this application had been received but had been withdrawn today.

In response to Councillor Reid’s question the Planning Manager advised that the application did raise a series of questions not only on the grounds of policy but also

that the applicant had submitted a planning application for stables but yet did not own any horses (horse passports were requested from applicant but could not be provided). The Planning Manager also felt that the proposal was of a large scale for stables and highlighted that the applicant and their agent had been given the opportunity to attend tonight's meeting but that they withdrew their request today.

Councillor Glasgow noted the agent had not attended tonight's meeting. He proposed the refusal of the application given the application did not own horses.

The Planning Manager stated that as the application could go to planning appeal it was important to note that the fundamental reason for refusal was due to policy.

Members agreed that the reason for refusal be based on Policy CTY1 only and that CTY13/14 and concerns in relation to integration would be difficult to sustain at any appeal.

Councillor Bateson seconded Councillor Glasgow's proposal.

Resolved That planning application LA09/2016/0788/F be refused on grounds solely related to Policy CTY1 of PPS21.

LA09/2016/0911/A Fence mounted sign at 62 Church Street, Magherafelt for Mr B Hughes

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

Proposed by Councillor McKinney
Seconded by Councillor Reid and

Resolved That planning application LA09/2016/0911/A be approved subject to conditions as per the officer's report.

LA09/2016/0918/F Single storey dwelling and garage 50m N of junction of Blackrock Road and Corvanaghan Road, Dunamore for Des Keenan

Councillor Mallaghan declared an interest in this application and proposed that it be heard in confidential business due to personal circumstances.

Councillor Gildernew seconded Councillor Mallaghan's proposal.

Resolved That planning application LA09/2016/0918/F be heard in confidential business.

LA09/2016/0935/F Dwelling approx. 180m N of 5 Doon Avenue, Aghamullan, Dungannon for Martin McCaliskey

The McCullagh presented a report on planning application LA09/2016/0935/F advising that it is recommended for refusal.

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

Mr Cassidy advised that this application had been submitted under policy CTY8 which looks for a minimum of three buildings in a row. Mr Cassidy advised that Council had accepted that there are three buildings but that not all of these have a common frontage. Mr Cassidy advised that policy states that the three buildings do not have to share a common frontage and that recent appeals have also dictated that a house and garage can be considered as two buildings.

In relation to refusal reasons three and four – contamination and flooding – Mr Cassidy advised that consultees have not refused on these grounds and that necessary assessments can be provided.

The Planning Manager advised that the planning department can only find lawful record for two buildings at this location, he stated there was also a history of enforcement at the site and that the department were also considering enforcement action on another building. The Planning Manager advised that the department can only consider buildings which are lawful.

Councillor Mullen entered the meeting at 7.30 pm.

Councillor Reid proposed that the application be deferred.

Councillor Bell stated there needed to be clarity on whether this was a gap site.

The Planning Manager stated that three buildings were required for a gap site however there was only lawful record for two at this location.

Councillor Reid asked if a deferral would make any difference in this case.

The Planning Manager advised that the person making the application was familiar with planning and its requirements. The Planning Manager stated that the reason for policy was to protect rural character but he felt that in relation to this application, this was being thwarted.

Councillor Gildernew proposed that planning application LA09/2016/0935/F be refused.

Councillor McKinney seconded Councillor Gildernew's proposal.

Councillor Reid withdrew his proposal.

In response to Councillor Reid, Ms McCullagh highlighted to Members the location of buildings and what is under enforcement action on the site.

Resolved That planning application LA09/2016/0935/F be refused on grounds stated in the officer's report.

LA09/2016/0955/F 2 storey HQ building and associated landscaping and parking at site at the corner of Kilcronagh Business Park and Sandholes Road, Cookstown for CDE Global Ltd

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

Proposed by Councillor Glasgow
Seconded by Councillor McAleer and

Resolved That planning application LA09/2016/0955/F be approved subject to conditions as per the officer's report.

LA09/2016/0960/O Single dwelling and garage at lands 50m S of 24A Lisgallon Road, Dungannon for Milo Skeffington

Mr Marrion (SPO) presented a report on planning application LA09/2016/0960/O advising that it is recommended for refusal. Mr Marrion went on to highlight the addendum circulated and advised that one late objection had been received in relation to this application following publication of the committee schedule.

Councillor McAleer proposed that this application be deferred as the agent was currently unavailable.

Councillor Gildernew stated he would second Councillor McAleer's proposal as the agent for the application had contacted him today advising he was currently in England.

Mr Marrion advised that he had also been contacted by the agent for the application today and advised that no additional information was put forward for consideration.

Councillor Gildernew stated that the agent had advised him today that there may be a way around the reasons for refusal.

The Planning Manager advised Members that when they enter into discussions regarding applications they are taking on the role of representative and that this can sometimes be misconstrued and have repercussions. The Planning Manager advised that if there was something to investigate it would be a different matter but that was not the case for this application.

Proposed by Councillor Gildernew
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2016/0960/O be refused on grounds stated in the officer's report.

LA09/2016/0993/F 2 dwellings and garages at lands immediately NW of 60 Crievelough Road, Dungannon for Mr John Carey

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

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/0993/F be approved subject to conditions as per the officer's report.

LA09/2016/1183/F Single storey gable extension to provide disabled facility grant extension at 270 Newtownsaville Road, Augher for Mark and Wendy Robinson

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

Proposed by Councillor Reid
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/1183/F be approved subject to conditions as per the officer's report.

LA09/2016/1437/F 33kv electricity sub-station with entrance via existing laneway at site 740m NE of 18 Shantavny Road, Shantavny Scotch, Ballygawley for Tyrone Wind Energy

The Chair, Councillor Clarke withdrew to the public gallery for this item, stating that he wanted to speak on the application.

Councillor J Shiels took the Chair.

Councillor McAleer declared an interest in this application and withdrew to the public gallery.

Councillor Cuthbertson advised that he had asked that this application be brought before committee in October however he stated he did not think this would happen for six months yet the application had been turned around in six weeks. Councillor Cuthbertson asked what statutory bodies had been consulted in relation to this application.

The Planning Manager asked if Councillor Cuthbertson was declaring an interest in this application.

Councillor Cuthbertson advised he had received a phonecall in relation to the application.

Councillor Cuthbertson declared an interest in the application and withdrew to the public gallery.

The Chair, Councillor J Shiels confirmed with Councillor Robinson his earlier declaration of interest in this application as he had also received a phonecall.

Mr Marrion (SPO) presented a report on planning application LA09/2016/1437/F advising that it is recommended for approval.

Councillor Clarke asked if this sub station had already been built.

Mr Marrion advised that in relation to this application, nothing had yet been built.

Councillor Clarke stated there appeared to be some discrepancy in relation to the location of this application and the location of a previous application.

The Planning Manager stated that there seemed to be inaccuracies in relation to the location of a previous application however the decision on this had already been made. The Planning Manager advised that the location address for this application was correct.

Councillor Clarke asked if this inaccuracy of location would invalidate the previous application.

The Planning Manager advised that the only thing that would invalidate the application was if it was revoked.

Councillor Bell stated the need for clarity and asked if this discrepancy was something that could be come back on.

The Planning Manager advised that the address for the application before Members tonight was correct.

Councillor Cuthbertson stated he had no objection to the application but wanted to ensure everything was clear. The Councillor advised that this application was validated on 10 October and that he had requested that it be brought before Committee, 6-7 weeks later the application now had a recommendation for decision. Councillor Cuthbertson advised that he had viewed the planning portal in relation to the previous application which was brought in April and decided upon in August, the Councillor stated the planning portal showed that no statutory bodies were consulted upon in relation to that application and it was not clear if statutory bodies had been consulted in relation to the application before Members tonight. Councillor Cuthbertson asked for clarification on who had been consulted.

The Planning Manager stated he found it difficult that the planning department were being criticised at the start of the meeting for not dealing with applications quickly enough and now the department was also being criticised for dealing with applications too quickly.

The Planning Manager advised that there were concerns in relation to the application and that statutory consultations had not taken place. The Planning Manager stated that in these circumstances the application should be removed from the schedule and be presented back to committee once these consultation responses are

received. The Planning Manager advised Members to direct persons with concerns in relation to a planning application to write to the planning department to express these.

Proposed by Councillor Gildernew
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2016/1437/F be removed from the schedule to allow statutory consultations to take place.

Councillor Cuthbertson asked why the consultations had not taken place.

The Planning Manager advised that the case officer had acted reasonably not to seek statutory consultations but on listening to the concerns raised tonight it was equally reasonable to now seek statutory consultations.

Councillors Clarke, Cuthbertson and McAleer rejoined the meeting with Councillor Clarke retaking the Chair.

LA09/2016/1474/F Public Art piece as part of Magherafelt Public Realm and town improvement scheme at 3 Spires Roundabout, Magherafelt for Mid Ulster District Council

Mr McCrystal (SPO) presented a report on planning application LA09/2016/1474/F advising that it is recommended for approval. Mr McCrystal also highlighted addendum which provided photograph of proposed art piece.

Councillors Bateson, Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McAleer, McElDowney, McKinney, McPeake, Mullen, Reid, Robinson, J Shiels declared an interest in this application.

Councillor McKinney referred to health and safety and road safety issues associated with the application and proposed that this application be deferred until TransportNI submit their consultation response. Councillor McKinney also enquired as to the rights of a third party in relation to rights of way at the proposed location.

The Council Solicitor advised that rights of way would not be a planning consideration.

The Planning Manager advised that the application should be considered on the basis of its planning merits and that issues of ownership need to be dealt with separate to planning. The Planning Manager suggested that the planning application be approved subject to a favourable response being received from TransportNI.

Councillor McKinney asked how long someone has to object to an application.

Mr McCrystal (SPO) advised that this application was advertised in press on 3 November and neighbour notified on 2 November therefore the 3 week window for objections to be received had now passed.

Councillor Gildernew asked why Members had not been informed about this proposal beforehand.

Councillor J Shiels advised that the matter had been brought before the Development Committee and ratified by Council in previous months.

Councillor Glasgow seconded Councillor McKinney's proposal to defer the application until TransportNI submitted their written response.

Councillor Bell stated that Members had not been consulted on the design of the art piece.

Councillor J Shiels advised that the designs of the piece came from the community and the matter had been progressed through Development Committee 3-4 months ago.

The Planning Manager advised Members not to confuse their roles in respect of this application and to assess what was before them the same way they would for any other application.

Councillor Reid stated that if the art piece had received Council approval then there was little that could be done now. Councillor Reid proposed that the planning application be approved subject to favourable written response being received from TransportNI.

Councillor McPeake stated he would not be content to approve the application tonight as he did not recall sketches of the proposed piece coming before Members. The Councillor also questioned if the art piece had been equality proofed.

Councillor J Shiels stated he still had email which he received on 27 July which contained pictures of sketches of the art piece.

The Planning Manager stated that Members were getting into a debate which was not based on planning merit.

Councillor McPeake proposed that the final design of the art piece be brought through Good Relations Working Group.

The Planning Manager stated it was not the role of planning committee to be arbiters of taste and advised that on the basis of concerns raised that the application be deferred to until TransportNI submit their written response and attempt to resolve other issues of concern in the meantime.

Councillor Cuthbertson, as Chair of Environment Committee advised that this matter had been discussed at Environment Committee the previous evening and no issues had been raised.

The Council Solicitor stated that Members needed to base their decision on planning issues and not on non material considerations to the application before them.

Members appeared to have a number of options that were alluded to, namely grant the application subject to TransportNI response, defer the application until TransportNI response received or refuse the application but solely if based on planning considerations.

Councillor Bell stated he understood the point of the Council Solicitor but that Members had not been consulted fully in respect of the design of the application. On this basis he did not feel Members could make a decision tonight.

Councillor Glasgow asked how quickly a written response could be received from TransportNI.

Councillor Mallaghan proposed that the application be deferred for one month to allow TransportNI response to be received and to raise concerns relating to design of art piece at Council meeting next week.

Councillor Gildernew seconded Councillor Mallaghan's proposal.

Mr McCrystal (SPO) advised that TransportNI did give a verbal response stating that subject to TAS approval they would approve the application.

Councillor Cuthbertson advised that the public realm scheme in Magherafelt was complete bar some snagging. Councillor Cuthbertson seconded Councillor Reid's proposal to approve the application subject to favourable written response from TransportNI.

Councillor McPeake suggested that it may be helpful to contact council officers dealing with the art piece tonight to alleviate concerns.

Councillor J Shiels advised that he had just sent previously referred to email of 27 July to Members which contained pictures of the art piece.

Councillor Robinson stated he would be happy to approve the application based on planning merit.

Councillor Mallaghan advised that he had looked at the email sent by Councillor Shiels and stated that the pictures contained within the email and the picture attached to the addendum circulated were not the same.

The Planning Manager stated that Members were not being asked to approve the design of the structure but rather the frame of the structure as per the planning application drawings.

Councillor Bateson felt that as there was some confusion regarding this application and its design he suggested that Members take time out to discuss and consider it further and reconvene discussion after recess of meeting.

Agreed That planning application LA09/2016/1474/F be discussed further after meeting recess.

LA09/2016/1506/LBC Provision of timbered and painted sliding sash windows at rear of property at 9 Loy Street, Cookstown for Wellwood Adami Ltd

Ms McCullagh presented a report on planning application LA09/2016/1506/LBC advising that it is recommended for approval. Ms McCullagh advised that description of proposal should read: -

'Provision of timbered and painted sliding sash windows....'

Ms McCullagh also advised that NIEA were invited to come to tonight's meeting but had since declined.

Councillor Mallaghan asked why Ms McCullagh had put forward a request to speak on behalf of NIEA.

Ms McCullagh advised that as NIEA had indicated that they wanted to attend the meeting tonight she put forward a request in order to secure their place on speaking rights, however since the request was put forward NIEA changed their decision and advised that they would not be in attendance tonight.

Proposed by Councillor Glasgow
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/1506/LBC be approved subject to conditions as per the officer's report.

LA09/2015/0762/F Storage shed 80m NE of 16 Drumanee Road, Bellaghy with new access laneway opposite 59A Ballydermott Road, Bellaghy for Mr Brian Scullion

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

Proposed by Councillor Kearney
Seconded by Councillor Bateson and

Resolved That planning application LA09/2015/0762/F be approved subject to conditions as per the officer's report.

LA09/2016/0828/F Single storey extension for granny flat at 111 Back Lower Road, Killycolpy, Dungannon for Emmett Hurrell and Terri Ryan

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

Proposed by Councillor McAleer
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/0828/F be approved subject to conditions as per the officer's report.

LA09/2016/1114/F Refurbishment of existing listed building to include demolition of existing 2 storey rear return and construction of a new 2 storey extension to rear and 1 new single storey extension to rear at Strathmullan House, 56 Killymeal Road, Dungannon for Stephen and Kiera Boyle

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

Proposed by Councillor Glasgow
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2016/1114/F be approved subject to conditions as per the officer's report.

LA09/2016/1115/LBC Refurbishment of existing listed building to include demolition of existing 2 storey rear return and construction of new 2 storey extension to rear and 1 new single storey extension to rear at Strathmullan House, 56 Killymeal Road, Dungannon for Stephen and Kiera Boyle

Mr Marrion (SPO) presented a report on planning application LA09/2016/1115/LBC advising that it is recommended for approval. Mr Marrion highlighted addendum circulated which advised that a revised windows schedule had been received which shows like for like replacement in PVC, Mr Marrion advised if Members were minded to approve the application that a further condition was needed which requires that the windows to be provided should be in accordance with the schedule received on 1 December 2016.

Proposed by Councillor Reid
Seconded by Councillor Mallaghan and

Resolved That planning application LA09/2016/1115/LBC be approved subject to conditions as per the officer's report and additional condition which requires that windows to be provided should be in accordance with the schedule received on 1 December 2016.

CONFIDENTIAL BUSINESS

Proposed by Councillor Gildernew
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/0918/F be heard as confidential business.

Open Business resumed at 9.30 pm.

The meeting recessed at 9.30 pm and recommenced at 9.50 pm.

Councillor Gildernew did not rejoin the meeting.

LA09/2016/1474/F Public Art piece as part of Magherafelt Public Realm and town improvement scheme at 3 Spires Roundabout, Magherafelt for Mid Ulster District Council (continuation of discussion)

Councillor McPeake advised that there was now a better degree of clarity regarding the design of the proposal and proposed that the application be approved subject to favourable written response being received from TransportNI.

Councillor Reid stated this was the proposal he had made earlier.

Councillor McPeake stated that he would second Councillor Reid's proposal.

Resolved That planning application LA09/2016/1474/F be approved subject to favourable written response being received from TransportNI.

P190/16 Report on Wind Turbine at Broughderg

The Chair, Councillor Clarke withdrew to the public gallery for this item.

Councillor J Shiels took the Chair.

The Head of Development Management presented previously circulated report regarding planning application I/2011/0460/F - Single Wind Turbine at Broughderg.

Councillor Mallaghan advised that it was on record that he had previously met with the Head of Development Management in relation to this application, however he was not declaring an interest in this application.

Councillor Mallaghan stated that he had been advised that the case officer at the time of the application expressed clearly that that energy created from the turbine was for use of Broughderg Community Centre. Councillor Mallaghan asked if a statement could now be requested from the then case officer confirming this was the case.

The Council Solicitor advised that decisions had been based on what was on file and contained within the case officer's report. In light of that and arising out of the report taken by the Head of Development Management, she did not feel the request made by Councillor Mallaghan would take Council any further forward. The Council Solicitor also explained the risks to Council in revoking the permission granted.

Councillor Mallaghan advised that Council would have been aware of concerns in relation to this application prior to the application for non material change being received however this was not advertised. The Councillor asked if this was a correct way to handle this application.

The Planning Manager explained that a non material change is not a planning application and highlighted that in this case the wind turbine got smaller.

Councillor Robinson asked if the turbine had moved location.

The Head of Development Management advised that the turbine was in the same location and of a reduced size.

Councillor Robinson asked if who benefits from the turbine should come into consideration.

The Planning Manager advised that there would be greater issues if determining weight had been given to who was benefitting from the turbine but that had not been the case for this application.

Councillor Cuthbertson proposed the recommendation that no further action be taken with regard to approval of planning permission I/2011/0460/F.

Councillor McKinney seconded Councillor Cuthbertson's proposal.

Resolved That no further action be taken with regard to approval of planning permission I/2011/0460/F.

*Councillor Clarke rejoined the meeting and retook the Chair.
Councillor McAleer left the meeting at 10.10 pm.*

Matters for Information

P191/16 Report of Delegated Decisions Issued in October 2016

Members noted the content of the report of delegated decisions issued in October 2016.

CONFIDENTIAL BUSINESS

Proposed by Councillor J Shiels
Seconded by Councillor Robinson and

Resolved That items P192/16 to P194/16 be taken as confidential business.

P195/16 Season's Greetings

The Chair, Councillor Clarke wished everyone a Happy Christmas.

P196/16 Duration of Meeting

The meeting was called for 7.00pm and ended at 10.24 pm.

Chair _____

Date _____

B



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2016	Item Number:
Application ID: M/2014/0039/F	Target Date: 18 June 2014
Proposal: Proposed expansion to existing general engineering works to include additional workshop offices toilets and storage and associated site works.	Location: 170m north west of 185 Killadroy Road Eskra Omagh
Referral Route: Exception to planning policy in relation to expansion of business.	
Recommendation:	Approval
Applicant Name and Address: Mr David Gill 11 Cormore Road Eskra Omagh	Agent Name and Address: McCann Architecture Castletown Fintona BT78 2BX
Executive Summary: Off site expansion of an established business in the countryside close to a watercourse that has been identified as a flood risk. The application was presented to Dungannon & South Tyrone Council with a recommendation to refuse in January 2015 and this is the first time it has appeared before Mid Ulster Council.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	DARD Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Considered - No Comment Necessary

Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues</p> <p>Potential flooding on site, Flood Risk Assessment has been submitted that shows the proposed development will not flood or cause flooding elsewhere, DARD have not disagreed with this. This is an existing engineering works in the countryside that has outgrown its existing buildings and requires expansion, the proposed development is on a greenfield site set away from the existing buildings.</p>	
<p>Characteristics of the Site and Area</p> <p>This is the north part of a much larger agricultural field in the rural area to the north of the villages of Augher and Clogher and on the border with Omagh and Fermanagh District Council. The field is in grass and slopes towards a small watercourse that runs along its west boundary. The site itself has mature trees along the north boundary and along the boundary with the watercourse. The area is open countryside with farm groups and single dwellings the dominant development form and these are generally in clusters and well-spaced out. One such cluster of dwellings and farm buildings is opposite and south of the application site and this is where the current business operates, with the benefit of planning permission, out of a converted agricultural building.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>The proposal is for a new building to facilitate the expansion of this engineering business that uses Computer Numerical Controlled (CNC) machines to produce precision components used in the manufacture of larger machines. This is for a 300sqm building to house a 216sqm workshop, a general office, canteen and toilets. The proposed building is 6.8m in height with grey cladding to the roof and upper walls, white blockwork to the front elevation and grey dash to the remainder of the walls. The building is sited approx. 160m from the public road with a new access beside an existing bungalow on Kiladroy Road. Other associated development is an open yard and car parking area and it is proposed to provide new landscaping as well as retain the existing.</p> <p>Dungannon & South Tyrone Area Plan Planning does not have any specific policies for this type of development in the countryside, however it recognises the need for appropriate expansion.</p> <p>The Strategic Planning Policy Statement (SPPS) advocates a rural policy approach to cluster, consolidate and group new development with existing buildings and requires all new development in the countryside to integrate into its setting which is consistent with the retained policies in Planning Policy Statement (PPS) 21 – Sustainable Rural Development and PPS 4 – Planning and Economic Development. The SPPS also re-states the policies contained in PPS 15 – Planning and Flood Risk.</p> <p>Members are advised this application has received support from local politicians, with letters received from Ross Hussey MLA and Arlene Foster MLA, when Ms Foster was the Minister for Investment, Trade and Enterprise, and Dr Boomer has met with Michelle Gildernew, when Ms Gildernew was the MP for the area.</p> <p>Members are advised the existing business is located within a converted agricultural building and provides approx. 98sqm of operating floorspace, with raw materials stored outside. While the proposed development is small in scale, particularly when compared to the traditional larger</p>	

manufacturing firms, it is 3 times the size of the existing building and I consider this to be a major expansion of the existing business. This is an unusual case in that the planning policy is supportive of expansion of existing rural businesses, however the existing business cannot be expanded on the current site due to its constrained nature and unavailability of the adjacent land. The business is centrally located between its 2 main customers, one in Omagh and one in Co Monaghan. It has a highly skilled workforce of 4 employees, including the applicant, who all live close by and also have other local farming interest that tie them to the local area. The applicant has sought alternative lands to relocate but has been unable to secure any properties in and close to the nearest settlement of Eskra. Approaches to INI have not provided any serviced sites or indicate the availability of any suitable sites close by. Searches with local estate agents and land owners have not identified any existing buildings in the surrounding area that could be converted for the business. The business is small at the moment and is not expected to significantly increase, however the protection of 4 highly skilled jobs with the possibility of apprenticeships into this industry, in my view, makes a significant contribution to the local economy in terms of the wages and skill base that is retained and expanded upon.

Members are advised this proposal will not cluster with existing development, indeed it will be seen in isolation when viewed from longer distance on approach from the south. This is the only approach that the development will be seen from. Members should note the building has been designed to integrate into its surrounding's by utilising the existing land form and existing vegetation to ensure it cannot be seen from any public view from the north. The building has been sited with the narrowest elevation, 12m in width, facing towards the public view and it is proposed to provide additional landscaping which will in time screen this remaining view. I consider the development will satisfactorily integrate into the countryside and will not have any significant impact on the rural character of the area. As such I consider the members could accept this development as an exception to policy PED3 of PPS 4 – Planning and Economic Development.

PPS 4 also has a number of general criteria that new development must meet with, and if development meets with these it can be considered that it meets a number of other policies in PPS3 - Access, Movement and Parking, PPS15 – Planning and Flood Risk and PPS2 – Natural Heritage.

DARD Rivers Agency have advised the watercourse along the west boundary of the site floods part of the site but do not have data to identify how much of the site floods. A Drainage Assessment and Flood Risk Assessment have been submitted which demonstrate the proposed building is not within a flood plain and therefore not at risk from flooding, Rivers Agency do not have any reason to doubt the Flood Risk Assessment. The drainage assessment has indicated the development will incorporate a Sustainable Drainage System and I consider it appropriate to attach a condition requiring it is provided before the building becomes operational to slow the run off from the development and prevent flooding occurring elsewhere. I also consider it is necessary to condition that no buildings or structures are provided within 10 metres of the watercourse to ensure Rivers Agency have clear access to the watercourse to carry out any maintenance of it.

The development is not located close to any know historic features, however it is beside a watercourse that drains into Lough Foyle, which is Special Protection Area and RAMSAR, the Foyle is also a Special Area of Conservation because of its salmonid content. Due to the distance the development is located away from the water course and the distance from the lough, it is reasonable to conclude there will not be any significant impacts on the candidate features of Lough Foyle and indeed it is acknowledged in the Drainage Assessment that the

contractor will be responsible for ensuring there is no unrestricted run off from the site during the construction phase. .

The business is currently operating close to the proposed site and accesses off the same road, there have been no reports of any adverse impacts on road safety or the amenity of the surrounding area and there have been no objections received to the proposed development. Environmental Health Officers have advised they have no objection to the development provided a condition restricting the use of the building to Class B2 of the Planning (Use Classes) Order (NI) 2015 is attached. I consider this is necessary to protect the amenity of the nearest dwelling. Transport NI have not objected to the proposed development, amended plans have been submitted that show details they have requested for the access and the turning area for large vehicles. While it is highly likely the workforce will use cars to access the site, they are within 3 – 4 miles of the site and could use other modes of transport. 9 car parking spaces have been shown to facilitate the development, this is less than the 11 spaces that guidance suggests is appropriate, however I consider there is adequate space within the site to provide these additional spaces as they are required.

Fences, gates and a landscaping scheme have been proposed and I consider these will provide an adequate degree of security while still allowing the development to integrate into the countryside and screening any storage areas from public view. The waste from the development is metal shavings which will be collected on site and removed for recycling as currently happens with the existing business.

Taking into account all of the issues relevant to this development, I recommend to the committee that planning permission is granted with the attached conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval with conditions

Conditions

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

Reason: Time Limit

2. The building hereby approved shall be used for the purposes specified in Class B2 - Light Industrial, of the Planning (Use Classes) Order (NI) 2015 and for no other use within Class B, without the express written consent of the Council.

Reason: To protect residential amenity and control the type of development in the countryside.

3. Prior to commencement of any development hereby approved, the vehicular access, including visibility splays of 2.4mx 90.0m in both directions, shall be provided in accordance with the details on drawing No 02 REV 3 bearing the stamp dated 9 MAR 2016. The area within the

visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter

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

4. Prior to the use commencing within the building hereby approved, the parking and turning areas as indicated on drawing No 02 REV 3, bearing the stamp dated 9 MAR 2016, shall be permanently laid out as detailed. These areas shall not be used for any purpose other than for the parking and turning of vehicles.

Reason: To ensure adequate provision for parking at the site.

5. During the first available planting season following the use commencing within the building hereby approved, the landscaping scheme, as shown on drawing no 02 REV3 bearing the stamp dated 9 MAR 2016 shall be implemented in full and in accordance with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant 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 interest of visual amenity and to aid integration.

6. Prior to the commencement of any development hereby permitted, details of a Sustainable Urban Drainage System, designed to ensure storm water run-off from the site does not exceed greenfield run off, shall be submitted and agreed in writing with the Council.

Reason: To ensure the development does not contribute to flooding.

7. Prior to the construction of the buildings hereby approved, or laying of any concrete surfaces, the SUDs as agreed by condition 5, shall be provided and all storm water from this site shall be permanently directed to that system.

Reason: To attenuate the storm water from the site and reduce the risk of flooding.

Informative

1. Attached for your information are copies of the consultation responses from Environmental Health, DARD Rivers Agency and DRD TNI.

Signature(s)

Date:

ANNEX	
Date Valid	29th January 2014
Date First Advertised	12th February 2014
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 165 Killadroy Road,Cormore,Eskragh,Tyrone,BT78 2SJ, The Owner/Occupier, 177 Killadroy Road,Cormore,Eskragh,Tyrone,BT78 2SJ, The Owner/Occupier, 180 Killadroy Road,Cormore,Eskragh,Tyrone,BT78 2SJ, The Owner/Occupier, 184 Killadroy Road Cormore Eskragh The Owner/Occupier, 185 Killadroy Road Cormore Eskragh The Owner/Occupier, 186 Killadroy Road Cormore Eskragh Ross M Hussey MLA 64 Market Street,Omagh,Co. Tyrone,BT78 1EN Arlene Foster MLA Enterprise Trade and Investment,Netherleigh,Massey Avenue,Belfast,BT4 2JP	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: M/1989/0128 Proposal: New bungalow and garage Address: OPPOSITE 184 KILADROY ROAD CORMORE,CLOGHER Decision: Decision Date: Ref ID: M/1976/0575 Proposal: 11KV O/H LIN, ADDITIONAL PHASE Address: CORMORE, ESKRA Decision:	

Decision Date:

Ref ID: M/2014/0039/F

Proposal: Proposed expansion to existing general engineering works to include additional workshop offices toilets and storage and associated site works

Address: 170m north west of 185 Killadroy Road, Eskra, Omagh,

Decision:

Decision Date:

Summary of Consultee Responses

DRD – TNI, no objection

DARD Rivers Agency – no reason to disagree with the flood risk assessment that shows the site is outside the flood plain

EHO, restrict to Use Class B2

Drawing Numbers and Title

Drawing No. 01 Rev 1

Type: Site Location Plan

Status: Submitted

Drawing No. 02 REV 3

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 05

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: M/2014/0512/O	Target Date: April 2015
Proposal: Provision of a service station to include fuel provision, cafe, shop, tourist information, toilets, picnic area, parking, car wash and provision for park and share	Location: Lands bounded by the A4 Annaghilla Road A5 Tullyvar Road and Tullybryan Road Ballygawley
Referral Route: Major application, exception to policy	
Recommendation:	Approval
Applicant Name and Address: Alison Warke 30 Cloneven Park Lisburn BT28 3BJ	Agent Name and Address: URS Beechill House Beechill Road Belfast BT8 7RP
Executive Summary: Proposed development on the edge of Ballygawley and the junction of 2 major roads. The proposal has not attracted any objections and is acceptable from a road safety perspective.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Non Statutory	Transport NI - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Add Info Requested
Non Statutory	Water Management Unit	Add Info Requested
Non Statutory	Industrial Pollution & Radio Chemical Inspectorate	Considered - No Comment Necessary

Non Statutory	NI Water - Single Units West - Planning Consultations	Consulted in Error
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	NIEA	Advice
Statutory	Shared Environmental Services	Content
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Rivers Agency	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		
This is a petrol filling station and service area in the countryside that is contrary to the policy		
Characteristics of the Site and Area		
<p>This is a triangular agricultural field used for grazing. It is located to the west of the new Ballygawley Roundabout where the A4 (Dungannon – Ballygawley – Enniskillen Road) and A5 (Ballygawley – Aughnacloy Road) meet. The site boundaries are defined by fences and landscaped embankments on all sides.</p> <p>The area is dominated by the roads infrastructure with the park and ride/share facilities on the line of the old A4 both sides of the Tullybryan Road. There is residential development to the north west and St Ciaran’s College is approx. 200 metres from the site on the other side of the houses. Lisbeg House is a listed building that is located on an elevated site to the south, on the other side of the A4.</p>		
Planning Assessment of Policy and Other Material Considerations		

The proposal is for outline planning permission and members are being asked to consider if this development is acceptable in principle. The main policy documents for consideration are:

Dungannon & South Tyrone Area Plan 2010 (DSTAP)

Regional Development Strategy- 2035 (RDS)

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 3 –Access, Movement & Parking (PPS3)

Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage

Planning Policy Statement 13 – Transportation and Land Use (PPS13)

Planning Policy Statement 15 – Planning & Flood Risk (PPS15)

Planning Policy Statement 16 – Tourism (PPS16)

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

Planning Strategy for Rural Northern Ireland (PSRNI)

The DSTAP identifies the site within the rural area, adjacent to the village of Ballygawley. Policy TM2 seeks a high quality design in new tourism development and CON7 requires protection of trees, members are advised that until the detailed proposals are put forward for consideration, I do not consider these policies have any significant input. I consider it is appropriate to attach a condition to any planning permission requiring the submission of these details before the scheme can begin.

The purpose of the RDS is to deliver the spatial aspects of the Program for Government. I consider the proposed development is in general accordance with RG2 and SFG13 as it is located at an important intersection which will facilitate tourists and the travelling public as well as improve facilities for the residents of Ballygawley and the surrounding rural area.

The development is primarily for a service area for the travelling public, members are advised policy IC15 of the PSRNI sets out the main considerations for this type of development. The policy allows for these types of facilities in the open countryside, on the trunk roads network, where there is a clear indication of need. This site is accessed off a minor road that is located off the trunk network, and this access arrangement is preferable from the policy and road safety point of view. While it is not proposed to directly access the site from the trunk network, it has a boundary with the trunk network and I consider it is appropriate to consider the criteria for that policy in the determination of this application. Roads engineers have specified standards for the design of an access that satisfactorily addresses any road safety concerns and these will be subject to further consideration on submission of the detailed plans.

The policy allows for new services in the open countryside, in specified circumstances. I recognise this is not in the open countryside due to its location contiguous with the settlement limits for Ballygawley, however as it is not within the settlement it must be considered against the policies in the countryside. There is a need test for this type of development and the need is set out by the distance to other petrol filling stations or service centres, new facilities within 12 miles (19kms) of existing facilities are not normally acceptable. Members are advised there is an application currently under consideration for a petrol filling station immediately adjacent to this site, LA09/2015/0036/F. That application is at an advanced stage and is currently undetermined, members should be aware that it is a material consideration, however that petrol station is not approved or operational and as such it is my view this cannot be factored into the assessment of the location of the existing services for the need assessment. This site is approx. 8kms from Kelly's at Garvaghy, 10kms from the petrol filling station in Clogher and 6kms to Poundhill in

Aughnacloy. Following the construction of the A4 high speed dual carriageway, between Dungannon and Ballygawley, the nearest facilities in the Belfast direction is the M1 Services at Dungannon, which is approx. 20kms from the site. Members are advised there are other services at Cabragh (10kms) and Martin's (12kms), which are signposted from the A4 but are not directly on the trunk roads. Given the distance to the other service stations, the literal requirements of this needs test have not been met. However given the distribution of service stations and the fact there is a significant gap in coverage between Dungannon and Clogher, it is my view that Ballygawley is a sensible location. The full neighbouring application could provide an alternative site, however this is also outside the settlement limits of Ballygawley as defined in the Dungannon & South Tyrone Area Plan and it has not been built. It is my view that the highly visible nature of this site, close to the roundabout (which is a major intersection), adjacent to the park and ride/park and share facility which offers convenient and safe access for the travelling public is a logical location for this facility. The provision of a rest area and café is also welcome, in my view, as it provides an opportunity for drivers to take a break and also can be used in conjunction with the park and ride/park and share facility. For all of these reasons I consider it is appropriate, in this instance, to make an exception to Policy IC15.

The SPPS provides some guidance and policies for consideration in determining planning applications, it advocates a town centre approach to retailing and directs that inappropriate retail development in the countryside should be resisted. The SPPS also highlights the reformed plan-making system provides for the preparation of a Preferred Options Paper (POP) to front-load community and stakeholder involvement in the preparation of the Councils Local Development Framework. Mid Ulster District Council published its POP on 7th November 2016 for a consultation period ending on 27th January 2017 and this contains proposed policies RE5 and RE6 in relation to retail in villages and towns and retail in the countryside. These policies suggests that any retail over 100sqm nett could cause existing retail provision to close. In response to a request to consider the impact of the POP policies on this proposal, a statement has been received in support of the application. The statement acknowledges there are 3 existing shops in Ballygawley and that this application and the adjacent application, which cumulatively will provided 462sqm of new retail floorspace if both are developed, will have some impact on the existing retail provision. The statement explains this impact is likely to be limited as this part of Ballygawley is separated from the existing village by a major road junction which makes this development less desirable for the residents of the main portion of Ballygawley, it also states the development here is primarily focused on the significant travelling public who bypass Ballygawley on the A4 and A5 corridors and are not currently stopping in the village. The statement acknowledges the POP but sets out that as it primarily a consultation document, then little weight should be given to it in the determination of the application. The POP is the beginning of the Local Development Framework making process and as such any policies contained in it are for consultation and could significantly change as could the designation of Ballygawley in the overall settlement hierarchy. It goes on to explain that any decision on this application is unlikely to have any significant impact on the emerging policies as any precedent is limited due to the length of time this application has been in the system and the delays in the processing of it.

I consider the POP is a material consideration in this application, however because it is at such an early stage of the Local Development Framework preparation process and the suggested policies within it can be subject to significant change or removal, I do not consider it can be given determining weight in deciding this application. With the cancellation of Planning Policy Statement 5, I consider policy IC15 remains the main policy for consideration in relation to the retail element of this scheme. IC15 accepts that petrol filling stations have a certain amount of retail associated with them, though this should be secondary to the filling station. I consider it

significant that there have not been any objections to this application from any of the retailers in Ballygawley, even though it has been in the planning consideration stage for a considerable period of time. Members are advised this scheme is for more than a petrol filling station as it proposes a much larger service station that will include petrol filling station, shop, cafe, tourist information area and rest facilities as well as providing park and share provision to complement the existing provision adjacent to the site. In light of this and on the basis the applicant is only seeking a retail floor area of 200sqm, I consider 200sqm of retail floorspace is appropriate in this case and I consider it reasonable to impose a condition limiting the amount of Class A1 retail uses as specified in the Planning (Use Classes) Order (NI) 2015 to a maximum of 200sqm of nett floorspace.

NI Water have advised the Waste Water Treatment Works in Ballygawley cannot accept waste water from this site and the developer will have to provide their own on-site treatment facilities. Environmental Health Officers, NIEA Water Management Unit and Rivers Agency have requested additional information about the development in relation to the treatment of waste water from the site, the discharge of water from the site and noise generation. The proposal is for Outline Planning Permission and the details to be included in these reports will not be available until the design and location of the buildings and equipment has been finalised. I consider this additional information can be addressed by reserving these matters for the Council to consider prior to the commencement of development and I consider it is appropriate to impose a condition to this effect. The EHO has requested restrictions on the hours of operations and hours the site can accept deliveries. At this stage it is not clear what the impacts of these will be as the design of the scheme could provide mitigation that would protect the existing properties and allow longer hours. I consider it is appropriate to add a condition requiring that before any part of the development becomes operational, the operator obtains agreement in writing from the Council for the opening times and times for deliveries to the site.

There are 2 listed buildings located close to the proposed development, Historic Environment Division have been consulted and are content that a development on this site could be acceptable, however they will reserve their opinion until they see the full details submitted with any subsequent application. This will allow them to make a full assessment of the impacts of the proposed development on the setting of Lisbeg House, a grade B listed building.

Members are advised there is a watercourse along the boundaries of this site and following consultation with Shared Environmental Service the potential impact of this proposal on the Special Protection Areas, Special Areas of Conservation and Ramsar Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (NI) 1995 as amended. The proposal would not be likely to have a significant effect on the features of any European site.

Taking account of the relevant policies I consider the principle of this development on this site is acceptable and I recommend it for approval with conditions attached.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval with 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. The under-mentioned reserved matters shall be as may be approved, in writing, by the Council :-

Siting; the two dimensional location of buildings within the site.

Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of the buildings and the relationship with their surroundings including height, massing, number of storeys, general external appearance, location and specification of noise generating equipment and suitability for the display of advertisements,

External appearance of the Buildings; the colour, texture and type of facing materials to be used for external walls and roofs.

Means of Access; the location and two dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, car parking, facilities for the loading and unloading of vehicles and access to individual buildings within the site.

Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surface areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means and the provisions of other amenity features.

Drainage; a full drainage plan for the site including foul, storm and combined drains and any other waterways as well as any existing and proposed interceptors and the destination of all drainage (including car wash effluent) should be clearly stated. The drainage plan should also identify the location of any septic tank and soakaway or discharge point.

External Lighting; the size, intensity, location and direction of any floodlighting and other external lighting

Hours of operation; the hours of operations of all elements of the scheme and the hours of deliveries to service the site

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

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

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

4. Prior to commencement of any development hereby approved, the vehicular access onto Tullybryan Road, in accordance with the details specified on the attached form RS1 and including visibility splays of 4.5m x 75.0m in both directions, shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter

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

5. The proposed development shall not have more than 200sqm net floorspace of Class A1 – Shops, as defined in the Schedule to the Planning (Use Classes) Order (NI) 2015.
Reason: To protect the existing retailers in Ballygawley.

Conditions:

Signature(s)

Date:

ANNEX	
Date Valid	30th October 2014
Date First Advertised	12th November 2014
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Remeen Drive Grange Dungannon The Owner/Occupier, 2 Remeen Drive Grange Dungannon The Owner/Occupier, 3 Remeen Drive Grange Dungannon The Owner/Occupier, 4 Remeen Drive Grange Dungannon The Owner/Occupier, 8 Tullybryan Road,Grange,Ballygawley,Tyrone,BT70 2LY, The Owner/Occupier, 90 Annaghilla Road,Grange,Augher,Tyrone,BT70 2LT,	
Date of Last Neighbour Notification	4th November 2014
Date of EIA Determination	8th April 2015
ES Requested	No
Planning History Ref ID: M/2014/0512/O Proposal: Provision of a service station to include fuel provision, cafe, shop, tourist information, toilets, picnic area, parking, car wash and provision for park and share Address: Lands bounded by the A4 Annaghilla Road, A5 Tullyvar Road and Tullybryan Road, Ballygawley, Decision: Decision Date: Ref ID: M/2014/0479/PREAPP Proposal: Proposed Service Station Address: Ballygawley Junction of the A4, opposite the Ballygawley Park and Ride, Decision: Decision Date:	

Ref ID: M/2010/0657/Q
Proposal: Roadside Services
Address: Roadside Services @ Ballygawley
Decision:
Decision Date:

Ref ID: M/2008/0860/Q
Proposal: Additional area for proposed infill
Address: Scheme 3A A4 Dungannon to Ballygawley, Scheme 3B A4 Annaghilla Rd & Scheme 3C A5 Tullyvar Rd Landscape areas
Decision:
Decision Date:

Ref ID: M/2008/0831/Q
Proposal: Roadside Service Facility including fuel pumps and associated convenience store, restaurant/cafe, parking, park & share, vehicle wash, picnic/public amenity area
Address: South West of existing Ballygawley Roundabout
Decision:
Decision Date:

Ref ID: M/2004/0794/A
Proposal: 2 no poster panels 1.8m X 1.2m each as integral part of bus shelter
Address: Annaghilla Road opp Tullybryan Road, Ballygawley
Decision:
Decision Date: 20.07.2004

Ref ID: M/2004/0039/F
Proposal: Replacement bus shelter on public footpath.
Address: Annaghilla Road opposite Tullybryan Road, Ballygawley.
Decision:
Decision Date: 14.05.2004

Summary of Consultee Responses

HED – content in principle
Shared Environmental Services – HRA Screened out
NIEA – unable to determine impacts on basis of information available
Rivers Agency – Drainage Assessment not sufficient
Transport NI – access to be as RS1 form and should provide improvements to road/footways
EHO – impacts from noise and light and consider operating hours
NI Water – no capacity in WWTW

Drawing Numbers and Title
<p>Drawing No. 01 REV 1 Type: Status: Submitted</p> <p>Drawing No. 02 Type: Status: Submitted</p>
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/0036/F	Target Date:
Proposal: Filling station, shop with off-license, canopy, car wash, valet store and associated site works	Location: 40m South of Grange Park Ballygawley
Referral Route: Exception to policy	
Recommendation:	Approve
Applicant Name and Address: PDDC Developments 76 Main Street Pomeroy BT70 2QP	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary: The application site is on brown field land that straddles the settlement limit for Ballygawley, it proposes retail outside the main village centre and is one of 2 applications beside each that involve petrol filling stations and retail development.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	Consulted in Error
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	Transport NI - Enniskillen Office	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Advice

Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Environ Health Mid And East Antrim	Consulted in Error
Statutory	Transport NI - 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 No objections have been received		
Characteristics of the Site and Area The site is between the Annaghilla Road and Grange Road to the south of Ballygawley, it is relatively flat and has foundations for 4 houses within it. There is one mature treed boundary along the Annaghilla Road and a watercourse to the southwest. Immediately northwest of the site is a small housing area and St Ciaran's College and to the northeast is the A4/A5 interchange, which has a high speed dual carriageway towards Belfast and single carriageway towards Omagh, Enniskillen and Aughnacloy. 2 roundabouts are connected by a dual carriageway with central barriers to prevent any crossing points.		
Planning Assessment of Policy and Other Material Considerations This proposal is for the erection of a petrol filling station with a canopy, shop with off license, car wash and valet store. The main building is of functional design and is 17m by 26.5m in footprint and 5.5m high with glazed areas facing the forecourt and zinc cladding to the majority of the		

walls, stone panels to part of the front and side and brick to the rear. The valet shed is the same finish as the main part of the shop and is 4m in height.

The main policy documents for consideration are :

Dungannon & South Tyrone Area Plan 2010 (DSTAP)

Regional Development Strategy- 2035 (RDS)

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 2 - Natural Heritage

Planning Policy Statement 3 - Access, Movement & Parking (PPS3)

Planning Policy Statement 13 - Transportation and Land Use (PPS13)

Planning Policy Statement 15 - Planning & Flood Risk (PPS15)

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

Planning Strategy for Rural Northern Ireland (PSRNI)

The DSTAP identifies the site within the rural area, adjacent to the village of Ballygawley.

Members are advised this site has had planning permission for residential development since 1988, when records indicate outline planning permission M/1988/0360 was first granted for housing. Most recently planning permission ref M/2007/0049/F, for 4 no semi detached dwellings was granted in December 2007, vegetation along the frontage has been removed and foundations for that development have been provided on the site, this I consider constitutes lawful commencement of development on the site and those houses could be built without any further permission.

The purpose of the RDS is to deliver the spatial aspects of the Program for Government. I consider the proposed development is in general accordance with RG2 and SFG13 as it is located close to an important intersection between the A4 and A5 Trunk Roads. I consider this development will provide for the travelling public on these routes as well as for the residents of this part of Ballygawley and the surrounding rural area.

Members are advised policy IC15 of the PSRNI sets out the main considerations for this type of development. The policy allows for these types of facilities in the open countryside, on the trunk roads network, where there is a clear indication of need. This site is accessed off a minor road that is located off the trunk network, and this access arrangement is preferable from the policy and road safety point of view. While it is not proposed to directly access the site from the trunk network, the site is located in very close proximity to the trunk road and I consider it is appropriate to consider the criteria for that policy in the determination of this application. Roads engineers have advised the access arrangement proposed for the development is acceptable from a road safety point of view, subject to conditions ensuring the provision of a footpath link across the frontage of the site, provision of the proposed access prior to the commencement of any work and other improves prior to the development becoming operational to ensure the protection of traffic and pedestrians accessing the nearby college . I consider these conditions are necessary to protect road safety for vehicles entering the site both during construction and post construction and for the protection of pedestrians.

The policy allows for new services in the open countryside, in specified circumstances. I recognise this is not in the open countryside due to its location contiguous with the settlement limits for Ballygawley and there has been residential development approved on the site. However it is not within the settlement, as defined in the Dungannon & South Tyrone Area Plan 2010 and it must be considered against the policies in the countryside. There is a need test for this type of development and the need is set out by the distance to other petrol filling stations or service centres, new facilities within 12 miles (19kms) of existing facilities are not normally acceptable. Members are advised there is an application currently under consideration for a petrol filling station immediately adjacent to this site, M/2014/0512/O. That application is at an advanced stage and is currently undetermined, members should be aware that it is a material consideration, however that petrol station is not approved or operational and as such it is my view this cannot be factored into the assessment of the location of the existing services for the need assessment. This site is approx. 8kms from Kelly's at Garvaghy, 10kms from the petrol

filling station in Clogher and 6kms to Poundhill in Aghnacloy. Following the construction of the A4 high speed dual carriageway, between Dungannon and Ballygawley, the nearest facilities in the Belfast direction is the M1 Services at Dungannon, which is approx. 20kms from the site. Members are advised there are other services at Cabragh (10kms) and Martin's (12kms), which are signposted from the A4 but are not directly on the trunk roads. Given the distance to the other service stations, the literal requirements of this needs test have not been met. However given the distribution of service stations and the fact there is a significant gap in coverage between Dungannon and Clogher, it is my view that Ballygawley is a sensible location. The neighbouring application could provide an alternative site, however this is also outside the settlement limits of Ballygawley as defined in the Dungannon & South Tyrone Area Plan and it has not been built. I consider this site, close to the roundabout (which is a major intersection), adjacent to the park and ride/park and share facility which offers convenient and safe access for the travelling public is a logical location for this facility. For all of these reasons I consider it is appropriate, in this instance, to make an exception to Policy IC15.

IC15 refers to DES5 which has been superseded by the policies in PPS21, specifically CTY13, CTY14 and CTY15. The development is on a site that is approved for housing and as such I do not consider this proposal will have any greater visual impact on the setting of Ballygawley or the rural character of the area than the approved scheme. It is proposed to retain the existing vegetation around the site and I consider this is reasonable to protect the setting and integrate the development. The design of the building is typical of a petrol filling station and as such I consider its design and appearance acceptable in this location.

The SPPS provides some guidance and policies for consideration in determining planning applications, it advocates a town centre approach to retailing and directs that inappropriate retail development in the countryside should be resisted. The SPPS highlights the reformed plan making system which provides for Councils to prepare Preferred Options Papers (POP) which allows community and stakeholder involvement in the preparation of the Councils Local Development Framework. Mid Ulster District Council published its POP on 7th November 2016 for a consultation period ending on 27th January 2017, this contains some suggested policies for consideration. Proposed policies RE5 and RE6 relate to retail in villages and the countryside and suggest any retail provision outside of established centres should be limited to 100sqm as any greater could result in existing businesses closing. In response to a request to consider the impact of the POP policies on this application and the adjoining scheme a statement was submitted. The statement advises they can only consider this scheme and not the other as it is for OPP and could have a larger retail area than the 200sqm proposed. The statement goes on to identify 3 existing mini markets/convenience shops and 2 butchers in Ballygawley, it states these do not rely on passing trade as the new road alignment and improved connections with the A4 upgrade means traffic passes Ballygawley. It states existing retailers are therefore dependent on the residents close by within the main portion of Ballygawley. It acknowledges that this development will have some impact but goes on to state this will be minimal as it will serve a need for the housing in the immediate locality and St Ciaran's College but is primarily aimed at the 10,000 + vehicles that pass Ballygawley and do not currently contribute to the spend within the village. Whilst it acknowledges there may be some impact on the existing retailers it also recognises the main portion of Ballygawley is separate from this area by the major interchange and the main portion of Ballygawley is growing with new housing developments under construction. It concludes that this increase in the village will offset any impacts from this development on the existing traders. Members should note it is significant that this application has been in the planning system since March 2015 and there have not been any objections to it from the existing retailers in Ballygawley. In view of this I have no reason to dispute the information contained in the supporting statement about the retailing impact from this development.

The POP is a consultation document and forms part of the preliminary stage in the preparation of the Local Development Framework, it is not a final or settled policy position of the Council. The

policies could be subject to change or removal following the consultation period, which is still on-going, and as such I do not consider it appropriate to afford these policies significant weight in the determination of this application. I therefore consider IC15 of PSRNI to be the main policy for consideration, it accepts retail provision associated with petrol filling stations, provided it is secondary to the petrol filling station. This proposal is for more than just a petrol filling station, it proposes a café and rest facilities, as well as a car wash/valet service, as such I consider in the greater scheme of the site the retail provision is appropriate in scale and I consider it reasonable to impose a condition to limit to the retail provision to the 262sqm nett proposed.

NI Water have advised the Waste Water Treatment Works in Ballygawley cannot accept waste water from this site and the developer has provided their own on-site treatment facilities and discharge from it will be controlled by NIEA Water Management Unit.

Environmental Health Officers have considered the noise from the entire proposed development as well as odour from the treatment plant and have suggested conditions to be imposed to limit the times for deliveries and restrict the hours of operation of the jet wash facility. I consider these are appropriate to protect the residential amenity of the adjacent houses in Grange Park.

NIEA Water Management Unit have asked that water from the car wash is directed to the NI Water Sewer, this is not possible with no capacity in the network, and as such I feel it should be directed through the waste treatment plant.

Rivers Agency advice the culverting of the stream long the roadside is contrary to policy FLD 4, this policy allows for culverting of a short stretch of stream to provide access. I note this is not necessary for the access to the site as it involves culverting to provide car parking ,however the culverting of the watercourse was granted planning permission under the commenced housing scheme and the majority of this has already been carried out. As this already benefits from planning permission I do not consider FLD4 has any significant weight as this would in affect require the removal of development that already benefits from planning permission.

Members are advised there is a watercourse along the boundaries of this site and following consultation with Shared Environmental Service the potential impact of this proposal on the Special Protection Areas, Special Areas of Conservation and Ramsar Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (NI) 1995 as amended. The proposal would not be likely to have a significant effect on the features of any European site.

Taking account of the relevant policies I consider the principle of this development on this site is acceptable and I recommend it for approval with conditions attached.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Recommendation to 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. The vehicular access, including visibility splays of 4.5m x 75m in both directions at the exit point, sight splay of 75m for traffic turning right into the site and forward sight distance of 60m shall be provided in accordance with Drawing No. 02 Rev 03 bearing the date stamp 15 September 2016, prior to the commencement of any 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 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.
4. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 02 Rev 03 bearing the date stamp 15 September 2016, to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.
REASON: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site
5. The parking facilities detailed in Condition No 04 shall be open for use during all hours of business.
REASON: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.
6. None of the development hereby permitted shall become operational until pedestrian crossing points, school signage and a 2 metre wide footway along the entire site frontage on the Tullybryan Road as shown on Drawing No 02 Rev 03 bearing the date stamp 15 September 2016 have been fully completed in accordance with the approved plans.
REASON: In the interests of road safety and for the convenience of road users and pedestrians.
7. The development hereby permitted shall not become operational until a Stage 3 Safety Audit, for the road improvements including (provision of pedestrian crossing points/ provision of appropriate school signage) on the Tullybryan Road has been completed, submitted to DFI Transportni and any recommendations identified thereafter implemented.
REASON: To provide a quality assurance that the proposed road improvements have embraced all safety features.
8. All existing vegetation along the boundaries of the site shall be retained, except with the express written consent of Mid Ulster Council.
REASON: In the interests of visual amenity.
9. Prior to the commencement of any retailing activity from the approved development, a Viltru CLF4 (20/30 BOD/SS) temporary waste water treatment plan, or other such plant as agreed in writing with Mid Ulster Council, shall be installed and commissioned in accordance with the approved details.

REASON: In the interests of public health and to prevent pollution.

10. Prior to any fuels being delivered to the site, a petrol interceptor shall be installed as indicated on drawing no 02 Rev 03 bearing the stamp dated 15 SEP 2016 and all water from the hard surfaced areas of the site shall be directed through the petrol interceptor prior to discharge from the site.

Reason: To prevent pollution.

11. Prior to the car wash becoming operational all drainage from the car wash shall be connected to the waste water treatment plant referred to in condition 9 and shown on drawing no 02 Rev 03 bearing the stamp dated 15 SEP 2016.

REASON: To prevent pollution.

12. No more than 262sqm nett of the overall floorspace within the building hereby approved shall be used for Class A1 - Retail Sales, as defined in the Planning (Use Classes) Order (NI) 2015.

REASON: To protect the vitality and viability of retail provision within Ballygawley.

13. The jet washer shall to be located as per Proposed Site Layout Drawing Number 2272-D-012 (B) Dated March 2015 and noise level measured at a distance of 1 metre from the jet wash unit with enclosure shall not exceed 74dB LAeq.

REASON: To protect the amenity of the adjoining residential properties.

14. The Valet and Car wash shall not operate outside the hours of Monday-Friday 0800hrs-2000hrs, Saturday- 0800hrs-1800hrs and Sunday 0800hrs -13:00hrs.

REASON: To protect the amenity of the adjoining residential properties.

15. Deliveries to the site shall not be carried out outside the hours of 07:00hrs - 23:00hrs.

REASON: In the interests of residential amenity.

Signature(s)

Date:

ANNEX	
Date Valid	9th April 2015
Date First Advertised	23rd April 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Grange Park Grange Ballygawley The Owner/Occupier, 1 Pinewood Manor Grange Ballygawley The Owner/Occupier, 1 Remeen Drive Grange Dungannon The Owner/Occupier, 2 Grange Park, Grange, Ballygawley, Tyrone, BT70 2LU, The Owner/Occupier, 3 Grange Park Grange Ballygawley The Owner/Occupier, 31 Grange Park Grange Ballygawley The Owner/Occupier, 4 Grange Park, Grange, Ballygawley, Tyrone, BT70 2LU, The Owner/Occupier, 5 Grange Park Grange Ballygawley The Owner/Occupier, 5 Tullybryan Road Grange Ballygawley The Owner/Occupier, 7 Grange Park Grange Ballygawley The Owner/Occupier, 8 Tullybryan Road Grange Ballygawley	
Date of Last Neighbour Notification	23rd April 2015
Date of EIA Determination	N/A
ES Requested	
Planning History Ref ID: M/2014/0487/PREAPP Proposal: Proposed filling station, pumps and car wash Address: Opposite Nos. 1-4 Grange Park, Tullybryan Road, The Grange, Ballygawley, Decision: Decision Date: Ref ID: M/2010/0740/F	

Proposal: Car park for Park & Share / Ride facility - to include bus turning area bus lay-by and bus shelter
Address: 30m East of No. 2 Remeen Drive Ballygawley
Decision: PG
Decision Date: 18.11.2010

Ref ID: M/2007/0049/F
Proposal: Proposed 4 No. Semi-detached dwellings with Integral Garages.
Address: Opposite no. 1-4 Grange Park, Tullybryan Road, The Grange, Ballygawley
Decision:
Decision Date: 13.12.2007

Ref ID: M/2006/1915/Q
Proposal: Housing Development
Address: Annaghilla Road, Ballygawley
Decision:
Decision Date:

Ref ID: M/2004/1014/O
Proposal: Dwelling
Address: Site B 13 Annaghilla Road, Ballygawley
Decision:
Decision Date: 16.09.2004

Ref ID: M/2004/1013/O
Proposal: Dwelling
Address: Site A, 17 ,Annaghilla Road, Ballygawley
Decision:
Decision Date: 16.09.2004

Ref ID: M/1997/0135
Proposal: Dwelling
Address: SITE 17 ANNAGHILLA ROAD, BALLYGAWLEY
Decision:
Decision Date:

Ref ID: M/1997/0134
Proposal: Residential Dwelling
Address: SITE 13 ANNAGHILLA ROAD BALLYGAWLEY
Decision:
Decision Date:

Ref ID: M/1993/0321
Proposal: Site for Dwelling

Address: 100M SW OF 90 ANNAGHILLA ROAD BALLYGAWLEY

Decision:

Decision Date:

Ref ID: M/1993/0320

Proposal: Site for Dwelling

Address: 70M SW OF 90 ANNAGHILLA ROAD BALLYGAWLEY

Decision:

Decision Date:

Ref ID: M/1991/6013

Proposal: Commercial Development Annaghilla Road Ballygawley

Address: Annaghilla Road Ballygawley

Decision:

Decision Date:

Ref ID: M/1991/0111

Proposal: Filling station, shop and toilets

Address: ADJACENT TO THE GRANGE PARK THE GRANGE ANNAHILLA ROAD
BALLYGALWEY

Decision:

Decision Date:

Ref ID: M/1988/0360

Proposal: PRIVATE HOUSING DEVELOPMENT

Address: OPPOSITE 5 TULLYBRYAN ROAD, GRANGE, BALLYGAWLEY

Decision:

Decision Date:

Ref ID: LA09/2015/0036/F

Proposal: Filling station, shop with off-license, canopy, car wash, valet store and
associated site works

Address: 40m South of Grange Park, Ballygawley,

Decision:

Decision Date:

Summary of Consultee Responses

Transport Ni – offers conditions

EHO – approve with conditions

NI Water – no capacity in the WWTW

Shared Environmental Services – HRA screened out

Rivers Agency – proposed works to culvert stream not acceptable

NIEA – refers to standing advice regarding pollution prevention and require cra wash to be
connected to NI Water network

Drawing Numbers and Title
<p>Drawing No. 01 Type: Status: Submitted</p> <p>Drawing No. 02REV03 Type: Status: Submitted</p> <p>Drawing No. 03 Type: Status: Submitted</p> <p>Drawing No. 04 Type: Status: Submitted</p> <p>Drawing No. 05 Type: Status: Submitted</p> <p>Drawing No. 07 REV 1 Type: Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2017	Item Number:
Application ID: LA09/2015/0091/F	Target Date:
Proposal: Part Retrospective and part additional peat extraction from 13.1 hectares of bog land, contiguous to that previously approved application I/1997/0188 (for Peat extraction)	Location: Moboy Bog, Cavanoneill Road, Pomeroy
Referral Route: Major application	
Recommendation: APPROVAL	
Applicant Name and Address: Mc Don Peat 142 Trewmount Road Moy BT71 7EB	Agent Name and Address: Clyde Shanks 5 Oxford Street Belfast BT1 3LA
Executive Summary: Following discussion with the agent a advised restoration scheme was submitted which NIEA are now content with. Conditions are attached to the approval.	
Signature(s): <div style="height: 40px; border: 1px solid black;"></div>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received

Statutory	Transport NI - Omagh Office	Standing Advice
Non Statutory	Health & Safety Executive for NI	No Objection
Non Statutory	NI Water - Strategic Applications	No Objection
Statutory	Environmental Health Mid Ulster Council	Content
Non Statutory	Shared Environmental Services	Add Info Requested
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Royal Society for the Protection of Birds - Headquarters	
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NIEA	
Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Shared Environmental Services	
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

Characteristics of the Site and Area

The site is located off Cavanoneill Road from an existing laneway into Moboy Bog. It covers 13.1 hectares of land. In parts of the land peat has been cut and extracted from the bog. To the north is a remaining intact raised bog area. Other parts of the site include rushes, grassland, birch scrub and topsoil/turf.

It is remote from residential properties.

The site is hydrologically linked to Upper Ballinderry SAC/ASSI which is designated for its nationally and internationally important population of freshwater pearl mussel and is protected by the Conservation (Natural habitats) Regulations (NI) 1995 and Environment (NI) Order 2002.

Planning Assessment of Policy and Other Material Considerations

BACKGROUND AND HISTORY ON SITE

I/1997/0188 - Peat Extraction, Settlement Ponds and Sampling Point(s) - 06.06.2000 - GRANTED

I/2010/0173/F - Retrospective planning permission for peat extraction from 6.3HA of bogland contiguous to that previously approved under I/1997/0188
03.10.2011 - WITHDRAWN

I/2011/044/F - Retrospective and Full planning permission for peat extraction from 13.1HA of bogland contiguous to that previously approved under application I/1997/0188 DEEMED REFUSAL - LETTER SENT 19 JUNE 2014

The current application was submitted in April 2015 in order to regularise the work carried out and to gain approval for further extraction on the site. A detailed Habitat management Plan has been submitted to compensate for the loss of raised bog habitat which has occurred during retrospective peat extraction, along with management of site hydrology and post restoration monitoring scheme.

There are two live related enforcement cases on the site, which have been held pending the outcome of this application.

POLICY ASSESSMENT

The following policies have been used to consider the proposal;

Regional Development Strategy (RDS) for NI 2025

Cookstown Area Plan 2010 - Plan Policy MN1- MN4.

PPS21 - Sustainable Development in the Countryside

SPPS 2015

This policy provides the framework within the planning system in NI will operate. It consolidates some 20 publications into one document and sets out strategic subject planning policy for a range of planning matters. In relation to renewable energy the aim is to facilitate the siting of renewable proposals in appropriate locations within the built and natural environment in order to achieve NI's renewable energy without compromising other environmental assets 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 1, 5 & 9) together with the SPSS.

Other relevant policies which are directed to that need to be taken into account for this type of development are as follows;

PPS 2 – NATURAL HERITAGE-
POLICY NH1 - EUROPEAN AND RAMSAR SITES &
POLICY NH 5- HABITATS, SPECIES OR FEATURES OF NATURAL HERITAGE
IMPORTANCE

In line with NH1, Permission will only be granted for a development proposal that, either individually or in combination with existing or proposed plans, is not likely to have a significant effect on a European site. In this case the Upper Ballinderry River is a SAC (Special Area of Conservation).

Permission will only be granted for a proposal which is not likely to result in an unacceptable adverse impact or damage to certain criteria under NH 5;

In this case those relevant include; active peatlands, features of the landscape which are of major importance for flora & fauna and other natural heritage features worthy of protection.

NIEA Natural Environmental Division (NED) have considered the proposal with regard to the designated sites and other natural heritage considerations and they raised concerns about potential adverse impacts on the Upper Ballinderry SAC/ASSI.

The application site is hydrologically connected to Upper Ballinderry SAC/ASSI which is designated for its nationally and internationally important population of freshwater pearl mussel *Margaritifera* and is protected by the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), and the Environment (Northern Ireland) Order 2002 (as amended).

Before giving any permission for a plan or project which is likely to have a significant effect upon a European site (SAC/SPA) Regulation 43(1) of the Habitats Regulations requires any competent authority to make an 'appropriate assessment' of the impacts of the proposal upon the site in view of the site's conservation objectives. From the information available to NED it is clear that the proposal is not connected with, or necessary for, the conservation management of the SAC/ASSI site. Hence, further information was requested and the submission of a revised habitat management plan (HMP) of October 2016 is being further considered by NED.

The Ballinderry Sub-Basin Management Strategy - Practical implementation of Freshwater Pearl Mussel Measures Final (April 2014) identifies critical pressures and impacts on pearl mussel populations and proposes measures for restoration to favourable conservation status. The Management Strategy states that suspended solids should be rare rather than chronic and attributable to natural conditions. The maximum discharge concentration of suspended solids is therefore recommended to be <10mg/l.

NED have had this and previous applications (including CB17460 I/2010/0173/F and CB18654 I/2011/044/F) under consideration since June 2010. The proposal as a whole, includes the retrospective work and extension, and will result in the loss of approximately 10ha of lowland raised bog. Lowland raised bog is a Northern Ireland priority habitat and an Annex 1 habitat of the European Habitats Directive (92/43/EEC). Active raised bogs are a European priority habitat. NED considers that the habitat on site which is classed as active raised bog under The EC Interpretation Manual of European Union Habitats. Damage from burning and extraction may have resulted in peat formation ceasing temporarily on site.

NED have now considered the revised HMP and are content the proposal represents a clear plan for achievable rehabilitation at the site. The proposal also contains clear criteria for the measurement of success of management actions and NED are content the restoration for the retrospective peat extraction is acceptable given the nature and complex case history at the site.

Policy criteria within NH1 & NH5 has been met.

A Planning Rural Strategy for NI; Policy MIN 1 -MIN 8

This is the current policy consideration for mineral development in Cookstown district, in relation to their control, protecting the environment, visual amenity, public safety and traffic considerations.

MIN 1- ENVIRONMENTAL PROTECTION

It is required to assess the need for the mineral resource against the need to protect and conserve the environment.

MIN2 - VISUAL IMPLICATIONS

It is important to have regard to the visual implications of minerals extraction. The site is accessed from Cavanoneill Road, Pomeroy and there is no significant views of the site from the main public viewpoints.

MIN3 - AREAS OF CONSTRAINT

None of the site falls within an Area of Constraint as identified in the Cookstown Area Plan 2010.

MIN4 - VALUABLE MINERALS

No valuable minerals exist within the site.

MIN 5- MINERAL RESERVES

Surface development of the site would not prejudice future exploitation of valuable mineral reserves.

MIN 6- SAFETY & AMENITY

The onus will be on the developer to ensure Health & Safety is adhered to in line with relevant guidelines.

MIN 7 - TRAFFIC

It is important to take account of the safety and convenience of road users and the amenity of persons living on roads close to the site of proposed operations. Transport NI had requested further information in order to progress the application, relating to visibility splays and the widening of the access laneway. Amended plans were forwarded to TNI and they are now content with approve with conditions attached.

MIN 8 - RESTORATION

A Restoration scheme was submitted with the proposal in conjunction with the Habitat Management Plan dated October 2016 (Doc1) which highlights the 5 areas of the site and detailed plans for their restoration. NIEA; NH are content with the methods of restoration at the site and is content that they adequately address their requirements. Conditions have been provided to ensure the proposed habitat management and restoration measures are implemented.

Consultees are a material consideration and their responses have been given appropriate weight as follows;

Shared Environmental Services;

The works will generate sediment which could be released to the Kildress Stream, which flows into the Upper Ballinderry Special Area of Conservation, close to a pearl mussel population and salmonids. SES need to ensure there is no adverse impact on this SAC.

The proposal was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Mid Ulster District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

RSPB state that peat extraction in a small area to the east has begun and may be likely to have been completed before the HMP has been fully agreed. They state Peatlands are typically are natural habitats that allow native species to flourish. An amended HMP was submitted in October 2016 and the points raised by RSPB were submitted to NIEA, who are the leading body on Natural Heritage, and having considered it, are content to approve the proposal with conditions.

Rivers Agency had initially stated the submitted Drainage Assessment was incomplete as there is no written confirmation accepting storm discharge from them. Agent has been in direct contact with Rivers and they forwarded the discharge consent they received and following this Rivers state while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions and so have no objection to approval.

Approval is recommended subject to the conditions noted.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval subject to conditions and adherence to restoration scheme.

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, including visibility splays of 2.4m x 90m in both directions, shall be in place, in accordance with Drawing No. 04 bearing the date stamp 21st December 2015, 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 Moboy Bog Habitat Management Plan (HMP) and restoration scheme dated October 2016, and date stamped 15 November 2016 by Mid Ulster District Council, place shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise agreed in writing by the Council.

Reason: To mitigate and compensate for the loss of and impact to Northern Ireland priority habitats and prevent likely significant effects on the Upper Ballinderry River Area of Special Scientific Interest (ASSI) and Special Area of Conservation (SAC).

5. All works, including restoration works shall be implemented in accordance with Drawing No 2 (Drainage Management Plan for the Construction/Excavation Phase, date stamped 9 April 2015) and Drawing No 3 (Drainage Management Plan for Restoration Phase, date stamped 9 April 2015) and must be implemented in full.

Reason: To prevent likely significant effects on the Upper Ballinderry River Area of Special Scientific Interest (ASSI) and Special Area of Conservation (SAC).

6. A suitable buffer of at least 10m must be maintained between all watercourses and the location of works including refuelling of machinery and storage of oil, fuel, machinery, spoil and silt.

Reason: To avoid adverse effects on the site selections features of Upper Ballinderry River Special Area of Conservation.

7. The maximum discharge concentration of suspended solids must remain at <10mg/l. If the concentration increases to 10mg/l or above, all works must cease and both the competent authority and Northern Ireland Environment Agency must be informed.

Reason: To avoid adverse effects on the site selections features of Upper Ballinderry River Special Area of Conservation.

8. Foul waste from welfares facilities must be disposed offsite, with no discharge into onsite or adjacent waterbodies.

Reason: To avoid adverse effects on the site selections features of Upper Ballinderry River Special Area of Conservation.

Signature(s)

Date:

ANNEX	
Date Valid	9th April 2015
Date First Advertised	27th April 2015
Date Last Advertised	
Details of Neighbour Notification	
None notifiable	
Date of Last Neighbour Notification	n/a
Date of EIA Determination	20 May 2016
ES Requested	No
Planning History	
<p>Ref ID: I/2010/0558/F Proposal: Proposed Free Range Henhouse Max Capacity 8000 Birds Address: 190 Metres North of 40 Moboy Road, Pomeroy, Decision: Decision Date: 29.07.2011</p> <p>Ref ID: I/1997/0188 Proposal: Peat Extraction, Settlement Ponds and Sampling Point(s) Address: Cavanoneill Road Kildress Cookstown Decision: Decision Date: 06.06.2000</p> <p>Ref ID: I/2010/0173/F Proposal: Retrospective planning permission for peat extraction from 6.3HA of bogland contiguous to that previously approved under I/1997/0188 Address: Moboy Bog at Cavanoneill Road, Kildress, Cookstown Decision: Decision Date: 03.10.2011</p> <p>Ref ID: I/2011/0444/F Proposal: Retrospective and Full planning permission for peat extraction from 13.1HA of bogland contiguous to that previously approved under application I/1997/0188 Address: Moboy Bog at Cavanoneill Road, Kildress, Cookstown,</p>	

Decision:
Decision Date:

Ref ID: I/2005/1439/Q

Proposal: Scoping study for proposed sand & gravel extraction and dry screening

Address: Lands south of No 38 Cavanoneil Road, Cookstown

Decision:
Decision Date:

Ref ID: LA09/2015/0091/F

Proposal: Part Retrospective and part additional peat extraction from 13.1 hectares of bog land, contiguous to that previously approved application I/1997/0188 (for Peat extraction)

Address: Moboy Bog, Cavanoneill Road, Pomeroy,

Decision:
Decision Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 th Jan 2017	Item Number:
Application ID: LA09/2015/0241/F	Target Date: 31 st August 2015
Proposal: 20 no dwellings, 2 storey in height, with associated carparking and landscaping (amended scheme).	Location: Killymeal House and adjacent lands, Killymeal Road, Dungannon
Referral Route: 2 objections received	
Recommendation: Approve – subject to conditions	
Applicant Name and Address: J & V Construction 30 Creenagh Road, Dungannon	Agent Name and Address: Clarman and Co. Unit 1, 33 Dungannon Road, Coalisland, BT71 4HP
Executive Summary: Recommending Approval with conditions. Proposal complies with all relevant policies – DSTAP, SPPS, PPS 3, PPS 6, PPS 7, Addendum to PPS 7 and PPS 15. Objections have been fully considered and do not merit refusal of this application for a residential development within the development limits of Dungannon Town.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Transport NI - Enniskillen Office	Add Info Requested
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Statutory	Transport NI - Enniskillen Office	Standing Advice
Statutory	NIEA	Advice

Statutory	Transport NI - Enniskillen Office	Advice
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	Transport NI - Enniskillen Office	
Statutory	Transport NI - Enniskillen Office	Standing Advice
Non Statutory	NIEA	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Rivers Agency	No Objection
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	NIEA	Content
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Planning Mid Ulster District Council	
Statutory	Transport NI - Enniskillen Office	Advice
Representations:		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers and adjoining landowners were consulted by letter.		
2 no. objections have been received.		

1 from the occupier of number 2 Killymeal Grange on the 15th August 2015. Issues raised are as follows:

- Failure to be neighbour notified at the outset – Case Officer sent a letter to this person on the 8th September 2015 explaining why this happened. This person has now been formally notified and I am satisfied they are aware of this proposal.
- Reference to a development comprising 5 houses 3 storey in height which will impact on sunlight and will impact on health – The objector is referring to a previous approval adjacent to this site (M/2008/0425/F) and not this current application. This current application is further away from the objector's house and impact on residential amenity from this current proposal will be assessed further in this report.

1 from the occupiers of number 1 Killymeal Grange on the 19th August 2015. Issues raised are as follows:

- Blocking of sunlight on Killymeal Grange – The objectors house is approx. 60m to the NW of the nearest proposed dwelling. Such a separation distance will ensure there is no significant loss of sunlight on any property in Killymeal Grange.
- Impact on wildlife – NIEA have been consulted with this application and have raised no concerns in respect of the impact of the proposal on any wildlife or protected species.
- Removal of a tree which has been shown on plans to be fenced off and protected - The tree officer for Mid Ulster Council has been consulted with this application. She has acknowledged that some protected trees on the site have already been removed under an existing planning approval and that other protected trees are proposed for removal. She has taken the view that the removal of these will not cause any detrimental impact.
- Request for further investigation into the burning down of the Listed Building – This falls outside the remit of this application and Mid Ulster Council.
- Increase in traffic on the Killymeal Road – Transport NI have been consulted and are satisfied with the proposal. They have no concerns regarding road safety.
- A build-up of development – This site is within the development limits of Dungannon Town, where there is a presumption in favour of development. Density will be further considered in this report.
- Increase in noise – Environmental Health have been consulted and they have raised no concerns in respect of unacceptable noise levels.
- Impact on privacy – Given the 60m (approx.) separation distance between the nearest dwelling on this site and Killymeal Grange I do not have any concerns regarding Privacy.

The above issues have been fully considered and I would advise members that these representations raise no material planning issues which would merit the refusal of this application.

Characteristics of the Site and Area

The application site takes in 1.8 hectares of land adjacent to Killymeal House, Killymeal Road, Dungannon. It is within the development limits of Dungannon Town as designated in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). Killymeal House is a Grade 1 Listed Building which has been partially destroyed by fire damage. The site slopes quite steeply from the Killymeal Road in an Eastern direction, then levels out for a considerable distance. There is a pedestrian footpath and low retaining wall running along the Killymeal Road. A wire and post fence

runs along the top of the embankment. The level portion of the site takes in some rough grassy areas and some hardstanding. Killymeal House is located just outside the SE boundary of the site. There is a telephone exchange located just outside the NE boundary of the site. There is an existing accessing into the site coming directly off the Killymeal Road. This access is also utilised by the nearby Court House. There are intermittent trees and shrubs scattered throughout the site. There are and have been TPO trees within the red line boundary of this site.

This area is characterised by a mix of uses. To the NE is St. Patricks Academy, to North are several residential developments, to the NW is a bus depot and College of Further Education, to the West are Council Offices and a Leisure Centre and to the South are more residential developments. Approx. 500m from the site is Dungannon Castle Hill, which is a Scheduled Monument. Access to the site is indicated as lying in a flood plain according to The Flood Hazard Map (NI).

Relevant Planning History

Planning Approval was granted by the DOE on the 11/11/2010 for the construction of a housing development consisting of 41 no. units in total (33 no apartments & 8 no. townhouses) & parking and landscaping on lands to the north and west and adjacent to Killymeal House, Killymeal Road, Dungannon. (M/2008/0425/F)

Planning Assessment of Policy and Other Material Considerations

This proposal is for 20 dwellings, 2 no. two storey detached dwellings fronting and accessing directly onto the Killymeal Road, on the foot print of one of the apartment blocks approved under M/2008/0425/F and 18 no. 2 storey semi-detached dwellings to be accessed via an estate road. Both detached dwellings have a hipped roof, a 2 storey centralised front projection and integral garage. The roof will be finished in blue/black natural slate, the walls in a mixed colour render and windows in white timber. Rain water goods will be black heavy cast aluminium. There are two different house types proposed for the semi's, 2 bed and 3 bed. Again, roof finish will be blue/black natural slate, walls in either Tyrone brick or mixed colour render, upvc timber windows and black heavy case aluminium rain water goods. All dwellings have in-curtilage parking for 2 cars. In assessing this application consideration will be given to the following plans and policies:

- Dungannon and South Tyrone Area Plan 2010
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access Movement and Parking
- PPS 6 – Planning, Archaeology and Built Heritage
- PPS 7 – Quality Residential Environments
- PPS 7 (Addendum) – Safeguarding the Character of Established Residential Areas
- PPS 12 – Housing in Settlements
- PPS 15 – Planning and Flood Risk
- Creating Places

DSTAP

This site is within the limits of Dungannon Town. The DSTAP acknowledges that this is a preferred location within the district for new housing developments. Whilst this site is not zoned for housing, it still is acceptable for this type of development and as such is in conformity with the plan.

SPPS

The SPPS gives provision for Housing in Settlements and Archaeology and Built Heritage subject to a number policy provisions. It does not present any change in policy direction with regards to either and as such, existing policies will be applied.

PPS 3 – Access Movement and Parking

Transport NI have been consulted with the proposed scheme and following the submission of amended drawings are now content with the proposal subject to standard conditions. No road safety issues have been raised.

PPS 6 – Planning, Archaeology and Built Heritage

Historic Environment Division (HED) have been consulted as the proposal affects the setting of Killymeal House, a Grade B1 Listed Building. Following the submission of additional and amended information in respect of design and finishes, HED are now content with the proposal subject to conditions. On the basis of this response I am satisfied that the proposal complies with policy BH 11 of PPS 6 – Development affecting the setting of a Listed Building. The site also has also potential to impact upon features of archaeological importance. HED has recommended conditions to ensure compliance with policy BH 4 of PPS 6, in respect of identifying and recording any archaeological remains.

PPS 7 – Quality Residential Environments

PPS 7 (Policy QD1) is the relevant material planning policy for this type of development in the urban setting. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy. I will deal with these as they appear in the policy.

The first is that 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 – This area is characterised by a mix of uses, including residential developments of varying densities. This proposal, which includes a mix of detached dwellings and semi's will not be out of character in this location within the settlement limits of Dungannon. The proposed layout incorporates 2 detached dwellings along the frontage of the site. The agent has confirmed that the previously approved apartments along this frontage will not be constructed and I would recommend adding a condition to this effect. Detached dwellings along the Killymeal Road would be more appropriate in this location. Within the site the proposed layout gives me no concern. Each dwelling has adequate amenity space and in-curtilage parking. I have no concerns regarding the scale, proportions, massing or appearance of the proposed dwellings in this urban location.

Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development – The site is located less than 500m from Dungannon Castle Hill (TYR 54:17S), a scheduled monument and focal point of the historic core of Dungannon. It is also located adjacent to Dungannon Area of Archaeological Potential as designated in the DSTAP. HED have noted that there is potential for previously unrecorded below ground archaeological remains to be encountered during the course of development works and have recommended conditions to ensure any such remains are properly identified, protected and recorded. The site is also adjacent to Killymeal House, a Grade B1 Listed Building. As stated previously, following the submission of additional and amended information in respect of design and finishes, HED are now content with the proposal subject to conditions. Mid Ulster Councils Tree Protection Officer has been consulted

with this application as there are protected trees within the site. Following submission of a Tree Protection Plan, the Tree Officer is now content with this proposal.

QD1 also requires that 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. – Each unit has in excess of the 40m² private amenity space required in Creating Places. Public Open Space has also been accounted for which also incorporates intermittent tree planting which will soften the impact of this development when viewed from the Killymeal Road.

Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development – This site is located within the development limits of Dungannon and there are adequate neighbourhood facilities in the vicinity of the site.

QD1 requires 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 site benefits from an existing footpath along its frontage which links it to the Town and nearby leisure facilities and schools. Public Transport links are also available close by, with the bus depot opposite.

PPS 7 also requires adequate and appropriate provision is made for parking. Adequate in curtilage parking has been provided for each dwelling.

The design of the development must draw upon the best local traditions of form, materials and detailing. In this instance, I consider that the proposed dwellings do not detract from the nearby Listed Building. Roof finishes will be conditioned to be natural slate and windows will be timber or aluminium.

The design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance – Design and layout does not conflict with the adjacent school, bus depot and leisure centre. Given the separation distances between the proposed dwellings and the nearest residential properties in Killymeal Grange and the Killymeal Road there will be no significant impacts on residential amenity in respect of overlooking, loss of light or overshadowing. Noise generated from residential proposals is not considered to be significant and EH have raised no concerns in this regard. NIEA and EH raised concerns regarding the potential for contamination to be present on the site. A preliminary risk assessment was submitted by the applicant which identified an underground fuel storage tank, an above ground storage tank, historic maintenance workshops and an electricity sub-station. On this basis of this report, NIEA and EH have concluded that there is no unacceptable risks to human health under this current phase of development. Conditions have been recommended in respect of same.

The development is designed to deter crime and promote personal safety – I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. Parking is in-curtilage and there is existing street lighting along the site frontage.

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

I am satisfied that this proposal complies with Policy LC 1, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this area, the proposed designs are in keeping with the existing character and the unit sizes are not less than recommended in Annex A of this policy.

PPS 3 – Access, Movement and Parking

Transport NI have been consulted and have no concerns in respect of Road safety or intensification. They have recommended conditions if the application is to be approved.

PPS 15 – Planning and Flood Risk

Rivers Agency have been consulted with a Drainage Assessment/Flood Risk Assessment and accepts the logic contained within the report. They have raised no concerns and have not recommended any conditions.

In addition, NIW have been consulted and are satisfied that available WWTW and Sewage capacity is available within Dungannon to accommodate this development.

Taking all of the above into consideration, case officer recommendation is to approve with conditions.

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

Recommending Approval with conditions. Proposal complies with all relevant policies – DSTAP, SPPS, PPS 3, PPS 6, PPS 7, Addendum to PPS 7 and PPS 15. Objections have been fully considered and do not merit refusal of this application for a residential development within the development limits of Dungannon Town.

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 permission hereby granted supersedes planning approval M/2008/0425/F

Reason: To ensure the orderly development of the site in accordance with Planning Policy Statement 7, Quality Residential Developments

3. Prior to the commencement of the development hereby permitted, the vehicular access, including visibility splays, shall be provided in accordance with Drawing No. 27 Rev 04 bearing the date stamp 24th November 2016. 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.

4. The access gradients to the dwellings 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.

5. The gradient 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.

6. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Mid Ulster District Council Planning 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. 27 Rev 04 bearing the date stamp 24th November 2016.

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.

7. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No. 27 Rev 04 bearing the date stamp 24th November 2016. The Mid Ulster District Council Planning Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

8. The visibility splays of 4.5 metres by 70.0 metres both directions at the junction of the proposed main access road with the public road and 2.0 metres by 60.0 metres both directions at the junction of the proposed access road (units 1 & 2) with the public road shall be provided in accordance with Drawing No. 27 Rev 04 bearing the date stamp 24th November 2016,, prior to the commencement of any other works or other development.

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

9.As part of the site clearance works, all remaining fuel storage tanks, and other storage tanks, and associated infrastructure on the site shall be fully decommissioned in line with Pollution Prevention Guidance No 2 and No. 27 (PPG2 and PPG27). Soil and groundwater sampling shall be undertaken for a suitable analytical suite. Details of the decommissioning and removal of the storage tanks and associated site data should be reported in writing in the remediation verification report.

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

10. Following site clearance and prior to piling or construction work commencing, the Mid Ulster Council Planning Authority shall receive in writing for its agreement a revision of the risk assessment as presented in the WYG Environment & Planning (N.I) Ltd (WYG) "Land Contamination Preliminary and Generic Risk Assessment", dated February 2016. This update should provide an updated risk assessment fully informed by information under Condition 9 and additional site data targeting all other potential sources of identified onsite.

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

11. Should unacceptable risks to the water environment be identified under Conditions 9 and 10, no piling work or construction works shall commence until a piling risk assessment has been submitted in writing and agreed with the Mid Ulster Council Planning Authority. The assessment should refer to the guidance provided in the Environment Agency (2001) document, "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination"

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

12. Prior to piling or construction work commencing, the Mid Ulster Council Planning Authority shall receive a detailed remediation strategy in writing for its agreement. The detailed remediation strategy shall provide a strategy for the management of all identified unacceptable risks to the water environment. The remediation strategy should present the remediation objectives and criteria and the measures proposed to mitigate them (including maps/plans showing the remediation design, implementation plan and detailing the timetable of work.

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

13. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Mid Ulster Council Planning Authority 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 Mid Ulster Council Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

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

14. After completing any remediation works under Conditions 9-13; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Mid Ulster Council Planning Authority. 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.

15. All windows shall be timber or aluminium and roof coverings shall be natural slate

Reason: To protect against the use of unsympathetic building materials which are out of keeping with those found on the nearby Listed Building.

16. 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 the Department of Communities. 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.

17. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department of Communities 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.

18. All tree works required before or during the construction phase of the development shall be carried out in accordance with BS 3998:2010 Tree Work Recommendations.

Reason: To ensure the protection of trees which are protected under the Tree Preservation Order

19. All tree works prior to and during the construction phase shall be carried out in accordance with the Arboricultural Methodology Statement by Paul Hawksford, date stamped 05/10/2015

Reason: To ensure the protection of trees which are protected by a Tree Preservation Order.

20. All temporary ground protection methods shall be installed in accordance with drawing number 30 Revision 1, bearing date stamp 13/12/2016

Reason: To ensure the protection of trees which are protected by a Tree Preservation Order

21. All planting comprised in drawing number 30 revision 1, bearing date stamp 13/12/2016 shall be carried out in the first planting season following the commencement of the development and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

22. No dwelling hereby approved shall be occupied until Mid Ulster Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with Gortview Management Company for the areas identified as (A, B, C and D) on drawing No. 30 rev 01 bearing date stamp 13/12/16. These areas shall be permanently retained as landscape/open space.

Reason: To ensure that open space is provided, maintained and managed in accordance with PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

Informatives

1. Your attention is drawn to the attached responses from Transport NI, NIEA and Environmental Health

2. All remedial tree works to any retained protected tree shall require written consent from Mid Ulster District Council

Signature(s)

Date:

ANNEX	
Date Valid	18th May 2015
Date First Advertised	1st June 2015
Date Last Advertised	26th October 2015
Details of Neighbour Notification (all addresses) Joy McMinn and Joseph Wilson 1 Killymeal Grange, Dungannon, Tyrone, Northern Ireland, BT71 6WQ The Owner/Occupier, 1 Killymeal Grange, Dungannon, Tyrone,BT71 6WQ The Owner/Occupier, 13 Killymeal Road, Dungannon. Martin O'Neill 2 Killymeal Grange Killymeal DUNGANNON The Owner/Occupier, 26 Killymeal Road,Drumcoo,Dungannon,Tyrone,BT71 6BE, The Owner/Occupier, 28 Killymeal Road,Drumcoo,Dungannon,Tyrone,BT71 6BE, The Owner/Occupier, Breakthru, 18 Killymeal Road, Dungannon. The Owner/Occupier, Bus Depot Killymeal Road Drumcoo The Owner/Occupier, Dungannon Courthouse, Killyman Road, Dungannon. The Owner/Occupier, Dungannon Leisure Centre 5 Circular Road Drumcoo The Owner/Occupier, East Tyrone College Of Further Education, Circular Road, Dungannon. The Owner/Occupier, Mid UlsterCouncil Offices, Circular Road, Dungannon. The Owner/Occupier, S .E .L .B . Unit, Circular Road,Drumcoo,Dungannon,Tyrone,BT71 6BG, The Owner/Occupier, St Patricks Boys H.S 41B Killymeal Road Dungannon	
Date of Last Neighbour Notification	24th October 2016
Date of EIA Determination	19/12/2016
ES Requested	No

Planning History

Ref ID: M/2014/0073/PREAPP

Proposal: Development of Killymeal House

Address: Killymeal House, Killymeal Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2008/0425/F

Proposal: Construction of housing development consisting of 41 no. units in total (33 no apartments & 8 no. townhouses) & parking and landscaping

Address: Lands to the north and west and adjacent to Killymeal House, Killymeal Road, Dungannon. BT71 6DP

Decision:

Decision Date: 11.11.2010

Ref ID: M/2007/1303/Q

Proposal: Housing Developments

Address: Killymeal House, Dungannon

Decision:

Decision Date:

Ref ID: M/2005/0579

Proposal: Development Potential of Killymeal House

Address: Killymeal House & Grounds, Killymeal Road, Dungannon

Decision:

Decision Date:

Ref ID: M/2002/0313/O

Proposal: Masterplan of New Road, Playing fields and development of replacement new building St Patricks Academy (boys & Girls) and St Patricks College

Address: St Patricks Academy and St Patricks College, Killymeal Road, Dungannon

Decision:

Decision Date: 14.05.2003

Ref ID: M/1999/0153

Proposal: Provision of double mobile classroom

Address: ST PATRICKS ACADEMY 35 KILLYMEAL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1997/0075

Proposal: New Court House and associated works

Address: REAR OF ORPHEUS DRIVE & KILLYMAN ROAD, DUNGANNON

Decision:

Decision Date: 22.04.1997

Ref ID: M/1994/0244

Proposal: Site for new courthouse

Address: LAND REAR OF ORPHEUS DRIVE AND KILLYMAN ROAD DUNGANNON

Decision:

Decision Date: 04.05.1995

Ref ID: M/1989/0091

Proposal: 25 metre high aerial with 1.2M dish

Address: KILLYMEAL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1974/0031

Proposal: TYPE K2.2 TELEPHONE EXCHANGE

Address: KILLYMEAL ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: LA09/2015/0241/F

Proposal: 21 dwellings from 2-3 storey in height ,with associated carparking and landscaping

Address: Killymeal House and adjacent lands, Killymeal Road, Dungannon,

Decision:

Decision Date:

Summary of Consultee Responses

TNI – No objections. Conditions recommended

EH – No objections. Conditions recommended

NIEA – No objections. Conditions recommended

Rivers – No objections.

NIW – No objections.

Drawing Numbers and Title

Drawing No. 01

Type:

Status: Submitted

Drawing No. 02

Type:

Status: Submitted

Drawing No. 05

Type:

Status: Submitted

Drawing No. 06

Type:

Status: Submitted

Drawing No. 07 rev 3

Type:

Status: Submitted

Drawing No. 08 rev 3

Type:

Status: Submitted

Drawing No. 09 rev 2

Type:

Status: Submitted

Drawing No. 10 rev 2

Type:

Status: Submitted

Drawing No. 11 rev 2

Type:

Status: Submitted

Drawing No. 13

Type:

Status: Submitted

Drawing No. 14

Type:

Status: Submitted

Drawing No. 15
Type:
Status: Submitted

Drawing No. 16
Type:
Status: Submitted

Drawing No. 17 rev 3
Type:
Status: Submitted

Drawing No. 18 rev 1
Type:
Status: Submitted

Drawing No. 19 rev 1
Type:
Status: Submitted

Drawing No. 20 rev 2
Type:
Status: Submitted

Drawing No. 21 rev 3
Type:
Status: Submitted

Drawing No. 22 rev 1
Type:
Status: Submitted

Drawing No. 23 rev 1
Type:
Status: Submitted

Drawing No. 24
Type:
Status: Submitted

Drawing No. 25 rev 1
Type:
Status: Submitted

Drawing No. 26
Type:
Status: Submitted

Drawing No. 27 rev 4

Type:

Status: Submitted

Drawing No. 28

Type:

Status: Submitted

Drawing No. 29

Type:

Status: Submitted

Drawing No. 30 rev 1

Type:

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

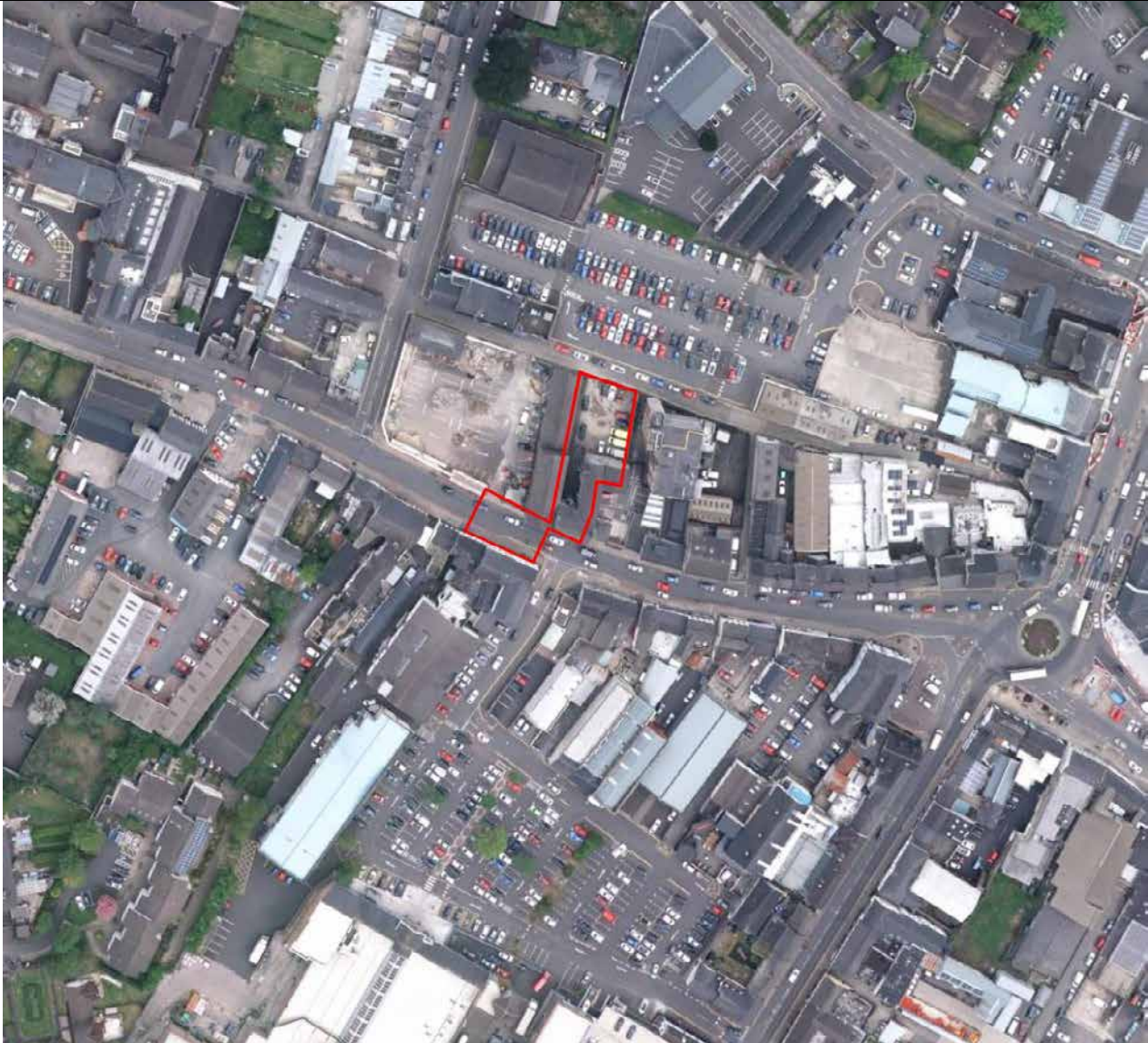


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/0536/F	Target Date:
Proposal: Proposed mixed use scheme comprising 11 apartments, 4 retail units (inc.retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return) amenity space, pedestrian link/pend and ancillary site works at lands at 39-41 Rainey Street ,Magherafelt	Location: 39-41 Rainey Street Magherafelt
Referral Route: This application is being presented to Committee as Council are prepared to set aside the parking standards as requested by Transportni due to this being a town centre site and in considering the sites planning history and the extant approval.	
Recommendation:	APPROVE
Applicant Name and Address: Genmark Development Ltd 16C Tamlaghduff Road Bellaghy BT45 8JQ	Agent Name and Address: Clyde Shanks 5 Oxford Street Belfast BT1 3LA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error
Non Statutory	NIEA	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	
Statutory	Transport NI - Enniskillen Office	Standing Advice
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received

Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	NIEA	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	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

No representations have been received in respect of this application.

Description of the proposal

The proposal is for the creation of a mixed use scheme comprising 11 apartments, 4 retail units (inc. retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return) amenity space with a pedestrian link/pend and ancillary site works.

The four retail units are on the ground floor, with one having direct access onto Rainey Street, while the remaining three have access onto a newly created, covered pedestrian walkway which connects Rainey Street to Union Street car park. Associated plant and stores are located at the rear of the site adjacent to the former telephone exchange building. Four car parking spaces are proposed at the rear of the site and access onto the laneway between the site and Union Street car park.

Five apartments are proposed on the first floor and range from 71m² (1 bed – 2 person) unit to 87m² (2 bed – 4 person) unit. The second floor provides four units again ranging from 71m² (1 bed – 2 person unit) to 87m² (2 bed – 4 person) unit and also includes a private communal amenity space of 88m², while the third floor provides two apartments (1 bed – 2 person) units and has a private communal amenity space of 33m².

The proposal includes a variety of external finishes with the following:-

Roof - Flat

Walls – Mixture of - Zinc cladding, grey coloured

Marley eternity Equitone natura – grey colour

Cedar cladding

Smooth render white colour

Windows – aluminium frames grey colour

frameless glazing to retail units

Doors - hardwood iroko external timber doors stained, clear/teak colour woodstain

A gated entrance from Rainey Street into the covered walkway.

Characteristics of the site and area

The site is located on Rainey Street adjacent to the historic market yard which has a Listed Building adjacent to the site boundary. The site is a rectangular site and is largely accessed from a pedestrian access on Rainey Street with both vehicular and pedestrian access from the

laneway to the rear. Rainey Street has a mixture of retail, office and hot-food/café uses. The site consists of a street frontage property currently occupied by No.37 – EMS Group – Medical Supplies and No.41 Cheque and Cash Express – Pawn Brokers. This is a 3 storey property with two shop front display windows in addition to a door leading to 1st and 2nd floor flats. The building also extends back from the Rainey Street frontage towards a narrow vehicular laneway with vehicular access onto the laneway.

The external façade of the building has a smooth plaster finish with decorative plaster quoins. There are also raised plaster bands around the windows and doors with a cornice at first floor level. There are two large chimneys at either gable and centred on the ridge which is cement fibre slates. The windows are timber, sliding sash.

The site is adjacent to and abuts the Listed Building at the Market Yard which is constructed in basalt stone. The Post Office and associated yard sits on the Diamond side of the site.

The rear side of the roof has natural slates with rough wet dash finish to the walls and timber casement windows. The site is secured by a 2.0m high security fence along the rear boundary with a 4m high block wall defining the boundary with the Post Office.

The existing building has a 3 storey rear return with private car park which provides approximately 12 no. parking spaces which are not marked out on the ground and which is accessed via the narrow lane to the rear. Union Street car park, which is a pay and display car park, sits on the other side of the laneway, opposite the site.

When viewed from the rear, the Post Office building is the tallest building, at three storeys and finished in red brick with a flat roof and secured by a 4.0m high palisade fence.

Planning Assessment of Policy and Other Material Considerations

Planning History

H/1993/0548 – Extension to commercial property and new flat – approved 10.03.1994

The proposal is in accordance with the Magherafelt Area Plan 2015 insofar as the site lies within the Magherafelt Town Centre but outside the Primary Retail Core. The site has no specific designation and is considered to be whiteland. The fact that there is an extant planning approval for an 'Extension to commercial property and new flat approved under H/1993/0548 on 10.03.1994 which was commenced, has to be taken into consideration.

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

SPPS – Strategic Planning Policy Statement for NI
PPS 7 Quality Residential Environments
PPS 3 – Access, Movement and Parking
PPS 6 – Planning, Archaeology and the Built Heritage
Planning Strategy for Rural NI

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.

Town Centres and Retailing

The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS.

The SPPS states that retailing will be directed to town centres. In that respect, the proposal to create four retail units within Magherafelt town centre is consistent with that aim.

The SPPS requires that all proposals for main town centre uses to be considered in an order of preference, ie. primary retail core followed by town centres. This proposal is for a town centre site.

The proposal includes four new retail units, ranging from 46m² to 85m² with a total floor area of 268m². These units access onto a new, covered, pedestrian access which links Rainey Street to Union Street car park and thereby provides a new pedestrian linkage between these two areas and in doing so improves the permeability of the town centre.

Planning Strategy for Rural NI

Policy DES 2 – Requires all development proposal in towns and villages to make a positive contribution to townscape and to be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

The proposal meets all the criteria of the above planning policy. The proposed layout opens up the rear of this site to the public and provides a pedestrian linkage through increasing the permeability of not only the site but also the surrounding area. The proposed uses will help to support the town centre in terms of its vitality and viability and will introduce an increased residential element which will help to maintain life within the town centre after normal working hours. The design, which has also been considered by NIEA: HBU is considered to be acceptable with the retention of the front portion of the site, albeit, with some modifications to create the pedestrian linkage/pend through to the rear of the site.

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

The proposed development is assessed against these criteria as follows:-

(a) The proposed layout meets the first of these criteria in that it respects the surrounding context in terms of layout; The layout is of a similar density and scale as the previously approved development (H/1993/0548).

(b) Initially NIEA: Historic Buildings Unit considered that the proposal did not respect the listed building at the Market Yard and requested additional information. Following the submission of additional information HBU advised that they are content with the proposal subject to conditions. NIEA: Historic Monuments Unit advised that they were content with the proposal conditional on the agreement and implementation of a developer-funded programme of archaeological works.

(c) As the development is for 11 units within a town centre location, the provision of public amenity space is not a requirement. Provision of private, communal amenity space is proposed with 88m² located on the second floor and a further 33m² on the third floor, giving a total of 121m² for the 11 apartments, an average of 11m² per apartment.

(d) As the site is within the town centre, the provision of neighbourhood facilities are not deemed necessary within the site. The site has good access to all such facilities within the immediate town centre.

(e) The site has direct access onto both Rainey Street and the laneway at the rear of the site, leading to Garden Street and Union Street and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;

(f) Adequate provision has not been made for parking of vehicles off street or within the site; Transportni advised that whilst acknowledging that the site was within the town centre, it had a parking requirement of 15 spaces for the apartments and 26 spaces for the retail units as well as servicing arrangements. No parking was proposed. In addition, the site is located opposite the access to Rainey Street car park and would lead to pedestrians crossing and re-crossing Rainey Street. This could be mitigated against by the provision of a Pelican crossing.

Transportni were of the opinion that give the proposed retail development at Meadowlane shopping centre (H/2015/0068/F) that Magherafelt town Centre cannot sustain the level of car parking loss associated with the cumulative impact across the road and consequently recommended refusing the proposal on the basis that it would prejudice the safety and convenience of road users.

However, given that the extant approval granted under H/1993/0548 was for a development on this same site and that no parking was proposed at that time, as that development has been commenced with Phase 1 being completed under that approval, then that development can be lawfully completed at any time without further approval being required. This would lead to the entire site being developed with no parking provision at all.

In an effort to provide some parking within the site, amendments were submitted showing 4 parking spaces within the rear of the site.

On balance, whilst it is acknowledged that;

- Union Street car park is operating at almost full capacity;
- the proposal only provides token car parking (4 spaces) when the parking standards would suggest a requirement of 41 spaces;
- the development has an almost total reliance on public car parks and on-street parking to service the development;

the previous approved development which has been commenced on this site can be completed without any further approvals being required. This would result in the entire site being developed with no parking provision. Therefore as this proposal is viewed as a better quality development and although it only proposes 4 parking spaces, this is more than the extant approval proposed. Therefore, this development provides not only more parking provision but also a better form of development with a pedestrian link through from Union Street car park to Rainey Street.

(g) The design of the development is acceptable in terms of form, materials and detailing and this has now been accepted by NIEA: Historic Buildings Unit. HBU suggested that a condition be included on the decision notice as follows:-

The existing building of no 39/41 Rainey Street should be retained and repaired rather than replaced. The proposed high quality finishes to this block should include:

Natural slate roof.

Heavy duty cast aluminium rain water goods and SVP'S.

Timber sliding sash windows to the front elevation.

Reason: This building makes a valuable contribution to the existing streetscape and setting of the Market Yard.

HBU would appear to have misinterpreted the proposal as the description clearly states '(inc.retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return)'. As such it is clear that there is no proposal to replace No's. 39/41.

Therefore there is no need for the suggested condition.

(h) The immediate area has a mixture of uses which are all relatively quiet and appropriate for town centre use. The proposal does not create any potential to create a conflict and will not have an adverse impact on neighbouring properties. Environmental Health advised that they have no concerns subject to the developer satisfying the Health and Safety at Work (NI) Order 1978 and associated Regulations.

(i) Generally the layout is designed to deter crime as there are no areas which are unsupervised or overlooked.

The issues regarding Access, Movement and Parking in relation to PPS 3 are as discussed above.

With regards to PPS 6 and Planning, Archaeology and the Built Heritage, Historic Monuments Unit advised that they are content with the proposal conditional on the agreement and implementation of a developer-funded programme of archaeological works. Historic Buildings Unit originally advised that the proposal did not respect the listed market yard complex as given the proposed height and massing of the proposal it would become the dominant feature in the streetscape. However, following the submission of additional information to demonstrate what was already approved, HBU re-assessed the impacts of the proposal on the setting of the Market Yard and on that basis are content subject to conditions.

Therefore on balance, whilst this application proposes a development which falls well short of the parking standards as required, the alternative would be to have the site developed under the extant approval which would in all accounts be a lesser quality development. In this regard, it is my opinion that the proposal should be approved.

Recommendation

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

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 retail premises hereby approved shall be used only for Use Class A1: Shops, and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order.

3. Prior to the development hereby approved, becoming operational and/or occupied, the developer shall provide a pelican crossing in accordance with the stamped approved drawing no. 02/2 date stamped 6th May 2016.

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

4. 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 Mid Ulster District Council in association with NIEA: Historic Monuments Unit. The programme should provide for the identification and evaluation of the archaeological remains within the site, for mitigation of the impacts of the development through excavation recording or by preservation of remains and for the preparation of an archaeological report.

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

5. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by Mid Ulster District Council in association with NIEA: Historic Monuments Unit 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 completed in accordance with the approved programme.

Signature(s)

Date:

ANNEX	
Date Valid	10th July 2015
Date First Advertised	10th August 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 37 Rainey Street Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 42 Rainey Street Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 43 Rainey Street Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 44 Rainey Street Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 45 Rainey Street Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 46 Rainey Street Town Parks Of Magherafelt Magherafelt The Owner/Occupier, Magherafelt Delivery Office 35 Rainey Street Town Parks Of Magherafelt	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: H/2014/0049/LBC Proposal: Widening existing vehicular access onto Rainey Street, create new pedestrian opening onto Rainey Street, block up existing vehicular access onto Corn Lane and reduction in height to exiting boundary walls. Address: Market Yard, 43-49 Rainey Street, Magherafelt, Decision: CG Decision Date: 15.06.2015 Ref ID: H/2014/0052/F Proposal: Temporary non-compliance with conditions 3, 4 & 5 of extant planning permission H/2010/0231/F (provision of improvements to the public carriageway, puffin type pedestrian crossing on Rainey Street; and 2m footway along Garden Street) to allow the phasing of development. _Phase 1 - the conversion of existing listed building to 5 retail & office units to become operational without compliance with conditions 3, 4 & 5 of H/2010/0231/F; and _Phase 2 - the erection of a 2 storey building for 6 retail units and restaurant which shall not become operational until conditions 3, 4 & 5 of H/2010/0231/F have been fully complied with (amended description). Address: Market Yard, 43-49 Rainey Street, Magherafelt, Decision: PG Decision Date: 16.06.2015 Ref ID: H/2014/0051/F Proposal: Widening existing vehicular access onto Rainey Street, create new pedestrian opening onto Rainey Street, block up existing vehicular access onto Corn Lane and reduction in height to existing boundary walls	

Address: Market Yard, 43-49 Rainey Street, Magherafelt, BT45 5AE,
Decision: PG
Decision Date: 15.06.2015

Ref ID: H/1999/0274
Proposal: Site of Hotel
Address: Market Yard, Rainey Street, Magherafelt
Decision:
Decision Date: 28.08.2001

Ref ID: H/2010/0225/LB
Proposal: Redevelopment of existing market yard - conversion of existing listed building to 5 retail and offices, erection of 2 storey building for 6 retail units & restaurant. Provision of central courtyard and demolition and rebuild of boundary walls and provision of pelican crossing in front of Nos. 46 and 48-50 Rainey Street.
Address: Market Yard, 43-49 Rainey Street, Magherafelt
Decision:
Decision Date: 04.08.2011

Ref ID: H/2010/0231/F
Proposal: Redevelopment of existing market yard - conversion of existing listed building to 5 retail and offices, erection of 2 storey building for 6 retail units & restaurant. Provision of central courtyard and demolition and rebuild of boundary walls and provision of pelican crossing in front of Nos. 46 and 48-50 Rainey Street.
Address: Market Yard, 43-49 Rainey Street, Magherafelt
Decision:
Decision Date: 04.08.2011

Ref ID: H/2007/0162/LB
Proposal: Redevelopment of market yard site, including refurbishment of existing building (providing retail units and office space) and 3 No. new retail units.
Address: The Market Yard, 45-49 Rainey Street, Magherafelt
Decision:
Decision Date: 02.09.2009

Ref ID: H/2007/0165/F
Proposal: Redevelopment of market yard site, including refurbishment of existing building (providing retail units and office space) and 3no. new retail units
Address: The Market Yard, 45-49 Rainey Street, Magherafelt
Decision:
Decision Date: 14.08.2009

Ref ID: H/1981/0373
Proposal: EXTENSION TO EXISTING TELEPHONE EXCHANGE
Address: 31-33 RAINEY STREET, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1996/4003
Proposal: RADIO BASE STATION
Address: MAGHERAFELT TELEPHONE EXCHANGE RAINEY STREET MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1986/0103
Proposal: INSTALLATION OF UNDERGROUND FUEL OIL TANK AND 3 NO AIR-HANDLING UNITS
Address: MAGHERAFELT TELEPHONE EXCHANGE, RAINEY STREET
Decision:
Decision Date:

Ref ID: H/2006/0412/F

Proposal: Addition of UMTS equipment which includes addition of 3no antennae to existing stub-tower on roof and all associated cabling
Address: Existing O2 radio base station, Magherafelt telephone exchange, 37 Rainey Street, Magherafelt
Decision:
Decision Date: 16.08.2006

Ref ID: H/1974/0260
Proposal: PROJECTING BOX SIGN
Address: RAINEY STREET, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1991/0343
Proposal: CONVERSION OF WAREHOUSE TO LICENSED WINE BAR AND RESTAURANT
Address: REAR OF 41 RAINEY STREET MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2009/0687/F
Proposal: Change of use from existing retail unit to Restaurant/hot food take away bar at ground floor level
Address: 39 Rainey Street, Magherafelt
Decision:
Decision Date: 12.02.2010

Ref ID: H/1995/0368
Proposal: SIGN
Address: 41 RAINEY STREET MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1996/0565
Proposal: SIGN
Address: 41 RAINEY STREET MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1993/0071
Proposal: CONVERSION OF WAREHOUSE TO CRAFT UNITS,6 NO FLATS,SHOPS, DOCTORS AND OPTICIANS SURGERIES
Address: 39-41 RAINEY STREET MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1990/6051
Proposal: REFURBISHMENT OF EXISTING DERELICT WAREHOUSE TO PROVIDE A CRAFT CENTRE 39/41 RAINEY STREET MAGHERAFELT
Address: 39/41 RAINEY STREET
Decision:
Decision Date:

Ref ID: H/1992/6100
Proposal: ALTS TO DENTAL SURGERY 41 RAINEY STREET MAGHERAFELT
Address: 41 RAINEY STREET
Decision:
Decision Date:

Ref ID: H/1993/0548
Proposal: EXTENSION TO COMMERCIAL PROPERTY AND NEW FLAT
Address: 41 RAINEY STREET MAGHERAFELT
Decision:

Decision Date:

Ref ID: H/1996/6041

Proposal: SIGN 41 RAINEY STREET MAGHERAFELT

Address: 41 RAINEY STREET

Decision:

Decision Date:

Ref ID: H/1988/0198

Proposal: CONVERSION OF VACANT SHOP AND GRAIN STORE TO NEW SHOP/
OFFICE/MEETING ROOM/GAMES ROOM

Address: 43 RAINEY STREET MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1992/0456

Proposal: SIGN

Address: 43 RAINEY ST MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2005/0668/F

Proposal: Replacement Wall & Metal Railings

Address: 45 Rainey Street, Magherafelt

Decision:

Decision Date: 21.10.2005

Ref ID: H/2005/0664/LB

Proposal: Careful taking down of dangerous stone wall and rebuilding with part stonework and part metal railings

Address: 45 Rainey Street, Magherafelt

Decision:

Decision Date: 21.10.2005

Ref ID: H/1997/0577

Proposal: ENVIRONMENTAL IMPROVEMENT SCHEME INCLUDING RE-ALIGNED
AND IMPROVED PAVEMENTS, LANDSCAPING AND STREET
FURNITURE

Address: RAINEY STREET MAGHERAFELT

Decision:

Decision Date:

Ref ID: LA09/2015/0536/F

Proposal: Proposed mixed use scheme comprising 11 apartments, 4 retail units (inc.retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return) amenity space, pedestrian link/pend and ancillary site works at lands at 39-41 Rainey Street ,Magherafelt

Address: 39-41 Rainey Street, Magherafelt,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

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

Drawing No. 02/2
Type: Site Layout or Block Plan
Status: Approved

Drawing No. 03
Type: EIS Non-Technical Summary
Status: Submitted

Drawing No. 04
Type: Existing Plans
Status: Submitted

Drawing No. 05/1
Type: Proposed Floor Plans
Status: Approved

Drawing No. 06
Type: Proposed Plans
Status: Approved

Drawing No. 07/1
Type: Proposed Elevations
Status: Approved

Drawing No. 08/1
Type: Proposed Elevations
Status: Approved

Drawing No. 09/1
Type: Proposed Elevations
Status: Submitted

Drawing No. 10/1
Type: Cross Sections
Status: Approved

Drawing No. DOC 01
Type: Further Particulars
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/0782/F	Target Date:
Proposal: Change of Use to Storage and Distribution Unit - (Class B4)	Location: Site 60m North of 52 Ballymoghane Road Magherafelt
Referral Route: This application is being presented to Committee as it is being recommended for refusal and one letter of objection has been received in respect of the proposal.	
Recommendation:	REFUSE
Applicant Name and Address: Cloane Properties Ltd 9 Cloane Road Draperstown BT45 7LW	Agent Name and Address: Kevin Cartin Architects Ltd Unit 5 Belmont Office Park 232-240 Belmont Road Belfast BT4 2AW
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Additional Information Required
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	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

Issues arising

One letter of objection has been received from an adjoining landowner. The objection relates to the following issues;

1. The applicant will be unable to secure the necessary visibility splays as the land on each side of the entrance is under third party ownership, which includes the objector.
2. The applicant has included lands which are not within their control;
3. Delivery vehicles will cause significant noise and disturbance;
4. The local area has not been zoned for industrial use;
5. The proposed use will result in a devaluation of property;

The above issues are considered in the same order as follows;

1. The applicant has not demonstrated that they have control or can achieve control over the third party lands necessary to achieve a safe access to the site;
2. The applicant has amended the planning application certificate within the P1 form and has served notice on a third party land owner. However, while Transportni advised that third party lands were required to both sides of the entrance and the objector alleges that the lands on either side of the entrance are owned by two third parties, the applicant has only served notice on one third party, which is not the objector. Notwithstanding the above, the objector is however aware of the application and therefore has not been prejudiced by the notice not having been served on them;
3. The delivery vehicles which will be attracted to the site, which may include articulated vehicles, have the potential to cause disturbance by way of noise. Environmental Health were consulted and requested additional information as detailed later in this report;
4. This is a rural area without any zoning;
5. No evidence has been provided to substantiate the claim of devaluation of property.

Description of the proposal

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 adjoining triple garage and security hut, it should be noted that the site location map includes the existing concrete yard, industrial type building, associated triple garage 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 second smaller shed located at the south eastern corner which is a single storey garage type building with a third 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 Ballymoghna 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 Ballymoughna 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 Ballymoghna Road (retrospective)'. A condition of that approval was that *'The shed hereby approved shall be used only for domestic purposes ancillary to No 54 Ballymoughna Road, Magherafelt.*
Reason: To prohibit an unacceptable change of use.'

Planning Assessment of Policy and Other Material Considerations

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

Strategic Planning Policy Statement for NI

Policy PED 2 – Economic Development in the Countryside; advises that approval will be granted in accordance with other PPS 4 Policies. These other policies are;

PED 3 – the expansion of an Established Economic Development Use;

PED 4 – the redevelopment of an Established Economic Development Use;

PED 5 – Major Industrial Development; and

PED 6 – Small Rural Projects.

PED 9 – General criteria for Economic Development

PPS 21 – Sustainable Development in the Countryside

PPS 3 – Access, Movement and Parking

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

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The SPPS also advises that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment. The re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes are amongst the types of development which will normally offer the greatest scope for sustainable economic development in the countryside. However, this proposal fails to meet that very principle as, although it involves the re-use of an existing rural building, it involves a use which benefits neither the rural economy nor supports the rural community. Furthermore, the proposal also fails to meet the requirements of the SPPS in that it fails to provide satisfactory access arrangements

All applications for economic development must be assessed in accordance with normal planning criteria, which includes access arrangements, so as to ensure safe, high quality and otherwise satisfactory forms of development. The proposal is clearly at odds with the SPPS in this regard as it fails to provide satisfactory access arrangements.

In my opinion the proposal does not fall within the remit of PED 3, 4, or 5. Whereas, policy PED 6 clearly states that storage and distribution uses will only be acceptable where these are clearly ancillary to a proposal for a community enterprise park/centre or an industrial use. Therefore, the use as a storage and distribution centre on its own does not fall to be considered under PED 6. As the proposal is not considered under the aforementioned policies, the criteria of PED are therefore not relevant. Consequently, as the proposal does not fall within any of the PPS 4 policies mentioned above, it falls to be considered under the provision of PPS 21. Furthermore, Policy PED 2 advises that other proposals involving the re-use of rural buildings will be assessed under PPS 21 policies. Even had the proposal been determined under Policy PED 4, planning permission would not normally be granted for the redevelopment of existing industrial or business use in the countryside for storage/distribution use, partly because of the generally greater impact on rural amenity which would result and partly because the employment normally generated by storage/distribution use of a site is relatively less significant than its use for industrial or business purposes.

PPS 21:

Policy CTY 1 – planning permission will be granted for non-residential development in the countryside in certain cases, such as industry and business uses in accordance with PPS 4.

Policy CTY 4 – The conversion and re-use of existing buildings allows for the conversion of an existing building for an alternative use where this would secure its upkeep and retention. The proposal would undoubtedly secure the upkeep and retention of the existing building which was vacant for a short time prior to the existing use commencing. In addition to the above, a proposal for the re-use of a building must meet all of the criteria in this policy as follows;

In assessing the proposal against Policy CTY4, it is my opinion that:

- The building must be of permanent construction, which it is;
- The re-use of the building would maintain or enhance the building without having an adverse effect on the character or appearance of the locality;

The re-use would undoubtedly maintain the building and its setting although it could be argued that this new use could have an adverse effect on the character and appearance of the locality through the volume of traffic attracted to the site and the use of forklifts etc. being used to load/un-load pallets to/from deliveries;

- The proposal does not include any new extensions;

There are no new extensions proposed;

- The re-use or conversion would not unduly effect the amenities of nearby residents or adversely affect agricultural activities;

This would involve delivery lorries arriving at the site, which may include articulated vehicles.

Given that the entrance to the site is a single carriageway and is shared by four dwellings, such

vehicles may also block the entrance to these dwellings. Delivery vehicles will also be used to distribute the paint to customers. The site as outlined in red includes a field to the rear of the existing large industrial type shed and extends to 0.83ha, in addition to 0.4ha of an adjoining field, which according to the objector, does not belong to the applicant, although it is noted that notice has been served on a third party land owner. However, the proposed use should not unduly affect the continued agricultural use of adjoining land or buildings outside of the site as defined on the location map;

- The nature and scale of any proposed non-residential use is appropriate to a countryside location.

While the scale of the proposed use may be largely unnoticeable as all the storage will presumably be internal, however, the red line of the site includes adjoining agricultural land, extending to 1.23ha, in addition to the two dwellings. If approved, then the permission would ultimately relate to all the lands within the site outline and would include the change of use of this agricultural land and the dwellings. The nature and scale of the proposed storage and distribution use would not be appropriate within this rural area;

- All necessary services are available;
- Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic;

Whilst the proposed access is via the existing access to the site, this will require control of third party lands to achieve the necessary 2.4m x 70m visibility splays in addition to setting back the hedge, railings and stone wall of adjacent property to both sides. As advised in Transportni's consultation response 'the content of the objection letter dated 12th October 2015 suggests that the land required to achieve the visibility splays is not available. Therefore the necessary improvements to the access cannot be provided and the proposal is therefore contrary to this policy.

PPS 3 - Access, Movement and Parking;

Transportni were consulted regarding the proposal and have advised that:

1. 3rd party lands are required to provide the necessary visibility splays of 2.4m x 70m. This will involve

setting back hedges, railings and a stone wall on either side of the entrance;

2. The contents of the objection letter suggests that the land required to achieve the necessary visibility splays is not available.

Therefore the access to the public road would prejudice road safety as the necessary visibility splays are not available.

Environmental Health

EHD were consulted and requested a noise report to take account of the following:

- Hours of operation;
 - Activities within the external yard and within the shed including use of lorries and forklift trucks etc;
 - Noise suppression characteristics of the existing building;
 - Current noise climate as it affects the closest residents to the unit;
 - Predicted noise levels at neighbouring properties;
 - Mitigation measures if necessary to reduce noise to appropriate levels at affected properties;
- The requested noise report has been provided and EHD have considered this by advising they accept the contents and conclusions of the report and that it forms part of the conditions of any approval.

Recommendation

Given that the existing building was only approved subject to the inclusion of a condition restricting the use to domestic purposes ancillary to the existing dwelling, the building would

otherwise have been unacceptable in this location. Therefore, to now propose to change the use of that same building to a storage and distribution centre goes against the spirit and intention of that approval.

Furthermore, the proposed use as a storage and distribution centre is considered to be contrary to PPS 21 – Policies CTY 1, CTY 4 and PPS 3 and should therefore be refused.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reason 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 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 to a 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.

Signature(s)

Date:

ANNEX	
Date Valid	8th September 2015
Date First Advertised	21st September 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 52 Ballymoghán Road, Ballymoghán More, Magherafelt, Londonderry, BT45 6HN, The Owner/Occupier, 53 Ballymoghán Road Ballymoghán More Magherafelt May Eakin and Ivan Eakin 53 Ballymoghán Road, Magherafelt, Londonderry, Northern Ireland, BT45 6HN The Owner/Occupier, 54 Ballymoghán Road, Ballymoghán More, Magherafelt, Londonderry, BT45 6HN, The Owner/Occupier, 56 Ballymoghán Road Ballymoghán More Magherafelt The Owner/Occupier, 58 Ballymoghán Road Ballymoghán More Magherafelt Ivor Eakin	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/1989/0048 Proposal: ALTS AND ADDS TO BUNGALOW Address: 58 BALLYMOGHAN ROAD MAGHERAFELT Decision: Decision Date: Ref ID: H/1991/0033 Proposal: ALTS AND ADDS TO BUNGALOW Address: 58 BALLYMOUGHAN ROAD MAGHERAFELT Decision: Decision Date: Ref ID: H/2011/0453/F Proposal: Proposed domestic garage and garden store Address: Land adjacent to 58 Ballymoughan Road Magherafelt BT45 6HN, Decision:	

Decision Date: 09.01.2012

Ref ID: H/1988/0316

Proposal: SITE OF REPLACEMENT DWELLING

Address: ADJ TO 58 BALLYMOUGHAN ROAD BALLYMOUGHAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1992/0183

Proposal: REPLACEMENT DWELLING

Address: 58 BALLYMOUGHAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1993/0154

Proposal: TEMPORARY MOBILE HOME

Address: 58 BALLYMOUGHAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1993/0153

Proposal: GARAGE/WORKSHOP

Address: 58 BALLYMOUGHAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/0092/F

Proposal: Extension to dwelling.

Address: 54 Ballymoghna Road, Magherafelt.

Decision:

Decision Date: 05.06.2003

Ref ID: H/2003/0510/O

Proposal: Site of single dwelling to replace old house and black smith's shop.

Address: Adjacent to 58 Ballymoghna Road, Magherafelt.

Decision:

Decision Date: 02.09.2004

Ref ID: H/2004/0212/F

Proposal: Alterations to dwelling

Address: 54 Ballymoghna Road, Ballymoghna More, Magherafelt, Northern Ireland, BT45 6HN

Decision:

Decision Date: 20.05.2004

Ref ID: H/1993/0111

Proposal: ALTS TO APPROVED DWELLING

Address: 58 BALLYMOUGHAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1992/0434
Proposal: BUNGALOW
Address: 58 BALLYMOUGHAN ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1993/0522
Proposal: REPLACEMENT BUNGALOW AND GARAGE / STORE
Address: ADJ TO 54 BALLYMOUGHAN ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1992/0709
Proposal: SITE OF REPLACEMENT DWELLING
Address: BALLYMOUGHAN RD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1993/0455
Proposal: BUNGALOW
Address: ADJ TO 54 BALLYMOUGHAN ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1991/6160
Proposal: SITE OF REPLACEMENT DWELLING BALLYMOGHAN ROAD
MAGHERAFELT
Address: BALLYMOGHAN ROAD
Decision:
Decision Date:

Ref ID: H/1991/0395
Proposal: REPLACEMENT DWELLING
Address: ADJACENT TO 58 BALLYMOUGHAN ROAD MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2001/0813/O
Proposal: Site of Dwelling and Garage.
Address: Rear Of 54 Ballymoghnan Road, Magherafelt.
Decision:
Decision Date: 09.07.2002

Ref ID: H/1979/0074
Proposal: FARM BUNGALOW
Address: BALLYMOUGHAN ROAD, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2009/0519/F

Proposal: Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghnan Road (retrospective)
Address: Lands to the rear of 52 Ballymoghnan Road, Magherafelt
Decision:
Decision Date: 10.03.2010

Ref ID: H/1977/0138
Proposal: HOUSE WITH GARAGE UNDER
Address: BALLYMOGHAN ROAD, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1973/0129
Proposal: BUNGALOW
Address: BALLYMOUGHAN, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/1985/0482
Proposal: CHALET BUNGALOW AND DOUBLE GARAGE
Address: BALLYMOGHAN ROAD, MAGHERAFELT
Decision:
Decision Date:

Ref ID: H/2002/0126/O
Proposal: Site of Dwelling and Garage
Address: Opposite 44 Ballymoughan Road, Magherafelt
Decision:
Decision Date: 27.01.2003

Ref ID: LA09/2015/0782/F
Proposal: Change of Use to Storage and Distribution Unit - (Class B4)
Address: Site 60m North of 52 Ballymoghnan Road, Magherafelt,
Decision:
Decision Date:

Summary of Consultee Responses

Transportni advised that third party lands are required to provide the necessary visibility splays. EHD requested a noise report which was considered to be acceptable, subject to conditions.

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 05 Type: Existing Elevations Status: Submitted
Drawing No. 06 Type: Existing Elevations Status: Submitted
Drawing No. 07 Type: Existing Elevations Status: Submitted
Drawing No. 08 Type: Existing Elevations Status: Submitted
Drawing No. 03 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 02 Type: Site Appraisal or Analysis Status: Submitted
Drawing No. 04 Type: Existing Floor Plans Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9th January 2017	Item Number:
Application ID: LA09/2015/0864/RM	Target Date:
Proposal: Proposed Dwelling	Location: Adjacent to 19 Crawfordsburn Drive Maghera
Referral Route: Objections received	
Recommendation: Approval	
Applicant Name and Address: Mr and Mrs T McFalone 19 Crawfordsburn Drive Maghera	Agent Name and Address: DM Kearney Design 2A Coleraine Road Maghera BT46 5BN
Executive Summary: Objections to proposed development. Recommendation to approve.	
Signature(s): <i>N. Hasson</i>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice

Representations:

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

Summary of Issues

Two objection letters have been received for this proposal, both from the same objector. The objections raise the following issues:

- The proposed dwelling will be too close to the objector's property.
- The existing hedgerow exceeds regulations and obstructs light from the public walkway and the objector's rear garden.
- The existing dwelling at No. 19 currently blocks light from the objector's rear garden and the proposed dwelling will exacerbate the situation.
- The density and height of the hedgerow exceeds the regulations specified within the High Hedges Act 2011.

An amended plan was received by the Council on 13th October 2016. The second objection letter raised the following issues:

- The proposed dwelling is still too close to the objector's property.
- The objector sees no significant change in the proposed design and does not think that the amendments will reduce any potential overshadowing impact.

Characteristics of the Site and Area

This site is located adjacent to No.19 Crawfordsburn Drive, within the settlement limit of Maghera, as defined by the Magherafelt Area Plan 2015. The site is located within an existing housing development. The site is located within the existing curtilage of No. 19 Crawfordsburn Drive, an existing 2 storey semi-detached dwelling.

No. 19 benefits from a relatively large garden and driveway area. There is an existing mature leylandii hedgerow approximately 4-5 metres in height along the northern boundary of the site and a 1m wall defines the front (eastern) boundary of the site and this runs along to a number of garages further east of the site.

Planning Assessment of Policy and Other Material Considerations

Proposal:

The proposal is for a dwelling. The dwelling is a two storey end terrace dwelling, attached to No. 19. The dwelling has an irregular shape, owing to the limitations of the plot. The proposal also includes the removal of part of the existing leylandii hedgerow and replacement with a new 1.8 m timber sheeted fence.

Site History:

Outline planning permission for 'Site of proposed attached end terrace dwelling' on land adjacent to no. 19 Crawfordsburn Drive was previously granted under planning references H/2006/0864/O and H/2012/0136/O. No objections were received for either planning application.

Development Plan and Key Policy Considerations:

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 7 Quality Residential Environments
PPS 7 Addendum Quality Residential Environments
PPS 12 Housing in settlements
DCAN 8 Housing in existing urban areas

This application is for a residential dwelling within the settlement limit, and will therefore be assessed under the policy provisions of the Magherafelt Area Plan 2015 and the SPPS primarily, along with PPS 7 and PPS 12. The land is not zoned within the area plan.

An outline application (H/2012/0136/O) has been approved for the development therefore the principle of development has already been established. The outline application included a number of conditions relating to the content of the reserved matters application. These conditions specifically related to time limit, matters to be reserved, landscaping, upper floor windows on the northern elevation and access. These conditions have been complied with, with the exception of condition 3. Condition 3 of H/2012/0136/O states that 'the existing hedge as

indicated in Drawing No. 01 date stamp received 20 April 2012, along the northern boundary of the site, shall be retained at a minimum height of 4 metres'. This proposal has been amended to remove part of this hedgerow to facilitate the construction of the dwelling. I am persuaded that this is acceptable as the hedgerow will be replaced by a fence. Furthermore, the objector referred to the excessive height of the hedgerow which obstructed light from his rear garden.

The Area Plan has a presumption in favour of development within settlement limits, provided the proposal accords with policy SETT 2. It is my opinion that the proposed development is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials.

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS aims to facilitate an adequate and available supply of quality housing to meet the needs of everyone, promote sustainable housing within existing urban areas and provide mixed housing development with homes in a range of sizes and tenures.

The surrounding area is characterised primarily by two storey terraced dwellings. The objection letter stated that the proposed dwelling was located too close to the rear of the objector's house at No. 84 Sunnyside Park. The proposed dwelling will be located approximately 15 metres from the rear of the objector's dwelling. I am content that this separation distance is acceptable within this development context. Furthermore, the principle of development of this site has already been approved at outline stage. It is my opinion that the proposed development respects this surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of the buildings. The design of the proposed dwellings are compatible with existing surrounding development. I do have some concerns that the proposed development would lead to an overdevelopment of the site owing to space constraints. The northern gable wall has been slanted to enable the dwelling to fit on the site. However, the principle of development has already been approved and on balance, I am persuaded that the proposal is compatible with the general housing density of the surrounding area. It is also my opinion that the proposed development will not result in damage to the local character or environmental quality of the area.

There are no windows on the northern gable wall therefore there is no impact of overlooking/loss of privacy to the neighbouring dwellings. However, the neighbouring gardens located to the north may experience some overshadowing as a result of the proposal. The objection letters referred to overshadowing as the proposed dwelling will be located closer than the existing development. I also have concerns that the properties immediately north of the site (No. 82 & 84 Sunnyside Park) will experience overshadowing as a result of the proposal. The proposed design has been amended in an effort to reduce these concerns. The rear roof has been hipped in order to reduce the roof mass when viewed from the dwellings to the north and reduce potential shadow. The hipped roof does alleviate some of my concerns regarding overshadowing, however given the rear gardens already experience overshadowing, I am not persuaded that the hipped roof will fully mitigate against any potential overshadowing. However, significant weight should be attributed to the previous outline approval and on balance, I am persuaded that the impact on residential amenity is acceptable.

Policy LC1 of PPS 7 Addendum refers to 'Protecting local character, environmental quality and residential amenity'. The proposal is acceptable in that the density is not significantly higher than that found in the established residential area, the pattern of development is in keeping with the established residential area and whilst the proposed dwelling is small, it is not less than the acceptable standard for a two bedroom house.

Neighbour Notification Checked	Yes
Summary of Recommendation: I have attached significant weight to the extant outline approval on the site for a dwelling. Furthermore, amendments have been made to the proposal to reduce the potential overshadowing impact of the proposal. On balance, I recommend approval of this development.	
Conditions/Reasons for Refusal: 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 33m in both directions, shall be in place, in accordance with Drawing No. 01/02 bearing the date stamp 21st November 2016, 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. All proposed boundary treatments on stamped approved Drawing No. 01/02 date stamped 21st November 2016 shall be carried out prior to the commencement of the development hereby approved. Only the section of hedgerow between points A and B, as shown on Drawing No. 01/02 date stamped 21st November 2016, shall be removed. Reason: In the interest of neighbouring amenity. 5. The 1.8m fence proposed between points A and B, as shown on Drawing No. 01/02 date stamped 21st November 2016, shall be fully constructed and in place at existing ground level prior to the commencement of the development hereby approved. Reason: In the interest of neighbouring amenity. 6. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council. Reason: To ensure the continuity of amenity afforded by existing trees	

Signature(s) *N. Hasson*

Date: 19/12/16

ANNEX	
Date Valid	24th September 2015
Date First Advertised	6th October 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 10 Crawfordsburn Drive Tamnymullan Maghera The Owner/Occupier, 12 Crawfordsburn Drive Tamnymullan Maghera The Owner/Occupier, 12 Crawfordsburn Drive,Tamnymullan,Maghera,Londonderry,BT46 5AJ, The Owner/Occupier, 78 Sunnyside Park Craigmore Maghera The Owner/Occupier, 8 Crawfordsburn Drive Tamnymullan Maghera The Owner/Occupier, 80 Sunnyside Park Craigmore Maghera The Owner/Occupier, 82 Sunnyside Park Craigmore Maghera The Owner/Occupier, 84 Sunnyside Park Craigmore Maghera Seamus McLoughlin 84 Sunnyside Park, Maghera, BT46 5BQ Seamus and Assumpta McLoughlin 84, Sunnyside Park, Maghera, Londonderry, Northern Ireland, BT46 5BQ The Owner/Occupier, 86 Sunnyside Park Craigmore Maghera The Owner/Occupier, 88 Sunnyside Park Craigmore Maghera The Owner/Occupier, 90 Sunnyside Park Craigmore Maghera	
Date of Last Neighbour Notification	24th November 2016
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: H/2012/0136/O

Proposal: Site of proposed attached end terrace dwelling

Address: Adjacent to no. 19 Crawfordsburn Drive, Maghera,

Decision: PG

Decision Date: 15.11.2012

Ref ID: H/2006/0864/O

Proposal: Site of proposed attached end terrace dwelling

Address: Adjacent to no. 19 Crawfordsburn Drive, Maghera

Decision:

Decision Date: 01.05.2007

Ref ID: H/1975/0313

Proposal: LAYOUT OF RESIDENTIAL DEVELOPMENT

Address: CRAIGMORE, MAGHERA

Decision:

Decision Date:

Ref ID: H/1975/0151

Proposal: RENEWAL OF TIME LIMITED PERMISSION IN RESPECT OF SITE OF HOUSING DEVELOP

Address: CRAIGMORE AND TAMNEYMULLAN, MAGHERA

Decision:

Decision Date:

Ref ID: LA09/2015/0864/RM

Proposal: Proposed Dwelling

Address: Adjacent to 19 Crawfordsburn Drive, Maghera,

Decision:

Decision Date:

Summary of Consultee Responses

Transport NI were consulted on the proposal and have no objection, subject to conditions and informatives.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



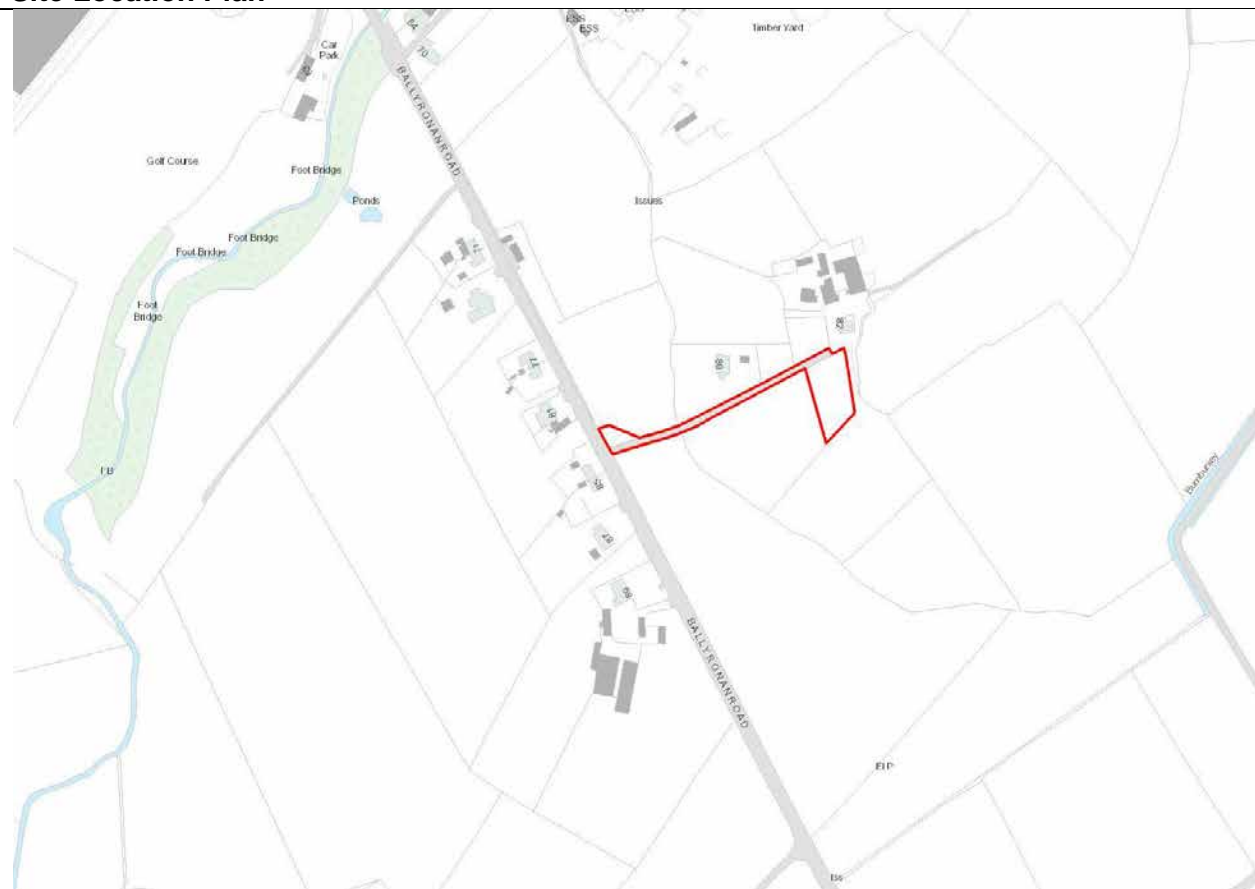
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/0875/F	Target Date:
Proposal: Dwelling and Garage on Farm	Location: 15m South of No. 82 Ballyronan Road Magherafelt. BT45 6EW
Referral Route: This application is being presented to Committee as one objection has been received in relation to the proposed development.	
Recommendation:	APPROVE
Applicant Name and Address: Bernadette Mulholland 63 Mullaghboy Glen Magherafelt BT45 5GW	Agent Name and Address: FMK Architecture Unit 5 Ahoghill Business Centre Ahoghill Ballymena BT42 1LA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

One letter of objection has been received and relates to the proposed access. The objector states that the provision of the required visibility splays will require the removal of a section of their hedge, which is presumably to the left-hand side exiting, as the right-hand side is shown to be within the blue lands. The objector also states that this may weaken the existing hedge and permit livestock to break out onto the public road. They state that they do not give consent for the proposed works to be carried out.

Therefore, the access as initially proposed cannot be provided in a safe and acceptable manner. The applicant subsequently provided an amended layout which moves the access point 15m north west and away from the objectors property with the existing access point being permanently closed up, thereby removing the necessity to touch the objector hedge as initially proposed. The objector has been re-notified of receipt of the amended plans as they requested.

Description of proposal

This is an application for a dwelling on a farm holding. The proposed dwelling is a modest detached dwelling with attic accommodation and having a ridge height of 6.6m above finished floor level. The dwelling is to have a 14.5m frontage length with a side annex of 7.0m which has a lower ridge height. The gable depth is 9.25m. The design and finishes of the proposed dwelling are typical of a rural dwelling. A modest single garage is also proposed and is to be sited to the rear of the dwelling and closer to the existing farm buildings.

Characteristics of the site and area

The site is a small site located at the north eastern end of a larger field and accessed via an existing laneway which leads to two dwellings, a farm yard and the associated farm buildings. The land rises up from the public road towards a crest at the north eastern boundary of the site, which is defined by mature trees, and then continues to rise towards the NE. The laneway is defined by a low cut thorn hedge, while the southern boundary is defined by a mature hedge and trees with the western boundary being undefined. The existing farm dwelling and farm buildings are reasonably well screened from the Ballyronan Road by mature trees and vegetation to the west, which also screen the site on that approach. While there will be localised views of the site on approach from the east and also from along the new by-pass, these views will be set against rising ground to the rear and also the backcloth of the existing farm dwelling and buildings. At the existing entrance to the laneway there is a 1m wide footpath with a 0.5m wide grass embankment and low thorn hedge which will most likely need to be removed in order to provide the necessary visibility splays.

Planning Assessment of Policy and Other Material Considerations

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 the Magherafelt Area Plan 2015 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

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- The farm business is active and has been established for at least 6 years
- no dwellings or development opportunities in the countryside have been sold off from the farm holding within 10 years of the date of the application. This only applies from 25th November 2008.
- the new building will be visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane. Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either :-
 - demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group.

DARD have been consulted and have advised that the farm business has been in existence for more than 6 years and the business has claimed SFP or LFACA or Agri Environment scheme in the last 6 years.

A farm check has revealed no previous approvals on the farm holding or development opportunities have been disposed of since 25th November 2008.

CTY 13 – Integration and Design of Buildings in the Countryside

This is full application for a dwelling on a farm. The site is set to the side of an existing cluster of farm buildings and two dwellings and will be read with those. The dwelling as proposed will benefit from the rising ground to the rear in addition to the mature trees along the eastern boundary, which will provide a sufficient back cloth. Given that there are only localised critical views of the site on approach from the east, the dwelling will achieve a suitable degree of integration as the existing hedgerows can be retained. A new native species hedge is proposed along the western boundary of the site. In this instance a dwelling with a ridge height of 6.6m above finished floor level, as proposed, could be satisfactorily integrated into the surrounding landscape.

CTY 14 – Rural Character

A dwelling positioned on the site as indicated above, would not result in a change of character of the surrounding area. Furthermore, such a dwelling would be read with the existing farm buildings, it is not considered to be unduly prominent, it does not result in a suburban style build-up of development, it would respect the traditional pattern of development in the area, it would not create a ribbon of development and the impact of ancillary works would not damage rural character.

PPS 3 - Access, Movement and Parking;

Transport NI advised that they have no objection to the proposed development subject to the stated conditions and with the existing access point being permanently closed up.

Recommendation

On consideration of the above, it is my opinion that the proposal meets the policy requirements and the site could accommodate dwelling with a ridge height of 6.6m as proposed. Therefore planning permission should be granted for the proposed development subject to the following conditions:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

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 existing natural screenings along the northern, eastern and south-eastern boundaries of this site, shall be retained, augmented where necessary and let grow to a mature height 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.

3. During the first available planting season after the occupation of the dwelling all new boundaries shall be 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 amenity afforded by existing hedges is maintained.

4. 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.

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

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

6. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place, in accordance with Drawing No. 03/2 bearing the date stamp 29th November 2016, 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.

7. 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.

Signature(s)

Date:

ANNEX	
Date Valid	28th September 2015
Date First Advertised	12th October 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 80 Ballyronan Road Dunamoney Magherafelt The Owner/Occupier, 82 Ballyronan Road Dunamoney Magherafelt The Owner/Occupier, 83 Ballyronan Road, Killyfaddy, Magherafelt, Londonderry, BT45 6EW, David Brown 89, Ballyronan Road, Magherafelt, Londonderry, Northern Ireland, BT45 6EW	
Date of Last Neighbour Notification	24th November 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/1997/6035 Proposal: SITE OF DWELLING BALLYRONAN ROAD MAGHERAFELT Address: BALLYRONAN ROAD Decision: Decision Date: Ref ID: H/1976/0163 Proposal: 11KV AND MV O/H LINES (BM774) Address: KILLYFADDY AND DUNAMONEY, MAGHERAFELT Decision: Decision Date: Ref ID: H/1999/0021 Proposal: FARM RETIREMENT DWELLING AND GARAGE Address: ADJACENT TO 82 BALLYRONAN ROAD MAGHERAFELT Decision: Decision Date: Ref ID: H/1998/0204 Proposal: SITE OF FARM RETIREMENT DWELLING AND GARAGE Address: ADJACENT TO 82 BALLYRONAN ROAD MAGHERAFELT Decision:	

Decision Date:

Ref ID: H/1996/0684

Proposal: SITE OF FARM DWELLING

Address: ADJ TO 82 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: LA09/2015/0875/F

Proposal: Dwelling and Garage on Farm

Address: 15m South of No. 82 Ballyronan Road, Magherafelt. BT45 6EW,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

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

Drawing No. 04
Type: Site Appraisal or Analysis
Status: Submitted

Drawing No. 05
Type: Proposed Floor Plans
Status: Submitted

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 07
Type: Garage Plans
Status: Submitted

Drawing No. DOC 01
Type: Farm Boundary Map
Status: Submitted

Drawing No. DOC 02
Type: Housing Concept Statement
Status: Submitted

Drawing No. 02/1
Type: Site Layout or Block Plan
Status: Approved

Drawing No. 03/2
Type: Road Access Plan
Status: Approved

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



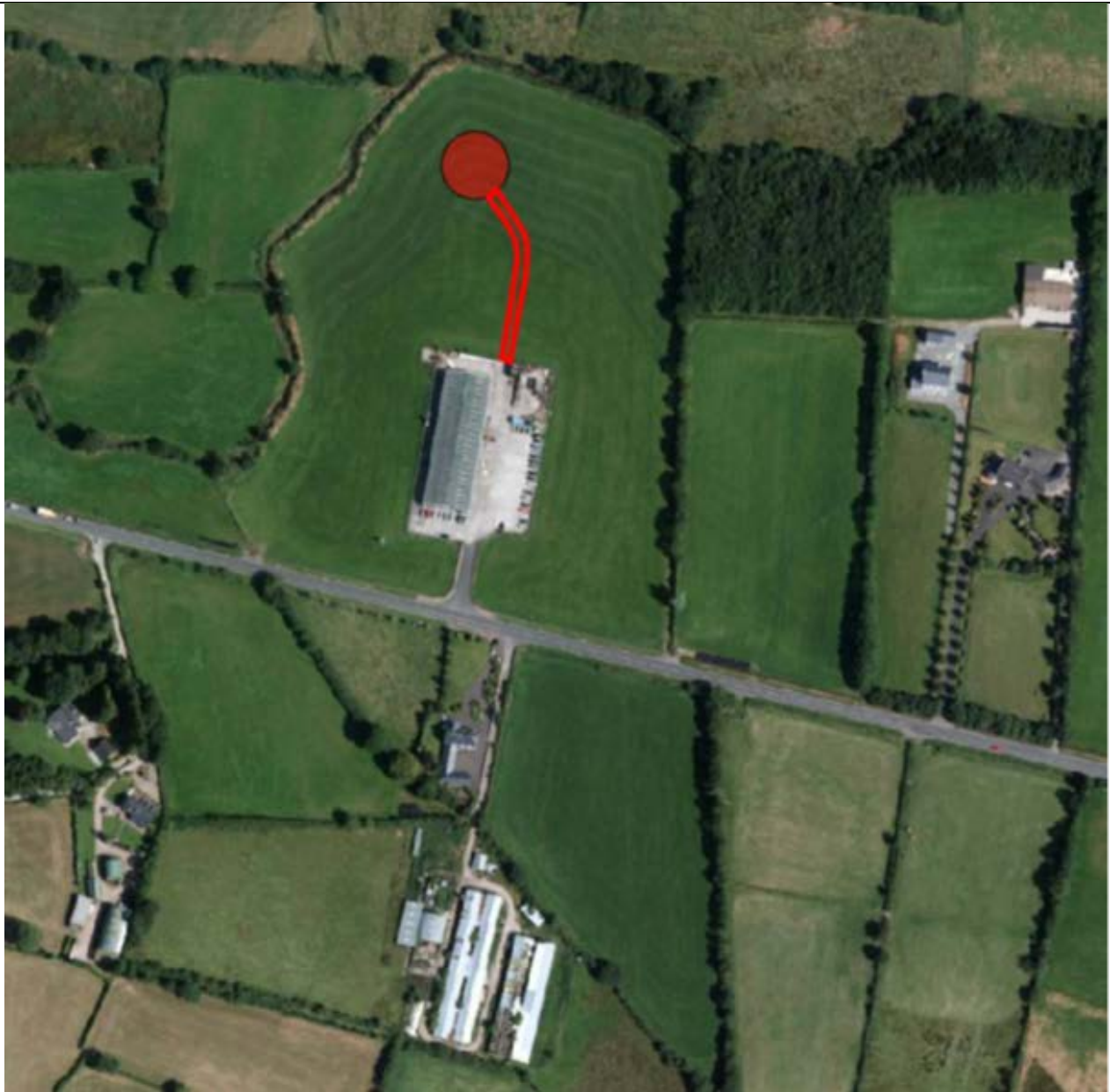
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/1085/F	Target Date:
Proposal: Single turbine with hub height of 24m ,rotor diameter of 17m and a maximum blade height of 32.5m , new access track from existing factory yard to turbine and other ancillary works (reduced scheme, revised plans, shadowflicker report, Noise Impact Assessment)	Location: Approximately 107m North of 155 Drum Road Cookstown
Referral Route: 3rd Party Planning Objections	
Recommendation:	Approve
Applicant Name and Address: J J Loughran 10 Lower Kildress Road Cookstown BT80 9DW	Agent Name and Address: Clyde Shanks Ltd 5 Oxford Street Belfast BT1 3LA
Case Officer: Paul McClean	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Objection

12

Summary of Issues

Addressed in main body of report.

Description of proposal

This is a full planning application for a Single turbine with hub height of 31m, rotor diameter of 27m and a maximum blade height of 44.5m , new access track from existing factory yard to turbine and other ancillary works.

Characteristics of site and area

The site is located approximately 2.6km south west of Cookstown Town Centre. Accessed from the main Omagh Cookstown Road the site is located approximately 110 metres north of an existing industrial shed. Access crosses the existing shed and compound.

The proposal sits within a field whose ground level is below that of the existing Drum Road, from east of the shed entrance and similar in ground level to that of the Drum Road to the west of the shed entrance.

Access to the site is via an existing hardstand which is currently used in connection with the existing JJ Loughran engineering business which operates from the adjoining shed.

The general area is rural in nature, apart from the shed, with detached dwellings and farm groups in the vicinity. Around the industrial shed are car parking and storage areas. The site is close to Ballinderry River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI).

The area benefits from mature hedge lines and forest to the rear. The site is located within Landscape Character Area 42 (LCA 42) as defined in the NIEA Wind Energy Development in Northern Ireland's Landscapes publication. This publication rates the overall sensitivity of the area to be high to medium.

Planning Assessment of Policy and Other Material Considerations

The proposal falls within Schedule 2 development in terms of the Planning (EIA) Regulations (NI) 2015. Mid Ulster Council issued a determination on 19.01.2016 concluding that the proposal is unlikely to have a significant environmental impact.

Cookstown Area Plan 2010- the site is located in the open countryside, therefore the policy provisions of PPS21 apply. The site accesses onto a protected route.

Planning History

I/2011/0431/F-Proposed 5kw wind turbine with a 15m hub height at business premises, withdrawn 28.01.2013.

I/2012/0463/F- Single wind turbine (225kw) with a maximum hub height of up to 42m and maximum tip height of 55.5m, new access track of 4.0m from existing factory yard turbine, turbine assembly area, NIE kiosk and other ancillary works. Council considered the proposal against PPS18, and determined that permission be refused on 02.09.2015 for the following reason;

The proposal is contrary to Policy RE1 of PPS18 - Renewable Energy, in that the development if permitted, would have a detrimental impact on the amenity of neighbouring residential occupiers, by reason of over dominance and visual intrusion.

This decision was appealed by the applicant (2015/A0166) and the Planning Appeals Commission (PAC) ruled that the appeal be dismissed and the refusal stand. The PAC concluded that, in relation to the residential amenity of No.156 Drum Road only, the proposed turbine would be 'an ever present overbearing presence detrimental to residential amenity and the attractiveness of the dwelling's living environment overall.'

The Commissioner was not concerned about detrimental impacts on the residential amenity of No.s 153 and 153a Drum Road.

The PAC ruled that the turbine proposal was acceptable in all other respects.

Key Planning Policy

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing

policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is renewable energy projects in accordance with PPS18.

PPS18 is also a retained policy document under SPPS, however the SPPS introduces subtle differences to this policy including;

- a cautious approach for renewable energy development proposals will apply within designated landscapes which are of significant value, such as AONB's, and the Giant's Causeway and Causeway Coast World Heritage Site, and their wider settings.
- The wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted (as opposed to significant weight contained within RE1 of PPS18).

The remaining criteria contained within PPS18 is consistent with policy contained within SPPS.

Consideration

This proposal is for a single turbine with a hub height of 24m, rotor diameter of 17m and a maximum blade height of 32.5m, new access track from existing factory yard to turbine and other ancillary works. This proposal has a hub height 18m lower, and rotor blade diameter of 10m less, when compared to the proposal that was refused permission under I/2012/0463/F. The overall height from base to blade tip is 32.5m compared to 55.5m, an overall reduction in height of 23m. Therefore the overall mass, size and scale of this proposal is significantly less than what was refused planning permission under I/2012/0463/F.

Policy RE1 of PPS18

(a) public safety, human health, or residential amenity;

Safety

Wind Energy is a clean energy and there are no harmful by-products. Risks to human health during construction are governed by the Health and Safety Executive for Northern Ireland. Turbines collapsing and parts flying off including ice throw are rare but can occur. Due to the size and scale of the turbine and separation distance of this proposal from existing residential development and road network I do not have any public safety or human health concerns in this respect. It is advised that turbines should be sited at least its base to tip height plus 10% from the nearest building. $32.5\text{m} + 3.25\text{m} = 35.75\text{m}$. The turbine is sited just over 90 metres from the nearest building which is the applicants factory, which is well outside the recommended safe distance. The nearest 3rd party dwelling is approx.. 240m from the turbine therefore will pose little risk to human health through collapsing or ice throw.

The Health and Safety Executive for Northern Ireland were consulted to comment on 3rd party objector concerns about the possible collapsing of this turbine. HSENI did not comment as this is not within their remit. The PAC Commissioner judged under appeal 2015/A0166 that information from objectors did not persuade him that the appeal turbine (which is larger than this proposal) would be inherently unsafe or that the turbine's separation from dwellings was insufficient. Similar objections were raised by 3rd parties under this proposal, and for the reasons above I am of the view that there is insufficient information to demonstrate that the proposed turbine would present a risk to human health.

Light

A number of factors have to be aligned for reflective light to occur, such as sun angle, the finish of materials of the turbine, cloud cover, the angle of properties to the turbine, distance of property from the turbine, intervening landscape/vegetation/buildings, and, elevation of property in comparison to the proposed turbine. In my view detrimental impacts of reflective light experienced at nearby properties are low given size and scale of the turbine, distance from residential properties, and, intervening vegetation and buildings.

Noise

It has been demonstrated that acceptable noise levels can be achieved at nearby residential properties in both day-time and night-time noise limits at any wind speed. Environmental Health have no objections to conclusions presented in an Acoustic Report provided by the applicant/agent subject to planning conditions relating to noise levels being attached to any permission, should approval be forthcoming. I agree with this approach. 3rd party objectors raise concern about the impacts of proposed noise levels on their health. No medical evidence has been provided to show that noise would have an unacceptable impact on the health of nearby residents.

Shadow flicker

Wind turbines also create shadow flicker, but this is rare and has only been recorded occasionally at one site in the UK (source: Best Practice Guide to PPS18 paragraph 1.3.73). Best practice guidance to PPS18 suggests that only dwellings within 130 degrees either side of north and within 10 times the rotor blade diameter will be affected by shadow flicker. No dwellings are located within 170m within this zone. The agent provided a shadow flicker report which concludes that no residential properties will be affected by this proposal above the maximum duration of hours or days as set out within DoE's PPS18 Best Practice Guide. The PAC decision 2015/A0166 also considers shadow flicker and states that the shadow flicker reports presented represent worst case scenarios. As such a range of variables such as weather conditions, intervening vegetation and periods when the turbine is not operating mean that the actual occurrence of shadow flicker is likely to be much less than the worst case scenarios presented. Given this, and in the absence of a detailed analysis demonstrating otherwise it is concluded that shadow flicker is unlikely to be a problem at any nearby dwelling. This turbine is significantly smaller in terms of hub height and rotor blade diameter. Given this reduction it is thought that impacts of shadow flicker will be less than appeal 2015/0166 and therefore 3rd party objections to impacts of shadow flicker are not sufficient to warrant refusal of the turbine in this instance

Residential amenity

Under planning appeal 2015/A0166 dwelling No.156 Drum Road was determined to be detrimentally impacted by the proposed turbine for the reason stated. No 156 is located 300m south of the proposed turbine. This dwelling sits on higher ground than where the turbine will be located. It is now the Planning Authority's job to assess if the proposed turbine will have 'an ever present overbearing presence detrimental to residential amenity and the attractiveness of the dwelling's living environment overall', as found to be case in the recent appeal.

On viewing the turbine from the driveway of No.156 Drum Road, the entrance to the front door, the living room and first floor bedroom (this visit was carried out under proposal I/2012/0463/F and the site position and dwelling has not changed from this proposal) it is the Council's contention because of the significant reduction in the scale of the turbine it will now be acceptable in this living environment. This turbine is now of a size and scale that will not visually dominant when the occupier of this property steps out of their house, arrives at their house or sits down to relax in their living room. The turbine is now of a size and scale not to have a significant detrimental impact when they draw their bedroom curtains at night or in the morning.

With the reduction in hub height of 18 metres, reduction in blade diameter of 10m, and overall height by 23m from the previous application and appeal decision I/2014/0463/F, it is my view that

overall impact on No. 156 Drum Road will be significantly reduced. Any refusal on amenity grounds relating to No. 156 would now be difficult to sustain at any appeal.

The Commissioner, in considering appeal 2015/A0166, accepted the objectors interpretation of how the proposed 41m hub height turbine would look in the landscape, as opposed to the applicant/agents photomontage (see appendix 2: Map 1). The same objector has provided a photo montage for this proposal, and shows a guestimate of how the reduced turbine will look in the landscape (see appendix 2: Map 2). Neither montage were produced by a computer data input programme and both are guestimates. However as the PAC attached more weight to Map 1, it is my view that Map 2 is a fairly true reflection of the resulting size and scale of the proposal in the landscape. This demonstrates a significant reduction in the size and scale of the turbine from the original decision, which in my view is acceptable for this site and locality in terms of impacts on residential development.

Under appeal 2015/A0166 the commissioner ruled that no detrimental impacts on residential amenity would be experienced by Nos. 153 and 153a due to separation distance, angle, size and scale of the turbine, and intervening vegetation. As the size and scale of the turbine has been significantly reduced, I am of the view that impacts will be less and the proposal is therefore acceptable. Objections from these 3rd parties about detrimental impact on residential amenity are not sustained.

3rd party objections state that as the commissioner considered under 2015/A0166 that being more than 10 times rotor diameter from the turbine to be irrelevant, due to the detrimental effect on residential amenity, that by reducing the width of the turbine blades in this instance would have no change to views expressed. The objector then goes on to express that the PAC have judged that this is not a suitable site for any industrial turbine and for the Council to reach a different conclusion now would be irrational and 'Wednesbury' unreasonable. I find this argument difficult to accept as the PAC made their judgement based on a 42m hub 27m blade diameter turbine. Nowhere in the commissioner's report does it state that a turbine of any size and scale would be unacceptable on this site and am satisfied that the Planning Authority has acted within its remit and not irrationally or unreasonably. I find it reasonable to fairly assess a revised proposal for a reduced turbine on this site.

(b) visual amenity and landscape character;

Objections have been received about the detrimental impact of the proposal (both individually and cumulatively) on visual amenity and landscape character.

The site is located within Landscape Character Area 42 (LCA 42) as defined in the NIEA Wind Energy Development in Northern Ireland's Landscapes publication. This publication rates the overall sensitivity of the area to be high to medium. While situated behind JJ Loughran factory the turbine lies in an openly viewed field when travelling along the Drum Road close to the site. Given the relatively short distances over which such views are available the visual impacts would not be unacceptable. For longer distances vegetation will acceptably reduce visual impacts in this wider rural landscape. Given the separation between this proposal and existing and approved turbines in the area and intervening landscaping it is my view that there will be no detrimental cumulative impacts with other turbines on this landscape area. It would be difficult to argue with a significant reduction in size and scale from I/2014/0463/F - 2015/A0166, where visual amenity and cumulative impact was determined to be acceptable, that this proposal is now unacceptable. 3rd party objections are not sustained in this instance.

(c) biodiversity, nature conservation or built heritage interests;

Biodiversity and Nature Conservation

NIEA and Shared Environmental Services were both consulted on this proposal and conclude that this proposal will have no adverse effects on the integrity on the Upper Ballinderry River SAC and ASSI. NIEA also conclude that the proposed turbine blades are a sufficient distance

from bat habitats. No evidence is provided to show adverse impacts on the local bird population. NIEA have no concern in relation to this regard and subsequently policies contained within Planning Policy Statement 2 - Planning and Nature Conservation, are not impacted. Previous application I/2014/0463/F found no detrimental biodiversity or nature conservation impacts from the proposed larger turbine.

Built Heritage

There are no nearby historic monuments or buildings to be impacted by this proposal, and no evidence has been supplied by objectors highlighting the presence of any important historic monuments or buildings.

Consequently policies contained within PPS6 Planning, Archaeology and the Built Heritage are not offended.

(d) local natural resources, such as air quality or water quality;

The turbine is constructed off site from metal and is constructed on site. There is no impacts on local natural resources from its construction. The proposal is a clean energy and there will be no impacts on air or water quality.

(e) public access to the countryside.

The proposal will not impact on public access to the countryside.

Under policy RE1 there is also a need to assess risks associated especially with wind energy development such as land stability and impacts on air traffic and telecommunications. The proposed turbine is on relatively flat stable agricultural land and there is no evidence of risk of landslide. National Air Traffic Services and Defence Infrastructure Organisation were consulted on this project and have no objections. Ofcom do not identify any other fixed links that may be impacted by this proposal.

Should the application be approved, site restoration on cessation of electricity production can be controlled by planning condition.

The site is not located on active peatland.

Environmental, economic and social consideration

The weight attached to the environmental, economic and social benefits that might occur as a result of a renewable energy proposal has changed. Planning Policy Statement 18 Renewable Energy, RE1 stated that 'the wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given significant weight in determining whether planning permission should be granted', Whereas in relation to renewable energy the SPPS states that 'appropriate weight should be given'. Where differences between published planning policy and SPPS exist it is acknowledged that the SPPS takes precedence.

The direct and indirect benefits referred to by the applicant in his statement of case include the turbine acting as a symbol of the company's interests, increased sustainability, assisting business growth and diversification, reduced overheads, increased efficiencies and the use of the turbine to assist workforce training. I also recognise the contribution that wind energy provides to meeting renewable energy targets and the social, environmental and economic benefits associated with these developments. All environmental, economic and social benefits have been given appropriate weight, and given that the proposal meets all other policy tests, I am of the view that permission be granted.

Other Considerations

Tourism

Objectors raise concern over the detrimental impact the proposal will have on numbers visiting Drum Manor Forest Park. No empirical evidence has been provided to support this claim. The Head of Tourism for Mid Ulster Council was consulted on this point and no concern was raised.

In my view the turbine will not be seen from any part of Drum Manor Forest Park due to intervening vegetation and is of sufficient distance to cause detrimental noise impacts to visitors of the park.

Procedural

Objectors argued that as this proposal was similar to a previously refused application that Mid Ulster Council could refuse to consider the application under powers contained within the Planning Act 2011. Trough consultation with our in house solicitor it was decided that it was appropriate to consider this subject application, that the reduction in height was sufficient to differentiate this proposal from the previous application I/2014/0463/F. See appendix 1, Dr Boomers letter dated 5th July 2016.

Protected Route

Transport NI have no objections to this proposal which will use an existing access and will not add significantly to the intensification of vehicles currently coming and going from the factory. I see no reason why the proposal would have a detrimental impact on this protected route above and beyond what is currently experienced, therefore impacts on the protected route do not exist in relation this proposal and the policy provisions contained within PPS3 are not impacted.

Prematurity

Objectors state that with the publication of the Preferred Options Paper that to consider this application, and other similar applications, would be premature to the outcome of the Local Development Plan process. The Preferred Options Paper is exactly that, and no decision has been reached by Council at this stage as to what option will be finally adopted. Paragraph 6.221 of SPPS states that 'Moratoria on applications for renewable energy development whilst LDP's are being prepared or updated are not appropriate.' I do not feel that at this stage in the LDP process that Council are acting prematurely in deciding this proposal.

Merrits of existing Planning Policy to assess renewable energy

Objectors referred to evidence provided to and conclusions reached by the NI Assembly Environment Committee in relation to wind turbines. It is not my place to assess the merits of that guidance. However, the NI Executive has decided that the SPPS and PPS18 and it's associated documents provide the current guidance on which to assess wind turbines in this jurisdiction.

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. The level of noise immissions from the wind turbine hereby permitted (including the application of any tonal penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97) shall not exceed values set out in Table 1 below. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are

not listed in Table 1 shall be represented by the physically closest location listed in the tables unless otherwise agreed by the Planning Authority.

Table 1: Noise Limits dB L_{A90} for All Periods

Property	Standardised wind speed at 10m height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
156 Drum Road	29.7	30.6	31.5	32.4	33.3	34.2	35.1	36.0	36.9
153 Drum Road	29.3	30.2	31.1	32.0	32.9	33.8	34.7	35.6	36.5
163 Drum Road	27.8	28.7	29.6	30.5	31.4	32.3	33.2	34.1	35.0
163a Drum Road	26.4	27.3	28.2	29.1	30.0	30.9	31.8	32.7	33.6
35 Lower Kildress Road	25.4	26.3	27.2	28.1	29.0	29.9	30.8	31.7	32.6
162 Drum Road	27.1	28.0	28.9	29.8	30.7	31.6	32.5	33.4	34.3
153a Drum Road	31.6	32.5	33.4	34.3	35.2	36.1	37.0	37.9	38.8
160 Drum Road	28.3	29.2	30.1	31.0	31.9	32.8	33.7	34.6	35.5

Reason: To control the noise levels from the development at noise sensitive locations.

3. Within 4 weeks of a written request by the Planning Authority, following a noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the wind farm at the complainant's property following the procedures described in Pages 102-109 of ETSU-R-97. Details of the noise monitoring survey shall be submitted to the Planning Authority for written approval prior to any monitoring commencing. The Planning Authority shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To control the noise levels from the development at noise sensitive locations.

4. The wind farm operator shall provide to the Planning Authority the results, assessment and conclusions regarding the noise monitoring required by Condition 2, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Planning Authority under condition 2 unless, in either case, otherwise extended in writing by the Planning Authority.

Reason: To control the noise levels from the development at noise sensitive locations.

5. Within 4 weeks from receipt of a written request from the Planning Authority, following an amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall submit a scheme for the assessment and regulation of AM to the Planning Authority for its written approval. The scheme shall be in general accordance with:

-Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance,

-Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,

-The methodology published by Renewable UK on the 16th December 2013;

and implemented within 3 months of the written request of the Planning Authority unless otherwise extended in writing by the Planning Authority.

Reason: To control the levels of AM from the development at noise sensitive locations.

6. The permission shall be for a limited period expiring 25 years from the date on which electricity from the wind turbine is connected to the grid. Within 12 months of the cessation of electricity generation at the site, or upon the expiration of this permission whichever is sooner, all structures and access tracks shall be removed and the land restored in accordance with a scheme to be submitted to and approved by Council prior to the commencement of any decommissioning works, unless otherwise agreed by Council in writing.

Reason: To restore the site and maintain the landscape quality of the area.

Signature(s)

Date:

ANNEX	
Date Valid	9th November 2015
Date First Advertised	23rd November 2015
Date Last Advertised	10th November 2016
Details of Neighbour Notification (all addresses) John & Linda Lennon 153 Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW John and Linda Lennon 153 Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW John Lennon 153 Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Paul and Angela Lennon 153A Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Paul Lennon 153A Drum Road, Cookstown, Co. Tyrone, BT80 9DN Paul Lennon 153A Drum Road, Cookstown, Co. Tyrone, BT80 9DW Paul & Angela Lennon 153a Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Damien Connolly 156 Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Damien Connolly 156 Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Damien Connolly 156, Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Damien Connolly 156, Drum Road, Cookstown, Tyrone, Northern Ireland, BT80 9DW Damien Connolly	
Date of Last Neighbour Notification	
Date of EIA Determination	19th January 2016
ES Requested	No

APPENDIX 1



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Maria O'Loan
Tughans
Marlborough House
30 Victoria Street
Belfast
BT1 3GG

5TH July 2016.

Dear Madam

LA/09/2015/1085/F

I refer to your email dated 17 June I understand that, on behalf of your clients, you are asking the Council to decline to determine planning application LA/09/2015/1085/F ("the Application") as it is your position that it is similar to planning application I/2012/0463/F.

The planning staff within the Council has previously confirmed to your client that it is their opinion that the planning applications LA/09/2015/1085/F and I/2012/0463/F are not similar. Section 46(10) states:-

"An application for planning permission is similar to another application if (and only if) the council thinks that the development and the land to which the applications relate are the same or substantially the same."

It is the officers' professional opinion that the current application (LA/09/2015/1085) with a hub height of 11m lower than the determined application I/2012/0463), means that the proposed development is not substantially the same. Pursuant to the unambiguous wording of Section 46(10) of the Act, it is clear that this is a judgement call for the planning authority solely and this decision is not an irrational or unreasonable conclusion for the officers to have taken. Furthermore, the decision whether to exercise its discretion or not under Section 46 is also a matter for the Council.

As has already been advised to your clients, the recent PAC decision is a material consideration in respect of planning application LA/09/2015/1085/F.

I trust this concludes the matter.

Dr. Chris Boomer BA(HONS) DipTP MSc MRTTP

Planning Manager for MidUlster

Cookstown Office
Burn Road
Cookstown
BT80 8DT

Dungannon Office
Circular Road
Dungannon
BT71 6DT

Magherafelt Office
Ballyronan Road
Magherafelt
BT45 6EN

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Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0549/F	Target Date:
Proposal: Proposed 20m telecommunications mast carrying 3 antennae and 2 radio dishes and associated works including 3 equipment cabinets and site compound	Location: Land c. 78m South east of 6 Main Street Bellaghy BT45 8HS
Referral Route: This application is being presented to Committee as one objection has been received in respect of the proposal.	
Recommendation:	APPROVE
Applicant Name and Address: Telefonica UK Ltd 260 Bath Road Slough SL1 4DX	Agent Name and Address: Ross Planning 9a Clare lane Cookstown BT80 8RJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Historic Environment Division (HED)	Consulted in Error
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Historic Environment Division (HED)	
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	Historic Environment Division (HED)	

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 including representations

One representations has been received in relation to this proposal from a family who are owners of nearby property. The objection questions the appropriateness of the site which is one of the lowest areas in the Bellaghy and adjacent to residential property on Castle Street, Main Street and William Street in addition to being located on land zoned for housing and also close to an area of archaeological potential. A more appropriate site would be the industrial zoning at Deerpark Road.

The operator has provided a site selection process which contains a number of alternative sites. These alternative sites were all discounted for various reasons and the proposed site was considered to be the best to provide an acceptable level of cover. Environmental Health have not raised any issues concerning impact on human health and therefore this is not a reason for refusal. Regarding the proposal being located within an area of archaeological potential, this does not necessarily prevent all development. The opinion of Historic Environment Division was sought on the proposal and following the provision of additional information, in relation to the potential to impact on views from Bellaghy Bawn, the proposal was considered to be acceptable.

Description of proposal

The proposal is for the erection of a 20m telecommunications mast carrying 3 antennae and 2 radio dishes and associated works including 3 equipment cabinets and site compound.

Characteristics of the site and area

The site is contained within a small paddock to the rear of a butchers shop and adjacent dwelling which fronts onto Main Street. The site backs on to Bellaghy Wolfe Tones GAC playing fields and training pitch. The site is bounded along the southern and western boundaries by a low conifer trees. Access to the site is through an existing yard at the rear of the shop and dwelling with a large parking area to the front. The site is located within an area of archaeological potential identified within the Magherafelt Area Plan 2015.

Planning Assessment of Policy and Other Material Considerations

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is located within the settlement development limit of Bellaghy.

Strategic Planning Policy Statement
PPS 1 General Principles
PPS 3 Access, Movement and Parking
PPS 10 - Telecommunications, Policy TEL 1 - Control of telecommunications development.
Magherafelt Area Plan 2015
PPS 6 – Planning, Archaeology and the Built Heritage

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 aim of the SPPS in relation to telecommunications and other utilities is to facilitate the development of such infrastructure in an efficient and effective manner whilst keeping the environmental impact to a minimum.

Applications for the development of telecommunications equipment should be required to be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines for public exposure to electromagnetic fields. This proposal has been accompanied by such a statement which Environmental Health have accepted as being acceptable.

The proposed mast is to be shared between Telefonica UK Limited and Vodafone Limited which will reduce the need for an second mast for either of these operators.

PPS 10 allows for the approval of telecommunications apparatus subject to a number of strict criteria being fulfilled. The Council will permit proposals for telecommunications development where such proposals, together with any necessary enabling works, will not result in unacceptable damage to visual amenity or harm to environmentally sensitive features or locations. Developers will therefore be required to demonstrate that proposals for telecommunications development, having regard to technical and operational constraints, have been sited and designed to minimise visual and environmental impact.

Proposals for the development of a new telecommunications mast will only be considered acceptable by the Department where the above requirements are met and it is reasonably demonstrated that:

(a) the sharing of an existing mast or other structure has been investigated and is not feasible; The reason the application has been received was to cover one of a few remaining 'not spots' for telecommunications coverage. The operator has included an explanation which I consider to be a comprehensive consideration of existing structures and sharing. Unfortunately there are no existing masts in the locality which could be utilised or upgraded and none of the alternative sites were considered acceptable. As discussed above the mast is to be shared between Telefonica and Vodafone.

or

(b) a new mast represents a better environmental solution than other options. Although the site is a greenfield site it is located a distance of approx. 95m off the road and within the settlement limits of Bellaghy. The tower is a 20m high lattice type tower, which when viewed against the tree line of the existing hedgerow will have minimal visual impact.

Applications for telecommunications development by Code System Operators or broadcasters will need to include:

(1) information about the purpose and need for the particular development including a description of how it fits into the operator's or broadcaster's wider network; The applicant has indicated that Telefonica UK and Vodafone were selected to deliver the Mobile Infrastructure Project, which forms part of the Governments National Infrastructure Plan. I agree

therefore that the applicant has satisfied the purpose and need for this extension of network coverage and also when considering the lack of existing network coverage.

(2) details of the consideration given to measures to mitigate the visual and environmental impact of the proposal;

The applicant has provided a statement to confirm that the site has been chosen because of the increased coverage it will provide. Also the site field benefits from mature boundary vegetation on 2 sides, the site benefits from being set to the rear of existing commercial and residential buildings and within agricultural land. The topography of the landform and the orientation of the surrounding road network will mean limited views. Photomontages have been provide which aid the assessment of the visual impact from Bellaghy Bawn. These have also been assessed by NIEA: HMU and are considered to be acceptable.

and;

(3) where proposals relate to the development of a mobile telecommunications base station, a statement: indicating its location, the height of the antenna, the frequency and modulation characteristics, details of power output; and declaring that the base station when operational will meet the ICNIRP guidelines for public exposure to electromagnetic fields.

the applicant has provided all of the above information in their supporting statement.

Where information on the above matters is not made available or is considered inadequate the Council will refuse planning permission.

One third party representation was received and is discussed above.

PPS 6 – Policy BH 2 advises that proposals which affect locally important archaeological sites or monuments will only be approved where it is considered that the importance of the proposal outweighs the value of the remains. Historic Monuments Unit were consulted and expressed concerns regarding the potential for the proposed mast to have an adverse impact on the public views from Bellaghy Bawn. In an effort to fully assess the impact of such a development, photomontages were requested. Following the provision of these, HMU reassessed the proposal and subsequently advised that on this basis, they were content with the proposal.

I have considered the proposal before me against the above policy consideration. Assessing the application against same and evidence provided with the application I consider the proposal to be acceptable. Conditions should be attached to remove structure within 6 months of cessation of operations at the site.

Recommendation

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

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

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 development hereby approved shall be removed from the land and the site restored to its former condition within 6 months of permanent decommissioning of all equipment thereon.

Reason: To restore and maintain the landscape quality of the area.

Signature(s)

Date:

ANNEX	
Date Valid	19th April 2016
Date First Advertised	5th May 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Main Street,Mullaghboy,Bellaghy,Londonderry,BT45 8HS, The Owner/Occupier, 2 William Street,Tamlaghtduff,Bellaghy,Londonderry,BT45 8HZ, The Owner/Occupier, 3 Main Street,Mullaghboy,Bellaghy,Londonderry,BT45 8HS, The Owner/Occupier, 3 William Street,Drumanee Upper,Bellaghy,Londonderry,BT45 8HZ, John Donnelly 5 Easterfield,Grove,Oxfordshire,OX12 7LL The Owner/Occupier, 5 Main Street,Mullaghboy,Bellaghy,Londonderry,BT45 8HS, The Owner/Occupier, 6 Main Street,Old Town Deer Park,Bellaghy,Londonderry,BT45 8HS, The Owner/Occupier, 8 Main Street,Old Town Deer Park,Bellaghy,Londonderry,BT45 8HS, The Owner/Occupier, The Secretary Wolfe Tones GAC 30 Ballyscullion Road,Drumanee Lower,Bellaghy,Londonderry,BT45 8LD,	
Date of Last Neighbour Notification	4th May 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/1996/0591 Proposal: EXTENSION TO EXISTING SOCIAL CENTRE TO FORM 2 CHANGING ROOMS PLUS ERECTION OF COVERED STAND TERRACING AND BOUNDARY WALL AND FLOODLIGHTING TO PLAYING FIELDS Address: BALLYSCULLION ROAD BELLAGHY Decision: Decision Date: Ref ID: H/2003/1446/F Proposal: Proposed housing development Address: Site to North West of 30 Ballyscullion Road, Bellaghy.	

Decision:
Decision Date: 19.02.2010

Ref ID: H/2003/0348
Proposal: Housing development.
Address: Lands between Main Street, Castle Street, Ballyscullion Road, Bellaghy.
Decision:
Decision Date:

Ref ID: LA09/2016/0549/F
Proposal: Proposed 20m telecommunications mast carrying 3 antennae and 2 radio dishes and associated works including 3 equipment cabinets and site compound
Address: Land c. 78m South east of 6 Main Street, Bellaghy, BT45 8HS,
Decision:
Decision Date:

Summary of Consultee Responses

None of the consultees raised any issues of concern

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0769/F	Target Date:
Proposal: Proposed ancillary car parking for the existing retail unit and petrol filling station (PFS) with proposed access from Highfield Crescent.	Location: Adjacent and immediately south west of 3 Highfield Crescent Magherafelt BT45 6HF
Referral Route: Objections received	
Recommendation: Approval	
Applicant Name and Address: Mr Kenny Bradley 55 Moneymore Road Magherafelt BT45 6HF	Agent Name and Address: Matrix Planning Consultancy 29 Old Belfast Road Newtownards BT23 4SG
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	
Statutory	Transport NI - Enniskillen Office	Content

Statutory	Transport NI - Enniskillen Office	Advice
Statutory	Transport NI - Enniskillen Office	
Statutory	Transport NI - Enniskillen Office	
Statutory	Transport NI - 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	Transport NI - Enniskillen Office	
Statutory	Transport NI - Enniskillen Office	

Representations:

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

Summary of Issues

Objections

Characteristics of the Site and Area

The proposal site is located within the settlement limits of Magherafelt in a predominantly residential area (Highfield Crescent). The proposal site sits north west of the established Highfield Service Station and is proposed to serve this existing business.

The site itself consists of a small hard cored area enclosed by a concrete wall with a timber fence approximately 2m in height on top. An old lorry container is located inside as well as a few concrete blocks. On the day of the site visit one small van related to the aforementioned business was parked within the enclosed area. The site has a gate but this was open when carrying out the site visit. There were also three cars parked on the footpath outside the proposal site however it is unclear as to whom these belong to.

Immediately adjacent to the proposal site on the NE side is a detached chalet type bungalow (No 3 Highfield Crescent), on the SW side is a 2 storey detached dwelling (No 3 Highfield Road) and then immediately adjacent the proposal site is a detached single storey dwelling (No 2 Highfield Crescent).

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

A Planning Strategy for Rural Northern Ireland - DES 2 - Townscape

Consultees: NI Water were asked to comment and responded on 22.06.2016 with no objections
Environmental Health were asked to comment and responded on 05.07.2016 with no objections subject to conditions.

Transportni were asked to comment and responded on 21.11.2016 with no objections subject to stated conditions on their response.

Neighbours: -Owners/Occupiers of the following addresses were notified of this proposal on 21.06.2016

Highfield Crescent - Nos. 2, 3, 4, 6, 7, 9, 11, 13, 15, 17 & 19

Highfield Road - Nos. 3, 5, 7, 9 & 11

Moneymore Road - Nos. 51 & 55

In line with legislation this proposal was advertised in several local press publications during June 2016 and again July 2016 when the address was amended.

Objections:

An objection has been received from Mr Arnold Oliphant the owner/occupier of 2 Highfield Crescent dated 01.06.2016. The objector has concerns that this proposal is not to be used for ancillary parking but actually for a goods delivery facility for heavy goods vehicles, in addition the objector also feels this proposal will have a detrimental impact on the character of the small quiet neighbourhood. Mr Oliphant also expresses concerns regarding litter nuisance and inconvenience from existing and increased on street parking which affects residents from entering and leaving their own properties.

An objection has also been received from Mr Conlon & family the owner/occupier of No 6 Highfield Crescent, this was dated 29.06.2016. The main points raised are regarding the existing pollution problems potentially being increased, the proposed site being used for service goods vehicles rather than just car parking, and also the existing on street parking issues being made worse.

An objection has been received from Bernadette Mulholland solicitor on behalf of Mr & Mrs Devlin of 5 Highfield Road dated 5th July 2016. The main points raised are:

- The proposal seems to indicate that this new access, if granted, would be used as a goods delivery access.
- Existing parking and litter issues would be exacerbated if approval granted.
- The flow of traffic would be increased and thus causing congestion and noise disturbance for local residents.
- There would be a greater potential for traffic accidents if approval was granted.
- There would be a negative impact on the existing character of the area if an approval were to be granted.

An objection was received from Ms Greta Bedi of 3 Highfield crescent, the main points raised are:

- potential change in character and nature of area entirely if approval granted.
- if approval granted noise and air pollution would be exacerbated.
- The proposal has the potential to increase parking and congestion issues already prevalent
- the objector feels the proposal is to be used for deliveries rather than for staff/customers.

An objection was received from Mrs Noleen O'Connor of 7 Highfield Crescent, the main points raised are:

- the proposal has the potential to change the character and nature of the area should an approval be granted.

- the proposal has the potential to exacerbate existing congestion and parking issues.
- the proposal has potential to create further road safety issues.
- the proposal has the potential to cause unacceptable levels of noise and pollution disturbance.
- the objector feels the proposal is to be used for deliveries rather than just for staff and or customers.

An objections was received from Lisa McGrattan of 11 Highfield Crescent, the main points raised are:

- the proposal has the potential to increase traffic levels which would ultimately result in increased traffic noise.
- the proposal will create or increase safety issues in and around the residential area.
- if an approval is granted it would cause a change to the character of the residential area.

In consideration of this proposal the points within paragraph 4.11 _ 4.12 (Page 17) of the Strategic Planning Policy Statement for Northern Ireland (SPSS) have been considered in my recommendation. Within this it states that the planning system has a role in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors. With this in mind Environmental Health were asked to comment on this proposal and advised that an acoustic barrier should be erected in order to protect the noise amenity of neighbouring dwellings and artificial lighting, should such be erected, should be such that it does not give rise to nuisance conditions at neighbouring properties, this advice should be placed on any approval granted. In addition within the submitted design and access statement it has been stated that the applicant would be content to have a condition placed on an approval stating that the car park should be closed and secured between the hours of 23.00 to 07.00 should the Council feel this is necessary.

In addition within paragraph 6.305 (Page 110) of the SPSS it states that traffic and environmental impacts and the compatibility with adjoining land uses should be considered when determining this type of proposal. As previously mentioned Transportni were asked to comment and responded on 21.11.2016 with no objections subject to stated conditions on their response. The adjoining land uses are varied with there being both residential and businesses in close proximity, however taking into consideration the objectors concerns that the approval of this proposal may lead to safety concerns, nuisances etc I feel the suggested conditions of limiting the use of the car park so as no deliveries are made from this area and also conditioning the opening hours, acoustic barriers, and flood lighting would maintain compatibility with the adjoining land uses.

Policy DES 2 of 'A Planning Strategy for Rural Northern Ireland' states that when considering a new development its compatibility with neighbouring developments the existing character of the area should be considered. Although the neighbouring land uses to the north, west and east is predominantly residential I feel the proposed use is compatible considering the adjacent existing use on the south and for the fact that the existing land use is for storage in a general sense and not maintained or controlled in any manner and as such the redevelopment may curb any potential anti social behaviour and result in enforcement of the area if required.

With regards policy AMP 7 of PPS3, a material consideration when assessing this proposal, in the submitted design and access statement the agent has shown that this proposal would provide a much needed additional level of parking for both staff and customers to the petrol filling station and retail premises. It has been stated that within the parking standards guidance that a ratio of 1 space per 14m² of gross floor area (GFA) and 1 lorry space per 750m² (GFA) and 1 space per pump plus 1 space per pump waiting, resulting in a requirement of 36 parking spaces, 1 lorry space and adequate waiting spaces at the fuel pumps should be provided. With the approval of this proposal the previously lacking parking facilities would actually meet these requirements, a point which may in actual fact have a positive impact on points raised by objectors relating to congestion and parking issues being exacerbated.

These considerations and suggested conditions and advice should aid to satisfy the objectors points above.

The previous use on this site was a domestic dwelling however this was demolished many years ago and the site has been vacant since. The proposal site is outside Magherafelt town centre limits as per Magherafelt Area Plan 2015.

11 parking spaces are proposed along with a dropped kerb and 6m wide access and access ramp. The existing close boarded 1.8m fence is to remain.

Under the previous approval for this Petrol filling station 25 parking spaces were approved, with the introduction of 11 additional spaces under this proposal it would take the level up to 36, a level which is in keeping with parking standards of Planning Policy Statement 3.

The proposal site is currently a derelict piece of land sandwiched between two dwellings and to the rear of the petrol filling station, the level of the proposal site sits much lower than that of the filling station and as such the applicant has incorporated a ramp into their design, this particular part of the proposal has concerned local residents who have concerns that this ramp will be used for store deliveries rather than customers/staff. This point was addressed by the agent who states that the ramp will not be used for any deliveries and confirmed they are content if the council approves the proposal for a condition to be placed restricting the opening time of the ancillary car parking and its use to try and appease the objectors. With regards noise and litter disturbance Environmental Health were asked to comment on the proposal and responded with no objections subject to advice and conditions.

It has been indicated by the objectors that the Highfield crescent area is in need of more car parking due to on street car parking already happening. In addition as previously mentioned this is a derelict piece of land and it is my opinion that the development of it by the existing filling station with conditions adhered too as previously mentioned would only be an improvement and detract from anti-social behaviours and possible illegal parking. The introduction of the ramp access would also include disabled users and customers with mobility issues, prams and or trolleys.

In order to address the objectors points Transportni were asked to comment on this proposal, they responded on 21.11.2016 stating that should council be minded to approve this application there were conditions that the applicant needed to adhere to in order to create a safe access onto Highfield Crescent which meets the standards set out in PPS3 and DCAN 15.

As this proposal is for car parking the speeds of any entering or existing vehicles would be low, in addition the proposal would not create a situation for vehicles to have to reverse into Highfield Crescent, and as such I do not feel this proposal would increase safety issues. I do not consider this proposal would result in a change to the local character and feel it would be better used and maintained rather than leaving it in the condition it currently is in.

Having considered all the objectors points and the relevant policies and consultation responses, I am satisfied that this proposal is acceptable and an approval should be granted.

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. Use of the approved ancillary car parking and ramp access as shown in drawing No 03 date stamped 31.05.2016 shall be solely for the use of customers and/or staff and no deliveries shall be made from this point.

Reason: In order to protect any neighbouring properties from noise or disturbance.

3. The south west and north east boundaries of the car park shall have a 2.5metre high acoustic grade barrier erected prior to the commencement of development.

Reason: In order to protect the noise amenity of neighbouring dwellings.

4. The vehicular access, including visibility splays of 2.0 x 33m in both directions, and Forward Sight Distance and any forward sight line shall be provided in accordance with the approved plans, prior to the commencement/occupation/operation of any works or 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 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.

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 interests of road safety and the convenience of road users.

6. The access gradient shall not exceed 8% (1 in 12.5) over the first 5m 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.

7. The change of use hereby permitted shall not come into effect until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 03 (Rev 2) bearing date stamp 14/10/16 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

Informatives

1. Artificial lighting, should such be erected, should be such that it does not give rise to nuisance conditions at neighbouring properties. Light pollution can be controlled by careful siting of lighting stanchions and use of appropriate lighting systems.
Consideration should be given to the Institution of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01:2011
2. 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 development 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 NI Water.
Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by NI Water.
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. 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 Infrastructure for which separate permissions and arrangements are required.
6. 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.
7. Notwithstanding the terms and conditions of the 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 Transport NI Section Engineer whose address is Molesworth Plaza, Molesworth Street, Cookstown.
A monetary deposit will be required to cover works on the public road.

Signature(s)

Date:

ANNEX	
Date Valid	31st May 2016
Date First Advertised	16th June 2016
Date Last Advertised	14th July 2016
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 11 Highfield Road Town Parks Of Magherafelt Magherafelt Lisa McGrattan 11, Highfield Crescent, Magherafelt, Londonderry, Northern Ireland, BT45 5JE The Owner/Occupier, 13 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 15 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 17 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 19 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 2 Highfield Crescent Town Parks Of Magherafelt Magherafelt Arnold W Oliphant 2 Highfield Crescent, Magherafelt, Londonderry, Northern Ireland, BT45 5JE The Owner/Occupier, 3 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 3 Highfield Road Town Parks Of Magherafelt Magherafelt Geeta Bedi 3, Highfield Crescent, Magherafelt, Londonderry, Northern Ireland, BT45 5JE Bernadette Mulholland B.A. 37, King Street, Magherafelt, Londonderry, Northern Ireland, BT45 6AR The Owner/Occupier, 4 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 5 Highfield Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 51 Moneymore Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 55 Moneymore Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 6 Highfield Crescent Town Parks Of Magherafelt Magherafelt F Conlon and Family 6 Highfield Crescent, Magherafelt, Londonderry, Northern Ireland, BT45 5JE The Owner/Occupier, 7 Highfield Crescent Town Parks Of Magherafelt Magherafelt	

The Owner/Occupier, 7 Highfield Road Town Parks Of Magherafelt Magherafelt Noeleen O'Connor 7, Highfield Crescent, Magherafelt, Londonderry, Northern Ireland, BT45 5JE The Owner/Occupier, 9 Highfield Crescent Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 9 Highfield Road Town Parks Of Magherafelt Magherafelt	
Date of Last Neighbour Notification	21st June 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/0769/F Proposal: Ancillary car parking for the existing retail unit and petrol filling station Address: Adjacent and immediately North of Highfields Service Station, 55 Moneymore Road, Magherafelt, Decision: Decision Date: Ref ID: H/2006/0578/O Proposal: Redevelopment of existing filling station to include new building and forecourt (incorporating additional adjacent lands) Address: Highfield Service Station, 53/55 Moneymore Road, Magherafelt (also incorporating No. 1 Highfield Road and portion of No. 1 Highfield Crescent) Decision: Decision Date: 01.10.2008 Ref ID: H/2009/0196/F Proposal: Extensions and alterations to existing dwelling including new boiler house to rear, alterations to existing windows and disabled access ramp. Address: 3 Highfields Road, Magherafelt. Decision: Decision Date: 18.05.2009 Ref ID: H/1998/0276 Proposal: EXTENSION TO DWELLING Address: 1 HIGHFIELD CRESCENT MAGHERAFELT Decision: Decision Date:	

Summary of Consultee Responses
Drawing Numbers and Title
<p>Drawing No. 02 Type: Block/Site Survey Plans Status: Submitted</p> <p>Drawing No. 04 Type: Proposed Elevations Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 05 Type: Existing Elevations Status: Submitted</p> <p>Drawing No. 03 Type: Block/Site Survey Plans Status: Submitted</p>
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9th January 2017	Item Number:
Application ID: LA09/2016/0829/O	Target Date:
Proposal: Proposed replacement dwelling and detached garage. (Existing building to be retained and incorporated into scheme as garage/store.	Location: 86 Moneyneany road Draperstown
Referral Route: Objections received	
Recommendation: Approval	
Applicant Name and Address: Micheal Mc Glone 12 Tonagh Heights Draperstown	Agent Name and Address: Paul Moran Architect 18B Drumsamney road Desertmartin Magherafelt BT45 5LA
Executive Summary: Objections to proposed development. Recommendation to approve.	
Signature(s): <i>N. Hasson</i>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - 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	Shared Environmental Services	Substantive Response Received

Representations:

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

8 objections to this planning application have been received by the Council. These objections related to the following issues:

- Land ownership issues. The land to which the application relates is the subject of an ongoing dispute over ownership. An application for adverse possession of the lands under Section 53 of the Land Registration Act (Northern Ireland) 1970 has been made by one of the objectors.
- The applicant has no right to make a planning application on land which he does not own.
- The proposed site is located within the Sperrins Area of Outstanding Natural Beauty.
- The proposed dwelling will affect the skyline as it is located at the top of a hill.
- The proposed location of the dwelling is unsuitable as it is damp ground.
- The applicant removed the floor / ceiling joists which have made the old dwelling unsafe.
- There used to be a public right of way through the site.
- The objectors allege discrepancies with the P1 form.

These issues will be dealt with later in the report.

Points were also raised in relation to family history, the applicant's age and the applicant's existing home. Furthermore, other information was removed from the objection letters as it was considered personal data within the meaning of the Data Protection Act 1998. These issues are not material considerations of the planning application and therefore, were not considered.

Characteristics of the Site and Area

The site is located approximately 2 km north west of the village of Moneyneaney in the open countryside, as defined by the Magherafelt Area Plan 2015. The site is also located within the Sperrins Area of Outstanding Natural Beauty (AONB). The site is accessed from the Moneyneaney road and the access lane crosses a small stream, known as the 'Owenbeg Burn'. This part of the site is located within the surface water (pluvial) flood zone. The site slopes from the road approximately 40 metres towards the stream and the land rises again from the stream towards the rear of the site. The front boundary of the site is defined by a post and wire fence. The mid point of the site is well screened due to the existing trees along the banks of the stream and the topography of the site. The rear of the site is, however, visible from the public road due to the rising land.

There is currently a building located on the site, approximately 120 metres from the road. The building is a modest 2 storey detached dwelling with single storey extensions on both sides. This building appears to have been used as a dwelling in the past. The extension on the left hand side is relatively modest and appears to have been in residential use also. The extension on the right hand side is longer and appears to have been used as an external store / garage. At present, the building is vacant and does not appear to be in any use. Due to the topography of the site, the building is visible from the public road.

The immediate locality is characterised by upland terrain that is mainly used for agricultural purposes. The development pattern is characterised by single storey detached dwellings located close to the road and small farm complexes. The land to the north and west of the site is characterised by mountainous terrain, where existing development is minimal.

Planning Assessment of Policy and Other Material Considerations

Proposal:

The proposal is an outline application for a replacement dwelling and detached garage. The proposal indicates that the existing buildings on site will be retained as the detached garage.

Site History:

There is no relevant planning history.

Development Plan and Key Policy Considerations:

Magherafelt Area Plan 2015
Strategic Planning Policy Statement (SPPS)
PPS 21 Sustainable Development in the Countryside
PPS 15 Planning and Flood Risk

The application included a declaration that the applicant, Michael McGlone, was in actual possession of every part of the land to which the application relates. The objection letters raised issues over land ownership and informed that there is an ongoing dispute over ownership. The Council wrote to the agent on 7th October 2016 seeking clarification on this issue. The applicant's solicitor provided clarification that confirmed the lands were transferred to Mr McGlone on 1st October 2015. The solicitor also confirmed that a Section 53 application has been made by a family member appealing registration of ownership. I am content that the land ownership declaration is therefore accurate, until such time as the Section 53 appeal is decided.

The application is for a replacement dwelling. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. There are a range of types of development which in principle are considered to be acceptable in the countryside. Development in the countryside is controlled under the provisions of the SPPS and PPS 21 Sustainable Development in the countryside. The site is also located within the Sperrins AONB, which necessitated the submission of a Design and Access statement, in accordance with the Planning (General Development Procedure) Regulations (NI) 2015.

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

Policy CTY 1 of PPS 21 defines a range of development that may be acceptable in the countryside and it includes the replacement of a dwelling.

Policy CTY 3 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 structural walls are substantially intact. This proposed development passes the policy tests relating to the type of building that can be replaced under CTY 3. The objections allege that the applicant removed the joists within the existing dwelling, thus making it unsafe. This building would pass the tests for replacement even if the joists were still in place and the building safe for habitation.

The submission suggests that the dwelling will be sited within a small garden immediately south east of the existing dwelling. There is an existing post and wire fence separating the 'garden' area from the existing buildings. I am not persuaded that the proposed dwelling is sited within the established curtilage of the existing building. However, on balance, it is accepted that the

existing site curtilage is restricted (approximately 15 m x 30 m) and could not reasonable accommodate a modest sized dwelling.

As this is an outline application, the design has not yet been proposed, however I am content that a dwelling will be able to integrate into the surrounding landscape, albeit with a ridge height limited. The proposal includes the retention of the existing buildings as a garage / store, however I am persuaded that a new dwelling could also be constructed on site, without creating a visual impact significantly greater than the existing building. The design of the proposed dwelling will be dealt with at reserved matters stage. In order to reduce the visual impact and enhance integration, I would advise that the ridge height of the proposed dwelling should be limited to 5.5 metres from finished floor level, both to enhance integration and in keeping with the surrounding development pattern. Furthermore, due to the sloping nature of the site, I would advise that a condition is placed on any approval requesting existing and proposed ground levels.

Following consultation with NI Water, Mid Ulster District Council Environmental Health (EHO) and Transport NI, I am content that all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality and also that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

Policy CTY 13 provides guidance on the integration and design of buildings in the countryside and CTY 14 provides guidance on rural character. The new building has the ability to blend sympathetically with the existing surroundings and will therefore, not be unduly prominent in the landscape. The site provides a suitable degree of enclosure for integration and the building will be partly screened by the existing trees located on the banks of the stream. Furthermore, the dwelling will blend with the existing landforms to the rear which create a backdrop to the development. I have no concerns that this proposal will result in 'skyline' development. I am also content that the dwelling will not cause a detrimental change to the rural character of the area, as it will respect the traditional pattern of settlement exhibited in the area and will not result in a suburban style build-up of development or create or add to a ribbon of development.

As previously discussed, a portion of the site is located within the surface water (pluvial) flood zone. This part of the site is located approximately 80 metres from the proposed building, therefore the Council did not request a drainage assessment, in accordance with Policy FLD 3 of PPS 15.

I have no concerns relating to residential amenity or ecology.

The objections allege discrepancies with the P1 form, however I am content that the submitted information is correct. The land ownership details have been clarified and the dwelling does not relate to a 'farm dwelling' under policy CTY 10 of PPS 21. Furthermore, the objections refer to a 'right of way' through the site. Any potential planning permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

The proposed development accords with the policy tests of PPS 21 and the SPPS therefore I recommend approval.

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. Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on the approved Drawing No. 01 date stamped 6th June 2016, shall no longer be used or adapted for purposes of human habitation.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in the rural area.

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

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

5. The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape.

6. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

7. 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 countryside.

8. A landscaping scheme shall be agreed with the Council at Reserved Matters stage and shall include a survey of all existing trees and hedgerows on the land, together with details of those to be retained and measures for their protection during the course of development. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British

Standard or other recognised Codes of Practice. The works shall be carried out during the first available planting season after the occupation of the dwelling.

Reason: To ensure the provision of a high standard of landscape.

9. 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.

10. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

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 permission authorises only private domestic use of the garage and does not confer approval on the carrying out of trade or business there from.

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

5. The Environmental Health Department has no objection in principle to the above proposed development subject to:

1 A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999.

2 Any new or existing septic tank unit being a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.

3 A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for

maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.

4 The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.

5 Planning Service receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available, the applicant/agent is strongly advised to contact this department before any detailed plans are prepared. (The District Council cannot approve plans for housing development unless a satisfactory water supply is available).

Signature(s) *N. Hasson*

Date: 20/12/16

ANNEX	
Date Valid	9th June 2016
Date First Advertised	23rd June 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) Claire McGlone 21 Gortinari Moneyneany Moneyneany Draperstown Bridget Claire McGlone 21, Gortinari, Draperstown, Moneyneany, Londonderry, Northern Ireland, BT45 7EA Paddy McGlone 30, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AR Georgina McGlone 30, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AR Pat McGlone 30, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AR Helena McGlone 6, Largentogher Park, Maghera, Londonderry, Northern Ireland, BT46 5BH Shauneen McGlone 63, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AX Shauneen McGlone 63, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AX Paddy McGlone 63, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AX Shauneen McGlone 63, Glenelly Villas, Draperstown, Londonderry, Northern Ireland, BT45 7AX Martian Jeffrey 9, Glenelly Heights, Draperstown, Londonderry, Northern Ireland, BT45 7AZ	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/0829/O Proposal: Proposed replacement dwelling and detached garage. (Existing building to be retained and incorporated into scheme as garage/store. Address: 86 Moneyneany road, Draperstown, Decision: Decision Date:	

Summary of Consultee Responses

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Services. The proposal would not be likely to have a significant effect on the features of any European site.

Transport NI had no objection to the proposed development, subject to the provision of visibility splays of 2.4m x 60m, as stated in form RS1.

NI Water and EHO were also consulted and have no objection to the proposed development.

Drawing Numbers and Title

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0860/F	Target Date:
Proposal: Retention of part change of use of 2 rooms in existing dwelling to provide child care facilities	Location: 30 Dixon Court Coalisland
Referral Route: Contrary to Transport NI advice. The Planning Authority recommends that the parking provision of 2 no. additional spaces is over-ruled.	
Recommendation:	Approve
Applicant Name and Address: Grainne Scullion 30 Dixon Court Coalisland	Agent Name and Address: McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
Case Officer: Paul McClean	
Signature(s):	

Case Officer Report

Site Location Plan



Description of proposal

This is a full planning application for the retention of part change of use of 2 rooms in existing dwelling to provide child care facilities.

Characteristics of Site and Area

The site is located within Dixon Park, a residential development comprising detached and semi-detached 2 storey dwellings with in-curtilage parking. On site there is a 2 storey detached property with 2 no. in-curtilage parking spaces and a generous private rear garden area which is sectioned off to provide an existing enclosed play area for children. At the time of my site visit this area was strewn with outdoor toys. The outer rear boundary curtilage is defined by 2m high vertical board timber fencing. To the rear of the property there is an earth bank and mature tree cover rising above the site, with no development backing onto the site.

The area is residential in nature and this area of Dixon Park is part of a cul-de-sac.

Planning Assessment of Policy and Other Material Considerations

Area Plan

The site is located on phase 1 housing land (CH05) within the development limits of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010. This land has been developed with housing- including Dixon Court.

Relevant Site History

No relevant history

Key Planning Policy

The proposal is for the part change of use of a dwelling to provide child minding facilities. The applicant/agent provided a P1D form with the application which provides a breakdown of children to be cared for on the premises and includes; 4 between the age of 0-2 years; 1 between 2-5 years; 5 over 5 years. 2 caring staff are proposed, 1 full-time, 1 part-time (10 in total).

The applicant/agent has also provided a certificate of registration to provide a day care service (issued from the Southern Health and Social Care Trust) where it states the applicant Grainne Scullion, 30 Dixon Court, Coalisland, can care for up to 8 children (including the child minder (s) children), with no more than 6 under compulsory school age.

The applicant has also provided a petition of support signed by residents of Dixon Court. 21 residents, including those directly adjacent to the property, do not object to this proposal.

Parents of the children who are being cared for at this facility have provided signed statements detailing the times their children are left off and collected, some walk their children in the morning and collect in the evening, some walk both ways, some share a lift children are siblings therefore less car movements required. Drop off and pick up times seem to be staggered therefore not all cars are arriving at the same time.

While there is no dedicated Planning Policy to deal directly with child care/crèche facilities, the SPPS states that the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Development Control Advice Note 13: Crèches, Day Nurseries and Pre-School Playgroups published by the Planning Service provides general guidance to the Planning criteria to be applied when an application for this form of development is being considered. Assessing the fact and degree of the impact on a specific area is key to assessing the likelihood of permission.

Environmental Health were consulted on this proposal and raise no concern about potential impacts of noise from this facility on nearby residential amenity.

In my view the property will still operate mainly as a dwelling. Only 2 rooms will be used for child minding purposes Monday -Friday 06:00 - 18:00 and then will be used as part of the main dwelling as they are integral to the inner layout and practical functioning of the property as a dwelling. Environmental Health have no objections about potential impacts of noise from the property, and the majority of the residents of Dixon Court have signed a petition of support for this proposal, including adjoining properties that will experience most impacts from this proposal. No complaints have been received by Environmental Health from neighbours about noise from this facility (it is already operational but without the benefit of Planning Permission). No one from Dixon Court have reported this unauthorised use to the planning Authority's Enforcement section.

Transport NI do require an additional 2 parking spaces as per parking standards, given the number of children being cared for and the number of staff on the premises. However, through discussion with senior colleagues, given that the drop-off and pickup times are likely to be staggered, and that cars can pull up outside the property and there is no fast through traffic at this part of Dixon Court which is a cul-de-sac, we are of the opinion that additional parking is not required in this instance.

It is my view that this proposal, at this current size and scale, will not cause demonstrable harm to interests of acknowledged importance and that neighbouring residential amenity will not experience a detrimental impact.

Other considerations

The site is not subject to flooding.

There are no 3rd party objections to this proposal.

There are no human health, ecological, natural or built heritage issues to consider.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be granted subject to the following conditions.

Conditions

1. The hours of operation for the child minding business hereby approved shall be 06:30 - 18:00 Monday to Friday only, unless otherwise agreed in writing by Mid Ulster Council.

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

2. The child care facility hereby approved shall cater for not more than 10 children at any one time, with not more than 6 children under compulsory school age, unless otherwise agreed by Mid Ulster Council in writing.

Reason: To safeguard residential amenity, to protect the existing character of the area, and, to control the size and scale of the business.

Signature(s)

Date:

ANNEX	
Date Valid	17th June 2016
Date First Advertised	30th June 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Dixon Court,Brackaville,Coalisland,Tyrone,BT71 4LW, The Owner/Occupier, 29 Dixon Court,Brackaville,Coalisland,Tyrone,BT71 4LW, The Owner/Occupier, 31 Dixon Court,Brackaville,Coalisland,Tyrone,BT71 4LW,	
Date of Last Neighbour Notification	15th November 2016



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1078/F	Target Date: 16.11.16
Proposal: Proposed change of use from use class A1 Shops to gymnasium to include replacement of existing side entrance door, a small café area and associated internal plan alterations (additional info to address Environmental Health concerns, drawing 04 rev1)	Location: 77 - 79 Chapel Street Cookstown
Referral Route: Planning Objections	
Recommendation:	Approve
Applicant Name and Address: Wilko Ltd Blacktown Road Newmills Dungannon	Agent Name and Address: Clarman and Co Unit 1 33 Dungannon Road Coalisland BT71 4HP
Case Officer: Paul McClean	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Objection

1

Description of proposal

This is a full planning application for proposed change of use from use class A1 Shops to gymnasium to include replacement of existing side entrance door, a small café area and associated internal plan alterations.

Characteristics of Site and Area

The site is located within the development limits of Cookstown as defined in the Cookstown Area Plan 2010, and is the corner building located at the junction with Cemetery Road and Chapel Street. Part of the property is 2 storey which fronts onto Chapel Street, with a single storey rear return running along Cemetery Road. The building is currently direct with closed roller shutter blinds to the main elevation, the upstairs window openings boarded closed. The signage on the building states 'THE TAN STAND'. There are no window or door openings along the elevation facing Cemetery Road. There is secured private access to the rear and side of the property from both roads which are currently boarded up and at the time of my site visit I could not gain access to the rear of the property.

The site is located at a busy traffic light controlled cross roads within Cookstown. To the immediate north, south and west the land use in the area is largely terraced residential properties. Opposite the site to the east is Moes Bar. Other uses in the area include a furniture store, filling station and shop. Further north is Cookstown Town Centre (approx 300-400 m).

Planning Assessment of Policy and Other Material Considerations

Area Plan

Cookstown Area Plan 2010- the site is located on unzoned land, and is located outside the town centre limits of Cookstown, but is located within Cookstown development limits as defined in the area plan.

Relevant Planning History

Currently on site the building is lying derelict, and has a sign, 'The Tan Stand'. There is no evidence of any planning approval for this use.

I/2009/0466/F- Internal refurbishment of premises which currently has A1 Shop use to B1 Business and Professional Services. 7 new window openings to be formed in elevation B-B to Cemetery Road and 10 new window openings to be formed in elevation C-C onto side alleyway of property. New front door and windows to be installed to premises, all new windows and door to be aluminium, granted 16th March 2010.

A statement of case was submitted with above proposal, and the building was to be used by the Probation Board for NI. This permission was never implemented and permission has now lapsed.

On the file there is also photographs showing that there was a Centra Store on this site. At that time the building was also boarded up by closed roller shutters. On speaking to the agent and fellow colleagues in the office who come from the area, it was confirmed that historically Newell Stores operated from this site, then a Centra before the tan studio opened.

Therefore, it can be assumed that the last lawful use on the site is an A1 use, and that the tan studio may fall within a class A1 use as it is a similar use to hairdressing, which is also A1.

Key Planning Policy

The Strategic Planning Policy Statement for Northern Ireland released in September 2015 contains a section, Town Centres and Retailing, where there is a focus on a town centre first approach for retailing and related facilities including employment, leisure and cultural uses. The thrust of the town centre first approach is to locate complementary uses together within town centres so as to enhance the vitality and viability of town centres, to promote walking due to a concentration of services and to promote sustainable development. While this leisure facility is located outside the town centre I am of the view that there will be little or no demonstrable harm caused to the town centre vitality and viability due to the size and scale of the proposal. As the unit can be used for retail at present, without permission, which also has a town centre first approach, then it is my view to use the proposal as a gym will have limited impact on the town centre.

A letter of objection was received about this proposed development from a local resident and raises concern about potential detrimental impacts on private residential amenity from noise generated from the gym, and, from potential odours from the proposed ancillary cafe. I consulted Environmental Health (EH) to comment on potential impacts of this proposal on surrounding residential properties. Initially EH required additional information on the proposed extractor fans and ventilation system. The agent provided this information and EH responded stating that they had no objections to this proposal subject to application of planning conditions including hours of operation 7am-10pm, and, ductwork and ventilation units to be a type and fitted in accordance with details supplied on drawing ref: 3304-3-02-02 revA (drawing No. 04 rev1 dated 04.10.2016). The third condition provided is not precise or enforceable and on discussion with colleagues should be attached as an informative subject to permission being granted.

The objector also stated that Moes Bar was refused permission for an extension due to detrimental impacts on adjacent residential amenity. This proposal is for a different site and use, and therefore is not directly comparable to Moes. I feel that I have considered the objection and potential impacts on residential amenity and conclude, give EH response, that there will be no detrimental impact on residential amenity from noise impacts, subject to the application of the above conditions.

Other Considerations

Transport NI were consulted on this proposal and requested guidance from the Planning Authority if parking standards should be applied in this case. On discussion with colleagues, given that the building could be opened in the morning with a retail A1 use class without requiring planning permission or parking requirements, that setting aside parking requirements in this instance is considered reasonable. Transport NI were advised of this stance and have no comment to make on this proposal. There are on street car parking opportunities in the area, and other nearby public parking areas.

The proposal is also accessible by foot and public transport.

The site is not subject to flooding and there is no contamination issues to consider. There are no human health or natural heritage impacts to consider.

In my view the proposal is acceptable for this site and locality subject to planning conditions outlines above and will not have a detrimental impact on the residential amenity of surrounding properties.

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.The ductwork and ventilation units shall be of a type and fitted in accordance with details supplied on Drawing No. 04 rev1 which was date stamp received 4th October 2016, be permanently retained thereafter and shall be regularly serviced and maintained in working order in accordance with manufacturers specifications.

Reason: In the interest of safeguarding nearby residential amenity.

3.The business hereby permitted shall not operate outside the hours 07:00-22:00hrs, unless otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of safeguarding nearby residential amenity.

Signature(s)**Date:**

ANNEX	
Date Valid	3rd August 2016
Date First Advertised	18th August 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Cemetery Road Gortallowry Cookstown The Owner/Occupier, 1 Rathmore Court, Gortallowry, Cookstown, Tyrone, BT80 8AP, The Owner/Occupier, 14 The Spires Gortallowry Cookstown The Owner/Occupier, 16 The Spires, Gortallowry, Cookstown, Tyrone, BT80 8QT, The Owner/Occupier, 2-10, Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HT, The Owner/Occupier, 40 The Spires Gortallowry Cookstown D Patterson 40 The Spires, Cookstown, Tyrone, Northern Ireland, BT80 8QT The Owner/Occupier, 86 Chapel Street, Gortallowry, Cookstown, Tyrone, BT80 8QD, The Owner/Occupier, 88 Chapel Street, Gortallowry, Cookstown, Tyrone, BT80 8QD,	
Date of Last Neighbour Notification	8th November 2016



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1168/F	Target Date:
Proposal: Alterations and extension to dwelling	Location: 45 Keerin Road Broughderg Mountfield
Referral Route: Interest declared	
Recommendation:	Approval
Applicant Name and Address: Sean Clarke 45 Keerin Road Broughderg	Agent Name and Address: Mrs Carol Gourley MRPTI Unit 7 Derryloran Industrial Estate Sandholes Road Cookstown BT80 9LU
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues none	
Characteristics of the Site and Area <p>The site comprises a two storey detached dwelling situated at number 45 Keerin Road, Broughderg. The red line of the site includes the dwelling, an attached out house and a detached outhouse across the yard. The dwelling is finished in grey dah and the outhouse in a whitewash finish. It had white upvc windows and doors, a small front storm porch and a dark red slate roof. There is also a small rear return. The garden to the rear of the dwelling is on a higher level and rises away from the back wall. There is a concrete yard to the front and side and a small white washed out house across the yard.</p> <p>The site lies within the open countryside a short distance to the NW of Dunamore. The area is rural in nature and predominantly agricultural fields surrounding the site. The dwelling to be extended lies within an existing farm yard.</p> <p>The proposal seeks planning permission for an extension and alterations to a dwelling.</p>	
Planning Assessment of Policy and Other Material Considerations <p>The application is seeking planning consent for the erection of a two storey rear extension and as such the proposal must be assessed in accordance with the Addendum to Planning Policy Statement 7- Residential Extensions and Alterations.</p> <p>It is considered that Policy EXT1 of this statement is relevant to this proposal. Policy permits development where the following criteria are met:</p> <ul style="list-style-type: none"> • The scale, massing, design and materials are sympathetic with the built form and area, • The proposal does not unduly affect privacy or amenity, • The proposal will not cause unacceptable loss or damage to the environment, • Where sufficient space remains within the curtilage of the property for recreational purposes. <p>The proposal is for the removal of a small single storey rear return and replacement with a larger two storey extension to the rear of the property, to provide the dwelling with a larger kitchen, a shower room and a lobby on the ground floor and an additional bedroom and bathroom on the first floor. The extension is considered to be subordinate to the existing dwelling. In addition to this the proposed extension would generally match the proportions and materials of the dwelling. It is also considered that there is little impact on the character or appearance of the surrounding area. It is considered that the size and scale of the extension would ensure that there would be no overlooking or infringement upon the privacy of the neighbouring dwelling. Furthermore it is considered that there is sufficient amenity space remaining for the dwelling and shall thus not have a detrimental impact on the residential amenity of this or of neighbouring dwellings. The proposal is therefore acceptable in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties</p>	

The application was advertised on 9th September 2016 and Neighbour Notifications were also issued on 1st September 2016, however there were no representations received in respect to this application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal seeks planning permission for a two storey rear extension and alterations to a dwelling. The proposal is acceptable in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties and is therefore acceptable under policy.

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 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.

Signature(s)

Date:

ANNEX	
Date Valid	23rd August 2016
Date First Advertised	8th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 39A Keerin Road,Broughderg,Cookstown,Tyrone,BT79 8HU, The Owner/Occupier, 45 Keerin Road Broughderg Cookstown The Owner/Occupier, 47 Keerin Road,Broughderg,Cookstown,Tyrone,BT79 8HU, The Owner/Occupier, 48 Keerin Road,Broughderg,Cookstown,Tyrone,BT79 8HU, The Owner/Occupier, 52 Keerin Road,Broughderg,Cookstown,Tyrone,BT79 8HU,	
Date of Last Neighbour Notification	1st September 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1168/F Proposal: Alterations and extension to existing dwelling located at the rear of 45 Keerin Road, Broughderg Address: 45 Keerin Road, Broughderg, Mountfield, Decision: Decision Date: Ref ID: I/1992/0213 Proposal: Extension to Dwelling Address: 45 KEERIN ROAD BROUGHDERG OMAGH Decision: Decision Date: Ref ID: I/2003/1028/F Proposal: Construction of a new extension to existing dwelling to accommodate for new painting studio Address: 47 Keerin Road Broughderg Omagh Decision: Decision Date: 15.01.2004	

Ref ID: I/1978/0504
 Proposal: FARMWORKER'S BUNGALOW
 Address: BROUGHDERG, OMAGH
 Decision:
 Decision Date:

Ref ID: I/1978/050401
 Proposal: FARMWORKERS BUNGALOW
 Address: BROUGHDERG
 Decision:
 Decision Date:

Summary of Consultee Responses

N/A

Drawing Numbers and Title

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

Drawing No. 02
 Type: Block/Site Survey Plans
 Status: Submitted

Drawing No. 03
 Type: Elevations and Floor Plans
 Status: Submitted

Drawing No. 05
 Type: Proposed Floor Plans
 Status: Submitted

Drawing No. 06
 Type: Proposed Elevations
 Status: Submitted

Drawing No. 04
 Type: Proposed Floor Plans
 Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1188/F	Target Date:
Proposal: Double garage and store (amended plans)	Location: 77 Cooke Crescent Cookstown
Referral Route: Objection received	
Recommendation:	APPROVE
Applicant Name and Address: Darren Patterson 77 Cooke Street Cookstown	Agent Name and Address: Peter Hampsey 35 Old Rectory Park Cookstown BT80 9XR
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - 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

One objection was received and raised a number of issues;

Overlooking and overshadowing. (Discussed in detail in report below)

Characteristics of the Site and Area

The site comprises an L-shaped plot including an end of terrace, two storey dwelling finished in a mix of red brick and white dash. The dwelling has a small front garden, and a larger wide yard to the rear. The dwelling has a single storey rear return which is enclosed by a 2 metre high closed board fence. The rear yard has a hardcored area and a stoned area, to the rear is a 3 metre high retaining wall with a iron fence on top, separating it from the neighbouring dwelling (no.21 Loran Way). To the west of the rear garden it is bounded by a mature hedgerow and can be accessed via an agricultural gate dividing the garden from the turning and parking area adjacent to the dwelling.

The site lies within the settlement limit of Cookstown outside all other areas of constraint. The area is characterised by high density housing, to the west there is an electricity sub station and to the south is the St Lurans Church or Ireland.

The proposal seeks planning permission for a two storey rear extension.

Planning Assessment of Policy and Other Material Considerations

The application is seeking planning consent for the erection of a detached garage and as such the proposal must be assessed in accordance with the Addendum to Planning Policy Statement 7- Residential Extensions and Alterations.

It is considered that Policy EXT1 of this statement is relevant to this proposal. Policy permits development where the following criteria are met:

- The scale, massing, design and materials are sympathetic with the built form and area,
- The proposal does not unduly affect privacy or amenity,
- The proposal will not cause unacceptable loss or damage to the environment,
- Where sufficient space remains within the curtilage of the property for recreational purposes.

The proposal is for a new detached garage to the rear/side of the property. The proposed garage is two storey, 6.4 metres in height, 6.6 metres wide and 8.2metres long. There is a roller shutter garage door on the front elevation with one window on the upper floor. There are three smaller windows and three Velux windows on the West elevation which is bounded by a row of mature trees. The East elevation facing the existing dwelling has a door and one window on the gf and two Velux on the first floor, and the rear elevation facing the North has only one small obscured glass window on the first floor. (This was reduced from two clear windows to allay the neighbours' concerns.) The garage is to have flat concrete roof tiles and the walls shall be a smooth plaster finish.

The proposed garage is considered to be subordinate to the existing dwelling. In addition to this the proposed extension would generally match the proportions and materials of the dwelling. It is also considered that there is little impact on the character or appearance of the surrounding area.

It is considered that the size and scale of the garage (amended plans) would ensure that there would be no overlooking or infringement upon the privacy of the neighbouring dwelling. Furthermore it is considered that there is sufficient amenity space remaining for the dwelling and shall thus not have a detrimental impact on the residential amenity of this or of neighbouring dwellings.

The proposal is therefore acceptable in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties

The application was advertised on 8th September 2016 and Neighbour Notifications were also issued on 1st September 2016, however one representation was received in respect to this application.

The objector was the owner of a dwelling to the rear of the site. (It must be noted that they are not the closest neighbour as the residents at number 21 is situated in between.)

The objector had two main concerns were with the impact on their privacy due to overlooking and secondly; loss of light due to the height of the garage.

With regards to the overlooking/privacy issues the applicant has addressed this problem via removing one of the windows on the rear elevation and obscuring the remaining window.

With regards to the concerns over loss of light, the proposed garage will be 6.4 metres in height, which although it may be slightly larger than the standard garage, it is over 28 metres from the nearest part of the objectors dwelling house. In addition to this, the current boundary between the properties is a concrete wall with railings on top, approx 3.5 metres high, as well as this the rear boundary is a row of mature trees which would be greater than 6 metre high. Therefore it is my opinion that the loss of light on this property would be minimal.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Further to amended drawings the proposal is acceptable in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties. The garage is considered to be subordinate to the existing dwelling. In addition to this the proposed extension would generally match the proportions and materials of the dwelling

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 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. **TNI Informative**

The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the Department for Regional Development 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.

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 which is deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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

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 Roads Service, Molesworth Street, Cookstown. A monetary deposit will be required to cover works on the public road.

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:

ANNEX	
Date Valid	26th August 2016
Date First Advertised	8th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 19 Loran Way, Gortallowry, Cookstown, Tyrone, BT80 8XP, The Owner/Occupier, 21 Loran Way, Gortallowry, Cookstown, Tyrone, BT80 8XP, The Owner/Occupier, 26 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 28 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 43 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 45 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 69 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 71 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 73 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 75 Cooke Crescent Gortallowry Cookstown The Owner/Occupier, 77 Cooke Crescent, Gortallowry, Cookstown, Tyrone, BT80 8LD, Sharon Eastwood C/o 19 Loran Way, Cookstown, Tyrone, Northern Ireland, BT80 8XP	
Date of Last Neighbour Notification	25th November 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1188/F Proposal: Double garage and store Address: 77 Cooke Crescent, Cookstown, Decision: Decision Date:	

Ref ID: I/1992/4067

Proposal: Extension and Alterations to Dwellings

Address: COOKE CRESCENT COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1973/010301

Proposal: PUBLIC AUTHORITY HOUSING WITH RELATED AMENITIES

Address: GORTALLOWRY, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1973/0103

Proposal: PUBLIC AUTHORITY HOUSING WITH RELATED AMENITIES (82 NO. DWELLING)

Address: GORTALLOWRY, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2004/0571/Q

Proposal: 4 no townhouses

Address: rear of 58 to 66 Chapel Street, Cookstown

Decision:

Decision Date:

Ref ID: I/2005/1480/F

Proposal: Proposed 4no town houses.

Address: To the rear of 58-66 Church Street, Cookstown

Decision:

Decision Date: 04.08.2006

Summary of Consultee Responses

TNI responded with no objections.

Drawing Numbers and Title

Drawing No. 01
Type: Site Layout or Block 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:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1203/O	Target Date:
Proposal: Erection of dwelling and garage	Location: Adjacent to 47 Mullaghnamoyagh Road Portglenone
Referral Route: Refusal recommended – contrary to CTY 1, CTY 2A & CTY 8 of PPS21	
Recommendation: Refusal	
Applicant Name and Address: Mr Sean Convery 4 Cherry Hill Maghera	Agent Name and Address: CMI Planners Unit C5 80-82 Rainey Street Magherafelt BT45 5AJ
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

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

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 2A & CTY 8 of PPS21

Characteristics of the Site and Area

The proposal site is a roadside location on Mullaghnamoyagh Road, Portglenone. The site is a relatively flat agricultural field which is flanked on the southern/rear boundary by mature trees, on the western and eastern by mature hedging and by a mature hedge on the roadside boundary. Immediately adjacent on the western side of the proposal site is a detached single storey dwelling, while on the eastern boundary is a further smaller agricultural field with agricultural building and detached single storey dwelling. Mullaghnamoyagh Road is a narrow winding minor road.

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

Neighbours notified: - Owners/occupiers of Nos. 44, 45, 46, 47, 48 _ 50 Mullaghnamoyagh Road were notified of this proposal on 09.09.2016, no representations have been received to date.

In line with legislation this proposal was advertised in several local press publications during September 2016, no objections have been received to date.

Consultations: - Transportni were asked to comment and responded on 24.11.2016 with no objections subject to conditions.

Environmental Health were asked to comment and responded on 29.09.2016 with no objections.

NI Water were asked to comment and responded on 13.09.2016 with no objections.

Site History - H/2005/0432/O - refusal for dwelling and garage adjacent to 47 Mullaghnamoyagh Road.

The submitted application has been described on the P1 form as 'erection of dwelling _ garage' however on the submitted block plan reference has been made to Policy CTY2a of PPS 21 - New dwellings in existing clusters. The present use of the land is described as 'gap site' on the P1 form.

In considering this proposal firstly under CTY 2a of PPS21 it states that 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 of which at least 3 are dwellings - in terms of this point the proposal site does lie outside a farm and north of the site are several detached dwellings in individual plots.
- the cluster appears as a visual entity in the local landscape - with regards this point it is my consideration that the proposed location does not appear as a visual entity in the local landscape and so fails on this point
- the cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads - in relation to this point it is my consideration that there is no recognisable focal point nor is the proposed location at a cross roads and so fails to comply with this point of the policy.

- the identified site provides a suitable degree of enclosure and is bounded on at least 2 sides with other development in the cluster - this proposal site has development only on the western side, while on the eastern side is a small agricultural field thus it does not comply with this point. In terms of integration, the site has a mature rear boundary in the form of mature trees while the remaining boundaries consist of mature hedging.

- 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 - it is my consideration that this proposal would result in the development of an important visual break between existing development and would result in significant build up.

- development would not adversely impact on residential amenity - this proposal would not impact on the residential amenity of any neighbouring properties.

Having considered policy CTY 2a it is my opinion that this proposal does not adhere to this proposal.

In addition under CTY 8 of PPS 21 it is stated that planning permission will be refused for a building which creates or adds to a ribbon of development however an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

In terms of this proposal the proposed site frontage measures approx. 80metres while the adjacent site on the western boundaries measures approx. 50metres and the neighbouring land on the eastern boundary measures approx. 20metres. It is my consideration that the proposed site could accommodate two houses however the additional land on the eastern side results in the gap being too large and the development pattern not being a continuously built up frontage. When travelling from an easterly direction passing the proposal site you have two dwellings side by side however beyond these is a further break in development before No 43a and so there is not a continuous built up frontage and the proposal would not comply with this policy either.

Finally on the submitted block plan three previous approvals have been indicated in green, it is unclear as to why these particular sites have been identified as they were considered under different policy tests.

H/2012/0345/O - this approval was granted as it was considered that the proposed site sat within a line of 3 or more buildings which were open to public view and as such read together creating a substantially and continuously built up frontage as defined by policy. The proposed site was considered an exception for the development of a small gap sufficient only to accommodate up to a maximum of two houses. It is my consideration that this previous approval was considered under a different policy test and substantially different from this current proposal as there was a continuous line of development and the gap site was only capable of accommodating up to a max. of two dwellings.

LA09/2015/0291/O - this approval was granted as it was considered it represented a gap within a substantial and continuously built up frontage meeting the policy tests of CTY 8 of PPS21. As per the example above this approval is substantially different than the current proposal in that it was considered a continuous line of development with 3 or more buildings immediately adjacent and the site was only capable of accommodating up to a mx. of two dwellings.

H/2010/0541/O - approval was granted on this site for a farm dwelling and garage - this was considered under policy CTY 10 of PPS21 which is a completely different policy test and one which this current proposal does not meet nor has the information been submitted or has it been indicated that the applicant could meet the policy requirements of this test.

In conclusion it is my professional opinion that this proposal does not comply with either CTY 2A or CTY 8 of PPS21 and so a refusal should be recommended.

Neighbour Notification Checked	Yes
Summary of Recommendation: Refusal recommended – contrary to CTY 2A & CTY 8 of PPS21	
Reasons for Refusal: 1. To be used in addition to reasons for refusal for Policies CTY13, CTY14, CTY8 where there are no overriding reasons why the development is essential. 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 Mullaghnemoyagh Road. 3. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and is not located at a cross-roads.	
Signature(s) Date:	

ANNEX	
Date Valid	30th August 2016
Date First Advertised	15th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 44 Mullaghnamoyagh Road Mullaghnamoyagh Portglenone The Owner/Occupier, 45 Mullaghnamoyagh Road Mullaghnamoyagh Portglenone The Owner/Occupier, 46 Mullaghnamoyagh Road, Mullaghnamoyagh, Portglenone, Londonderry, BT44 8NP, The Owner/Occupier, 47 Mullaghnamoyagh Road Moneystaghan-Ellis Portglenone The Owner/Occupier, 48 Mullaghnamoyagh Road Moneystaghan-Ellis Portglenone The Owner/Occupier, 50 Mullaghnamoyagh Road Moneystaghan-Ellis Portglenone	
Date of Last Neighbour Notification	9th September 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1203/O Proposal: Erection of dwelling and garage Address: Adjacent to 47 Mullaghnamoyagh Road, Portglenone, Decision: Decision Date: Ref ID: H/2004/0329/F Proposal: Proposed extension. Address: 47 Mullaghnamoyagh Road, Portglenone. Decision: Decision Date: 20.05.2004 Ref ID: H/1997/0057 Proposal: REPLACEMENT DWELLING Address: 47 MULLAGHNAMOYAGH ROAD PORTGLENONE Decision:	

Decision Date:

Ref ID: H/2005/0432/O

Proposal: Two storey dwelling and domestic garage

Address: Adjacent to 47 Mullaghnamoyagh Road, Portglenone

Decision:

Decision Date: 19.09.2006

Ref ID: H/2014/0318/LDP

Proposal: Erection of a single storey lean-to extension to rear elevation of existing bungalow

Address: 47 Mullaghnamoyagh Road, Portglenone, BT44 8NP,

Decision: PG

Decision Date:

Ref ID: H/2013/0129/F

Proposal: 11kv overhead line

Address: 280m North of 50 Mullaghnamoyagh Road, Portglenone,

Decision: PG

Decision Date: 07.06.2013

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1291/A	Target Date: 30.12.2016
Proposal: Free standing sign with LED electronic display	Location: 58-66 Church Street Cookstown
Referral Route: Recommendation to refuse Advertisement Consent	
Recommendation:	Refuse
Applicant Name and Address: Dun Leisure Ltd 58 Church Street Cookstown BT80 8HY	Agent Name and Address: APS Architects LLP Unit 4 Mid Ulster Business Park Derryloran Ind Est Sandholes Road Cookstown BT80 9LU
Case Officer: Paul McClean	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

Letters of Objection	None Received
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Description of proposal

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

Characteristics of Site and Area

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

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

Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010- the site is located on unzoned land within the development limits of Cookstown. Outside town centre boundary. Accessed from a protected route.

Relevant Planning History

I/2014/0060/A- retention of free standing sign (1.7m(w), 1.10m(h), 2.4m overall to top of sign. Permission was refused on 10th December 2014 for the following reasons;

1. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proposed sign would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this Main Traffic Route.

2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the development would, if permitted prejudice the safety and convenience of road users since it would lead to a proliferation of signs thereby creating a traffic hazard.

This decision was not appealed.

I/2013/0097/CA & LA09/2015/1085/CA- enforcement action ongoing, likely outcome to proceed straight to summons.

Key Planning Policy
Policy AD 1 of PPS17

Consent will be given for the display of an advertisement where:

- (i) it respects amenity, when assessed in the context of the general characteristics of the locality; and
- (ii) it does not prejudice public safety.

This proposal, in terms of siting and design details, is identical to planning application I/2014/0060/A which was refused advertisement consent (see above). Planning policy has not changed from this refusal of consent and I am of the view that as all circumstances remain the same that consent to advertise be refused again by Council. The SPPS has been introduced since I/2014/0060/A was decided but retains the policy provisions of PPS17 until the adoption of a new Local Development Plan for Mid Ulster.

The existing signage is an electronic display sign with LED digits. The sign is encased in a black display case and is fixed to the ground by two steel posts approx 2.4m high. The sign is located to the SW corner of the site to the front of no.66 Church Street. The dimensions of the sign are 1.1m x 1.7m. Proposed signage should have regards to the scale, size, proportions, dominance, the materials used, whether it is illuminated and whether the proposal will result in clutter. An advertisement should also respect the building onto which it is to be fixed and in particular have regard to any architectural detailing. A sign of this nature is not appropriate in this area, especially as there are residential properties in close proximity and will have a detrimental impact on both the visual and residential amenity of this area.

Transport NI have been consulted and they have raised concerns regarding the safety of road users and pedestrians, due to the sites location along a protected route and would distract the attention of road users thereby prejudicing the safety and convenience of traffic on this main traffic route.

Summary of Recommendation:

That consent to display an advertisement be refused for the following reasons.

Refusal Reasons

1. The proposal is contrary to policy AD1 of PPS17 in that it has an adverse impact upon the visual and residential amenity of the locality.

2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that would be visually intrusive and distract the attention of road users thereby prejudicing the safety and convenience of traffic on this main traffic route.

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

Date Valid	16th September 2016
Date First Advertised	
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 52 Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HY, The Owner/Occupier, 68 Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HY, The Owner/Occupier, 71 Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HT, The Owner/Occupier, 75 Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HT, The Owner/Occupier, 77 Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HT, The Owner/Occupier, 79 Church Street, Gortallowry, Cookstown, Tyrone, BT80 8HT,	
Date of Last Neighbour Notification	26th September 2016



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9th January 2017	Item Number:
Application ID: LA09/2016/1437/F	Target Date:
Proposal: Provision of a 33kv electricity sub-station with entrance via existing laneway onto Shantavny Road (Retention)	Location: Site located 740m NE of 18 Shantavny Road Shantavny Scotch Ballygawley
Referral Route: Called to committee by Cllr Cuthbertson	
Recommendation:	APPROVE
Applicant Name and Address: Tyrone Wind Energy 1st Floor McKendrick Place Pearse Road Letterkenny Co Donegal	Agent Name and Address: JUNO Planning & Environmental Ltd 409 Lisburn Road Belfast BT8 7EW
Executive Summary: Application for a sub-station to serve Shantavny Wind Farm which is under construction in accordance with its permission.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI	
Non Statutory	Environmental Health	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

The address of the application site, the development has already commenced on the site and consultations were not carried out.

Characteristics of the Site and Area

The application site is located off the recently improved access road that serves the consented and under construction wind farm. There is an unoccupied dwelling and farm buildings

immediately to the east of the application site. The site was part of an agricultural field but now contains the building and I can advise the committee members the building was nearly complete on 12 December 2016.

Planning Assessment of Policy and Other Material Considerations

Proposal

This is the second application at the site for a 33kv electricity sub-station to serve the Shantavny Wind Farm. The first application (LA09/2016/0599/F) was for the following development;

“The applicant seeks consent to construct a 33kv sub-station to serve the nearby permitted windfarm. The building would have a footprint measuring 24.0m x 6.0m and a ridge level of 5.3m. The building would be finished in render with a tiled roof and housed behind a palisade fence. Access would be from the private lane. The building would run perpendicular to the lane and close to the abandoned dwelling”.

This application differs only in that the building would be relocated and would now be situated 20.0m further west of the abandoned dwelling. The compound layout would also be slightly altered.

Summary of Issues

Members will be aware this application was removed from the list on 6th December 2016 as there were a number of issues members raised and the Planning Manager was not content with how it had been processed. Members had raised issues with the address given for the development, the fact the development had commenced on the site and lack of any consultations having been carried out.

I can advise the members the address given for this application is correct, I would also like to draw members attention to the fact there was an inputting error on the Planning Departments behalf in relation to the address of the previous application. The address provided by the agent was correct and it was inadvertently input incorrectly, however I am content the address is correct for this application and it has been correctly advertised.

Following the December meeting, the applicant has advised this building was commenced on the site on 12th October 2016, 2 days after this application was received, and I inspected the site on 12th December 2016 and noted the building was nearing completion. The application has been amended, for clarity, indicating that it is for the retention of the sub-station. The sub-station is comprised of a building that is 24.0m long and x 6.0m wide with a ridge height of 5.3m, it has grey dash walls and slate roof with all but one of the doors facing away from Shantavny Road. All the equipment is contained and enclosed within the building.

The development is to serve the nearby Shantavny Wind Farm, the policy context is provided by PPS18, Policy RE1 which addresses renewable energy developments and associated buildings. An Environmental Statement had been submitted as part of the original submission for the wind farm addressing issues with regards to impact on the landscape etc. An extant permission exists and therefore the principle has been agreed for a sub-station at this location.

Policy RE1

The first requirement of the policy is that the proposal would have no impact on public health, human safety or residential amenity. In respect of road safety, I can advise members the access

to this sub-station is off the approved and constructed access that serves the under construction wind farm, the access has been significantly widened and visibility splays have been put in place. Transport NI have verbally confirmed there is no road safety issue with using this existing access for the construction and on-going operations of this building. The nearest occupied property that is not currently financially linked to this wind farm is no 18 Shantavny Road, which is approx. 750m away from the substation. The openings in the building are all orientated away from this dwelling and as such it is unlikely there will be any nuisance from the sub-station on that property. Environmental Health colleagues note there is a dwelling closer to the sub-station, however this is financially linked and as such EHO have not raised any objections to the proposal. In light of these comments I do not consider there are any concerns in relation to public health and safety from this development.

Policy also requires that the proposal will not result in adverse impacts on visual amenity or landscape character. The building can be viewed from Shantavny Road from the south as the vegetation that was along the south side of the lane has been removed to facilitate the improvements to the access for the wind farm. While the building is visible, I do not consider it to be unduly conspicuous as it is the narrow gable of the building that is in view and this is with a backdrop of rising ground to the north. That said, I do consider it is appropriate to require some landscaping to be carried out around the enclosure and the applicant is content with a condition requiring this. Given the necessity of the development it can be justified and the SPPS has a presumption in favour of renewable energy projects and this sub-station will facilitate additional electricity reaching the national grid via renewables.

In terms of impact on biodiversity an Ecological Appraisal has been submitted and this concludes that the proposal will have minimal impact on the biodiversity of the area. Given the small scale nature of the scheme, which will effectively result in this building on a small section of an agricultural field, I see no reason to dispute this conclusion. No conditions are suggested. There are also no Hydrological or Geological issues of concern. The proposal will not impact on the public access to the countryside. Consent is therefore recommended.

Neighbour Notification Checked	Yes
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Summary of Recommendation:
Consent recommended.
Conditions/Reasons for Refusal:
<p>Conditions</p> <p>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 decision.</p> <p>Reason: Time Limit.</p>

2. Only one sub-station shall be constructed within the site outlined in red on drawing no 01 bearing the stamp dated 10 OCT 2016.

Reason: This scheme is in substitution for that approved by LA09/2016/0599/F.

3. Within 6 months of the date of this planning permission a landscaping scheme, as agreed in writing with Mid Ulster Council, shall be carried out in full in accordance with the agreed scheme. 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 interest of visual amenity.

Informatives

1. This notice relates to the submitted drawings numbered 01, 02, 03, 04, 05, 06.

Signature(s)

Date:

ANNEX	
Date Valid	10th October 2016
Date First Advertised	27th October 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 39, Erganagh Road, Omagh, Tyrone, Northern Ireland, BT79 7SX	
Date of Last Neighbour Notification	20th October 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/0557/DC Proposal: Compliance with Condition No 21 of Planning Approval M/2007/1407/F Address: Shantavny Scotch, Omagh Road, Ballygawley, Decision: AL Decision Date: Ref ID: LA09/2016/0814/DC Proposal: Discharge of planning condition No.8 of Planning Ref. M/2007/1407/F Address: Shantavny Scotch, Omagh Road, Ballygawley, Decision: AL Decision Date: Ref ID: LA09/2016/0279/DC Proposal: Discharge of Conditions 3 and 11 of Planning Approval M/2007/1407/F Address: Shantavny Scotch, Omagh Road, Ballygawley, Decision: AL Decision Date: Ref ID: LA09/2016/1442/DC Proposal: Discharge of Planning Condition No 18 of Planning Approval M/2007/1407/F Address: Shantavny Scotch, Omagh Road, Ballygawley, Decision: Decision Date:	

Ref ID: LA09/2016/0167/DC

Proposal: Discharge of Condition No 20 of Planning Approval M/2007/1407/F

Address: Shantavny Scotch, Omagh Road, Ballygawley,

Decision: AL

Decision Date:

Ref ID: LA09/2016/1157/F

Proposal: Permission sought to vary condition No. 18 of M/2007/1407/F

Address: Shantavny Scotch, Omagh Road, Ballygawley,

Decision: AL

Decision Date:

Ref ID: LA09/2016/0599/F

Proposal: Provision of a 33kv electricity substation with entrance via existing lane onto Shantavny Road

Address: Site located approximately 750m North West of 18 Shantavny Road, Shantavney Scotch, Ballygawley,

Decision: PG

Decision Date:

Ref ID: LA09/2016/1171/NMC

Proposal: Relocation of the permitted building approximately 8.8m to the West and the reorientation of the building on site

Address: Site located approximately 750m North West of 18 Shantavny Road, Shantavny, Scotch,

Decision:

Decision Date:

Ref ID: LA09/2016/1437/F

Proposal: Provision of a 33kv electricity sub-station with entrance via existing laneway onto Shantavny Road

Address: Site located 740m NE of 18 Shantavny Road, Shantavny Scotch, Ballygawley,

Decision:

Decision Date:

Ref ID: K/2007/0821/F

Proposal: Application under Article 28 of the Planning Order to remove Conditions 6 and 7 and modify Condition 11 of Planning Approval K/2005/0597/F

Address: Slieve Divena Hill (In the townlands of Altamooskan)

Decision:

Decision Date: 16.10.2007

Ref ID: M/2007/1407/F

Proposal: Proposed Wind Farm comprising of 7 No. turbines with hub height of 64metres, blade diameter of 71metres, blade to tip length of 35.5metres and overall height of 99.5metres with a power output of 2.0MW, new access tracks, site entrances, sub station, control room, electrical cabling, temporary site compound, permanent met mast.

Address: Shantavny Scotch, Omagh Road, Ballygawley Co. Tyrone

Decision:

Decision Date: 24.02.2012

Ref ID: M/2006/1221/E

Proposal: Proposed Windfarm Development

Address: Shantavny Scotch, Ballygawley, Co Tyrone.

Decision:

Decision Date:

Ref ID: LA09/2016/0354/F

Proposal: Vary condition No.18 of previous application M/2007/1407/F

Address: Shantavny Scotch Wind Farm, Omagh Road, Ballygawley,

Decision: PG

Decision Date: 18.05.2016

Summary of Consultee Responses

TNI – no objections

EHO - no objections to this development

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
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. 05
Type: Proposed Plans
Status: Submitted

Drawing No. 04
Type: Site Layout or Block Plan
Status: Submitted

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

Drawing No. 02
Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 06

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

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Development Management Officer Report Deferred Application

Summary	
Committee Meeting Date: 9 th January 2017	Item Number:
Application ID: LA09/2015/0512/F	Target Date:
Proposal: Proposed reconfiguration of internal layout within existing shed along with proposed extension to existing service centre for agricultural vehicles / machinery including new access.	Location: 149c Drumbolg Road Upperlands Maghera
Referral Route: Application previously recommended for refusal.	
Recommendation: Approval.	
Applicant Name and Address: Andrew Armstrong 149c Drumbolg Road Upperlands Maghera BT46 5UZ	Agent Name and Address: MDF Architecture 211 Blackthorn Road The Brambles Newtownabbey BT37 0GH
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
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Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues No representations have been received in relation to this proposed development. Previously recommended for refusal on grounds of PPS21 / PPS4 due to visual impact and detrimental impact on rural character.	
Characteristics of the Site and Area Characteristics of the site and environs The site is comprised of a large area to the rear of a bungalow on a roadside site. The site contains an existing building and occupies an elevated position in the landscape. The rear yard is accessed via a separate hard cored lane with a large industrial type building set to the rear. The existing building which has a footprint measuring 24.6m x 12.31m and was approved under a previous planning application H/2008/0622/F on the basis of agricultural need and for that use. However the existing building is being entirely used as a commercial servicing centre. This is in breach of an approval in connection with a part farm diversification scheme granted under H/2010/0451/F. Within the existing building there is office accommodation at the rear with first floor storage space over. In addition a small retail shop has been provided which is open to members of the public to purchase vehicle parts and accessories. To the rear of the existing building a large yard has been excavated to a level approximately 0.75m below the level of the adjoining field to the south east. At present this yard is used for the parking of plant and machinery. The north eastern, south eastern and south western boundaries are defined by post and wire fencing. There are important critical views of the site when travelling from the junction of Gorse Road and Killycon Road and also when travelling north east along the Drumbolg Road from a point 140m south west of the site.	
Deferred consideration. Since this application was deferred in October 2016 plans have been amended as follows: <ol style="list-style-type: none"> 1. The description has been amended to read, "Proposed reconfiguration of internal layout within existing shed along with proposed extension to existing service centre for agricultural vehicles / machinery including new access" 2. The shed, now an extension, has been reduced in size to 264 sq.m 3. Amended internal layout provides for continued agricultural use with an internal link now provided through to the extended business use area 4. Roller shutter door removed from SW elevation. Policy PED 3 – Expansion of an established economic development use in the countryside advised that such a proposal will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area.	

The now reduced in size proposed building, now in form of an extension, has much less of an impact on rural character of the local area when compared to the original submission.

The design of the extension now does not protrude any further beyond the front elevation of the original building thus helping the extension to blend in with the existing shed and reducing significantly earlier concerns relating to prominence of the proposal within the landscape when viewed from the Drumbolg Road.

Whilst the area of the business will still increase under this application, to an extent which facilitates the extension and strip of yard area, on balance this not a major increase. The additional planting proposed will act to contain the yard area and reduce potential for unacceptable visual impact from the NE approach.

It has been confirmed that the small element of retailing which is presently taking place from the building will be removed and relocated off site.

Balancing the now reduced proposal in relation to the economic arguments put forward by the applicant for the expansion I am of the view that the amended scheme when tested against PPS21 and PPS4, Policy PED2 /3 is acceptable.

Recommendation

On consideration of the above, it is my opinion that planning permission should be approved subject to the following conditions;

Conditions:

1. Visibility splays of 2.4 x 90m in both directions be provided prior to any commencement of any development hereby approved.
2. No operations from any building hereby approved shall commence until hard surfaced areas are constructed and permanently marked.
3. Commencement of the Development within a period of 5 years from the date of permission.
4. All commercial business use shall be limited only to those areas identified on approved plans.
5. Proposed planting to be carried out within the first available planting season after the commencement of the development.

Signature(s) M.Bowman

Date: 14/12/16

ANNEX	
Date Valid	8th July 2015
Date First Advertised	20th July 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/2008/0622/F Proposal: Proposed shed to accomodate winter store cattle, cattle feed, a tractor and be used as a garage also. Address: 230m North West of 149 Drumbolg Road, Upperlands. Decision: Decision Date: 16.04.2009 Ref ID: H/2007/1070/RM Proposal: Proposed dwelling & garage Address: 230m North West of 149 Drumbolg Road, Upperlands Decision: Decision Date: 23.05.2008 Ref ID: H/2010/0451/F Proposal: Retrospective planning for part farm diversification to accommodate Agricultural Servicing area (165 sq.m) within existing shed and domestic garage with shared access to No 149c Drumbolg Road, Upperlands. Address: 149c Drumbolg Road, Upperlands Decision: Decision Date: 09.01.2012 Ref ID: H/2004/0395/O	

Proposal: Site of Dwelling and Garage
 Address: 230m North North West of 149 Drumbolg Road, Upperlands
 Decision:
 Decision Date: 19.06.2006

Ref ID: LA09/2015/0512/F
 Proposal: Proposed extension to existing servicing centre for agricultural vehicles and machinery and new access
 Address: 149c Drumbolg Road, Upperlands, Maghera,
 Decision:
 Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
 Type:
 Status: Submitted

Drawing No.
 Type:
 Status: Submitted

Drawing No.
 Type:
 Status: Submitted

Drawing No.
 Type:
 Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Dominic Duffin	
Application ID: LA09/2015/0620/F	Target Date: 09/11/2015
Proposal: Extension, alterations and change of use from residential dwelling house to give 4 no self contained apartments. 1 per floor	Location: 25 Charlemont Street Moy
Applicant Name and Address: Seyloran Properties Ltd 31f Killyman St, Moy, Co.Tyrone BT71 7SJ	Agent name and Address: Colm Donaghy Chartered Architect 24 Killyman Street Moy BT71 7SJ
Summary of Issues: Application which was deferred at the meeting held on 13/06/2016 as further information was received. Further amendments have resulted in a significant reduction in the bulk of the new development therefore addressing a previous concern about impact on the amenity of adjoining properties.	
Summary of Consultee Responses: As previously stated both the council's Conservation Officer and the Historic Environment Division of the Department of Communities has no objection to the scheme subject to conditions agreeing details. Transport NI also has no objection, the laying out of the parking area and its retention in perpetuity could be agreed by condition. Water Management Unit has assessed the scheme and are content in terms of impact on surface water management subject to the applicant following the relevant Standing Advice.	
Characteristics of the Site and Area: The application site is located within the development limits of Moy village, on Charlemont Street, and is also within the local Conservation Area. Although the village has an Area of Townscape Character (ATC), this site is not within it. The immediate area along Charlemont Street contains a number of buildings of architectural merit, including some statutory Listed Buildings, and the area	

contains a mix of residential, retail and commercial buildings. The River Blackwater runs close by, to the east of the site.

The site is occupied by a two storey, terrace building, currently not in use, and this forms an almost identical pair on the front elevation with the site immediately to the east. The adjoining half has however been extended significantly to the rear as part of a conversion to create apartments (M/1998/0829). This has resulted in a long rear return of some four storeys in height. The application site has a much more reduced rear return. The pair of properties are served by rear yard areas divided by a wall. Access to the rear of the site is provided by a private laneway, further east of the site, separated from the site by a vacant yard area. A derelict and listed grain store is located the other side of the access lane. To the west of the site is a building which is commercial to the front (The Homespa) with a row of terrace dwellings to the rear, with back elevations facing towards the site across shallow yard areas.

Deferred Consideration:

What is proposed is a revision to the originally submitted scheme to extend the building and convert it to form four apartments, one on each floor. The original scheme was as follows;

“The applicant seeks consent to extend the building to the rear, in a very similar fashion to the existing extension on the adjoining property. The rear projection would then extend 10.0m from the existing rear wall and a “top hat” gable roofed finish would be created. The width of the projection would be 4.2m, thus bringing it closer to the common boundary. The building would change use to create four apartments, one two bedroom unit on each floor. A small area of rear amenity space would be created to serve the basement flat. A communal amenity area would serve the other apartments. To the rear of this amenity area six parking spaces would be provided. Access would be as existing”.

Amendments were suggested by the council as there were concerns that the scheme as submitted resulted in loss of amenity to neighbouring residents and was effectively an overdevelopment of the site. This scheme differs in that the rear projection has been reduced to a width of 3.7m on the ground floor and 1.5m on the upper floor. The development would now provide four 1 bedroom flats, one on each floor. Nine parking spaces are now provided, three more than the original six. The level of amenity space has been increased to circa 150 sq m from 87 sq m.

In terms of amenity provision and parking the scheme is now deemed acceptable. The amenity space proposed has also been increased from the original submission by the provision of a landscaped sitting out area. This results in a reasonable level of amenity space to serve the flats. Guidance provided by the Creating Places document advises that between 10 sq. m and 30 sq. m. should be provided per unit. The proposed amenity space is within that range at circa 150 sq. m. roughly 20 sq. m per unit and this is deemed acceptable.

Nine spaces would be provided to serve the scheme. If the existing flats are included this is just over one space per unit which is less than adopted standards. However it is an accepted principle of parking provision that in areas which are relatively well served by public transport and there are alternative parking options such as nearby car parks or on street parking a reduction in the parking standards can be accepted. PPS3 also states that flexibility in parking can be accepted if it helps facilitate better quality developments, including the reuse of existing buildings.

Previous concerns about overdevelopment have been addressed with this amended scheme.

Amenity

The proposed rear extension has been greatly reduced and there were previous concerns that the width, bulk and scale of the originally submitted would have a material impact on the amenity of neighbours in an adjoining terrace. This scheme as highlighted above has been greatly reduced and it is considered that any impact has been reduced to an acceptable level. Obscure glazed windows would negate any loss of amenity from overlooking. This concern has been adequately addressed.

Conditions/Reasons for Refusal:

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

Reason: Time limit.

Prior to first occupation of the development hereby approved, the proposed parking area shall be laid out as detailed on drawing number 01 Rev 4 bearing the date stamp 18 NOV 2016 and shall be retained free from obstruction thereafter for the parking of vehicles.

Reason: In the interests of providing adequate parking provision to serve the development.

The proposed areas of amenity space shall be put in place prior to the occupation of the development hereby approved and shall be retained thereafter for this said use.

Reason: In the interests of providing adequate amenity space to serve the development.

Prior to first occupation of the development hereby approved the proposed window openings at first and second floor level in the flank elevation of the rear extension, as detailed on drawing number 01 Rev 4 bearing the date stamp 18 NOV 2016, shall be fitted with obscure glass unless otherwise agreed in writing with the council.

Reason: In the interests of protecting the privacy of adjoining residents.

The proposed roof finish shall be natural Welsh slate.

Reason: In the interests of preserving the special character of the area.

The proposed windows shall be hardwood, sliding sash to front elevation and timber casements to the rear.

Reason: In the interests of preserving the special character of the area.

The proposed doors shall be hardwood and painted.

Reason: In the interests of preserving the special character of the area.

Any rainwater goods shall be cast iron or cast aluminium.

Reason: In the interests of preserving the special character of the area.

Any rooflights shall be conservation style.

Reason: In the interests of preserving the special character of the area.

Informatives

1. The applicant is advised to be aware of the advice submitted by Northern Ireland Water and to be familiarised with their Standing Advice.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report.

Summary	
Case Officer:	
Niall Hasson	
Application ID: LA09/2016/0100/F	
Proposal: Proposed retrospective planning for change of use of part of domestic garage to storage and display area for home based catalogue sales business	Location: To the rear of 11a Strawmore Road Draperstown
Applicant Name and Address: Mrs D Boyle 11a Strawmore Road Draperstown Magherafelt BT45 7JE	Agent name and Address: D.M Kearney Design 2A Coleraine Road Maghera BT46 5BN
Summary of Issues: retail shop in open countryside.	
Summary of Consultee Responses:	
Characteristics of the Site and Area:	
<p>Site and Environs:</p> <p>The site is located approximately 500 metres west of the settlement limit of Draperstown in the open countryside, as defined by the Magherafelt Area Plan 2015. The site is located within the existing curtilage of a dwelling at 11A Strawmore road. No. 11A is a detached bungalow with a detached garage. The garage measures approximately 8.8 m x 6 m. The total area of the garage measures approximately 52.75 m². The garage has been subdivided into two separate rooms, a domestic garage area and a display / storage area for a retail business. The display / storage area measures approximately 16.12 m².</p>	

Deferred Consideration:

Proposal:

The proposal is for retrospective change of use of part of domestic garage to storage and display area for home based catalogue sales business.

Site History:

H/2001/0482/O and H/2001/0725/RM was approved for a dwelling and garage on the site.

Representations:

No representations have been received.

Development Plan and Key Policy Considerations:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 4 – Planning and Economic Development

Planning Policy Statement 21 – Sustainable Development in the Countryside

The proposal lies within the open countryside, as defined by the Magherafelt Area Plan 2015.

PPS 4 - Planning and economic development (Annex A) provides guidance on Homeworking.

The key policy test in this case to determine whether or not an application actually requires planning permission. Where the business activity increases and the non-residential use ceases to be ancillary, a material change of use has occurred for which planning permission is required.

Following the earlier deferral of the application a meeting was held to discuss the nature of the proposal and how it could be amended to accord more with home working. At the meeting the Council's concern in relation to the significant area for the display and sale of goods was particularly concentrated on. As the nature of the business appears to be online sales etc it appears that the need for a formal display area is questionable. I do acknowledge that some unauthorised signage directing visitors to the premises has been removed.

Despite being assured by applicant in Sept that the display element of the proposal had been removed (accompanied by photographic evidence) it was observed during a recent visit by Enforcement to the property that the open display of goods was still taking place.

The fact that a planning application has been made for the retention of the use demonstrates that a material change of use has occurred. The layout of the room is such that it could not easily revert to residential use at the end of the working day. Shelves have been installed within the room and a variety of items have been set out for display. The layout of the room would appear to indicate that the room is used primarily for display of goods rather than storage.

The existing use as a display / storage area would be classified as a shop and falls under Class A1 of the Planning (Use Classes) Order (Northern Ireland) 2015 and therefore the main policy guidance will be the SPPS. As the site lies within the countryside, PPS 21 would also provide policy on the suitability of the proposal.

The SPPS places a high importance on town centres and the role they play in bringing people together and creating a sense of community and place. The SPPS emphasises the importance of planning in supporting the role of town centres and contributing to their success. Its aim is to support and sustain the town centres and encourage development in order to enhance their attractiveness, by promotion of the town centre as the appropriate first choice location of retailing.

The overarching aim of the SPPS is that the retailing will be directed to the town centres. Furthermore, the SPPS encourages the retention and consolidation of existing district and local centres as a focus for local everyday shopping and ensure the role is complementary to the role and function of the town centre.

The applicant has made no overwhelming case to support the proposal in this location. The applicant has health issues which affect her ability to work away from home. A doctor's letter was supplied to the council to support this. My key consideration is how much, if any, weight should be attributed to these personal circumstances. It is my opinion that the applicant's circumstances are a material consideration and should be attributed some weight. The earlier willingness to remove the formal display area from the property does in my opinion demonstrate that it had been deemed that the applicants personal circumstances were not an impediment to the use being able to be carried out in such a way.

Prevailing planning policy would indicate that the development proposal is unacceptable in a countryside location and it is my opinion that the planning policy would outweigh the applicant's personal circumstances in this case.

Recommendation:

It is my opinion that this proposed development should be refused, having regard to the local development plan and other material considerations.

Consultation:

Transport NI were consulted on the development and had no objections.

Conditions/Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement in that the development would, if permitted, be likely to have an adverse impact on the vitality and viability of existing centres as it does not make use of existing vacant premises in existing centres.
2. The proposal is contrary to Policy CTY 1 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.

Signature(s):

Date

D

Subject:	Mid Ulster Council's response to a consultation request from DFI for a proposed windfarm at lands approx. 3km west of Swatragh accessed off the Corlackey Road. Ref LA09/2016/0232/F.
Date of Meeting:	9th Jan 2017
Reporting Officer:	Melvin Bowman
Contact Officer:	Dr Chris Boomer

1	Purpose of Report
1.1	To provide members with a report which will provide the basis of a consultation response to the Department for Infrastructure on the above proposed wind farm application.

2	Background
2.1	The Department for Infrastructure have requested a consultation response from Mid Ulster District Council on planning application LA10/2015/0292/F (Erection of a windfarm development comprising 11 (3 blade) wind turbines, each up to a maximum of 149.9m tip height, with a total installed capacity of up to 36.3MW, a newly created site entrance, access tracks, crane hard standings, control building and substation compound, electricity transformers, underground cabling, energy storage containers, a number of off-site areas of widening to the public road and all other associated ancillary development. During construction there would be a number of temporary works including a construction compound with car parking, an enabling works compound, temporary parts of crane hard standings, welfare facilities and 3 temporary guyed lattice type meteorological masts) at lands approx. 3km west of Swatragh.

3	Key Issues
3.1	The site is located within the Sperrin's Area of Outstanding Natural Beauty (AONB). The designation has been in existence since 1968 when it was introduced in order to protect the high scenic value of the Sperrin's and to ensure that any development could be integrated into the landscape. A large proportion of the site also lies within Carntogher Site of Local Nature Conservation Importance as designated in the Magherafelt Area Plan 2015. Additionally the wind farm application is located within the Glenshane slopes

	<p>Landscape Character Area (LCA 39). There are 9 other LCA's which are in close proximity (overall sensitivity to wind energy developed is defined as HIGH within this LCA).</p>
3.2	<p>The proposal is located on high ground overlooking Swatragh. The LCA designation identifies its important upland edges as important skyline features and regards its wildness and tranquillity as extensive.</p>
3.3	<p>Whilst the designation regards the areas rounded edges as being in principle suited to wind energy development, the very high prominence and visibility of this LCA at a NI level is a key constraint. The designation states that care should be taken to avoid adverse impacts on the extremely open exposed slopes and ridge lines and that cumulative impacts should be carefully considered.</p>
3.4	<p>The SPPS published in Sept 2015 requires that a cautious approach is taken when considering the potential impact of renewable proposals on the landscape within sensitive areas such as this AONB. At Par. 6.225 the SPPS requires that the wider environmental, economic and social benefits of all proposals for renewable energy are given appropriate weight in determining whether planning permission should be granted.</p>
3.5	<p>Whilst part of the proposed site lies within a site of local nature conservation importance, this does not preclude development. Planning permission will not be granted however to proposals which would be liable to have a significantly adverse impact on conservation interests. It remains unclear at this stage if the proposal will have a detrimental impact on this important area. Care must also be taken to avoid any potential to impact on sites of archaeological importance.</p> <p>An Environmental Statement has been submitted to accompany the application which addresses these considerations.</p>
3.6	<p>Socio-Economic Benefits</p> <p>The application has been accompanied by an Environmental Statement which includes an assessment of the potential Socio-economic benefits. These are summarised as follows:</p> <ul style="list-style-type: none"> - A capital spend of £32.33m (of this £10.72m realised within NI) - 18 months construction estimated to create or sustain between 101-109 direct job years of employment

	<ul style="list-style-type: none"> - RES Ltd has committed to a community fund package of £5,000 per MW per year for the windfarm lifetime. The total package will contribute £4.54m over the lifespan of the project. - The estimated total benefits from the operational phase of the proposed development include the creation or sustainment of seven jobs per year and £0.18m of wages per annum. - Additional business rates revenue of £336,580 per annum.
3.7	<p>Immediately to the NE of the proposed wind farm site is a consented wind farm known as Brockaghaboy (15 turbines) with an additional 4 turbines approved by Mid-Ulster Council in Oct 2015 under H/2014/0241/F bringing that total to 19 consented turbines. The Council approved the additional 4 turbines only on the basis that their potential visual impact was very much contained within the wider grouping of the already consented 15 turbines.</p>
3.8	<p>The submitted photomontages show the cumulative impact that the 2 wind farms would have when viewed from a number of critical viewpoints. It is my opinion that this extends very significantly this line of turbines along an important ridge line further into the LCA designation to the detriment of its rural character and otherwise tranquil nature. RES Ltd however argue that the presence of the Brockaghaboy wind farm permission/s acts to lessen the visual impact on the landscape as it will, when complete, have already altered the landscape.</p> <p>Whilst the socio-economic arguments presented would appear to indicate that the wind farm has the potential to provide significant benefits, these must be balanced against the potential for the development to have a detrimental impact on the landscape.</p>
3.9	<p>Having carried out a site visit and following an assessment of the Magherafelt Area Plan, the Strategic Planning Policy Statement and all relevant policies and other material considerations it is our recommendation that the application should be objected to on the following basis.</p> <ol style="list-style-type: none"> 1. Mid Ulster District Council have concerns with regards to the impact on the visual amenity and landscape character of this part of the Sperrin's Area of Outstanding Natural Beauty by reason of the number, scale, size and siting of the turbines and the high sensitivity of the landscape and this is contrary to Policy RE1 of Planning Policy Statement 18 and the SPPS. 2. Mid Ulster District Council is concerned that the site lies in the Sperrin's AONB and are concerned the proposed windfarm would be detrimental to the environmental quality of the AONB by reason of lack of sensitivity to the distinct character and the landscape quality of the area and when its impacts are considered in relation to already

	<p>consented wind energy development in the local area and would therefore also be contrary to PPS2.</p> <p>3. Mid-Ulster Council have concerns that the proposal is likely to have an unacceptable detrimental impact on the conservation interests of Carntogher SLNCI.</p> <p>I note that the recent consultation response from Natural Environment Division (Protected Landscapes Team) also recommends refusal on similar grounds.</p>
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4	Resources
4.1	<p><u>Financial</u> N/A</p>
4.2	<p><u>Human</u> N/A</p>
4.3	<p><u>Basis for Professional/ Consultancy Support</u> N/A</p>
4.4	<p><u>Other</u></p>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	That the planning committee accept the recommended view and that this is also agreed with the full Council before a formal consultation response is issued to the Department.

7	List of Documents Attached
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7.1	Site location Map.
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CORLACKY HILL WIND FARM

FIGURE 1.1

SITE LOCATION

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KEY:

- PLANNING APPLICATION BOUNDARY
- + SITE CENTRE

DOE Planning
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18 FEB 2016

File No. 6004/2016/02503
SPD 2

Drawing

Number 01



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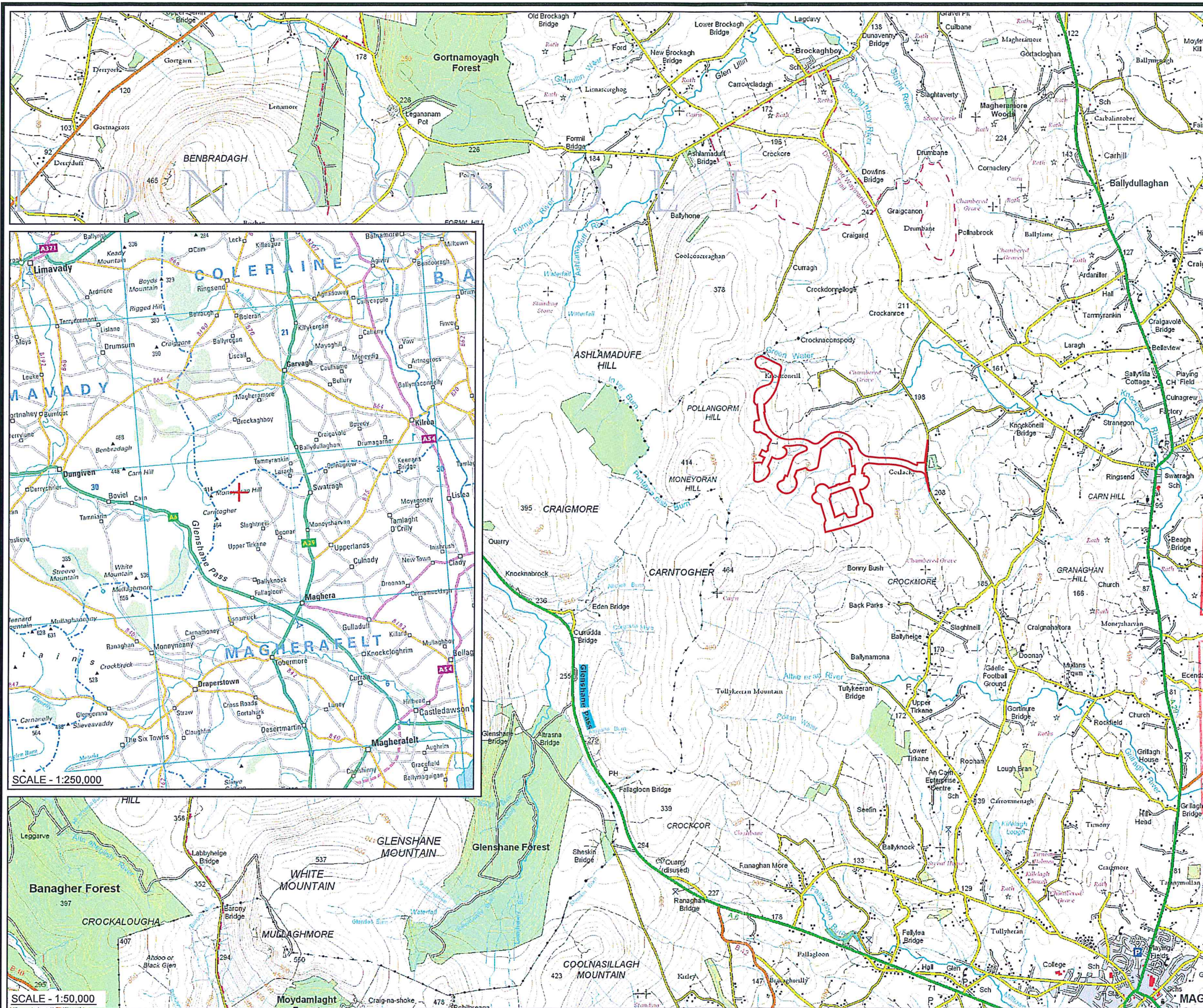
LAYOUT DWG N/A T-LAYOUT NO. N/A

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03163D2508-03

SCALE - AS SHOWN @ A3

**ENVIRONMENTAL STATEMENT
2016**

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E



Subject: Planning Department's response to a consultation request from DoE for an underground high pressure gas transmission pipeline and associated infrastructure (LA08/2016/1328/F)

Date of Meeting: 9th January 2017

Reporting Officer: Emma McCullagh

Contact Officer: Dr Chris Boomer

1	Purpose of Report
1.1	To provide members with a report which will provide the basis of a consultation response to Department of Infrastructure.

2	Background
2.1	<p>West Transmission Limited (WTL), a subsidiary of Mutual Energy Limited, and SGN were awarded licences by the Utility Regulator for Northern Ireland to build and operate the high pressure and intermediate pressure gas pipelines which will extend the natural gas network into the west of Northern Ireland.</p> <p>This significant gas network extension is planned to bring natural gas to the towns of Coalisland, Cookstown, Derrylin, Dungannon, Enniskillen, Magherafelt, Omagh and Strabane over the period 2016–2018</p> <p>In order to extend the gas network into the west of Northern Ireland new gas pipelines will be installed to transport the gas from the existing gas network to the targeted towns. This involves the construction of a high pressure cross country transmission pipeline (85 bar) with regulator stations sited along the route to reduce the pressure of the gas for onward distribution to the towns via intermediate pressure pipelines (7 bar) laid mainly in the road carriageway.</p>

2.2	<p>The construction of the gas infrastructure will be undertaken over an eighteen month build period and for the most part the lands and road affected will be reinstated to their former condition with the exception of the areas occupied by the above ground installations (AGIs) including the pressure reduction stations (PRS) which are permanent features.</p> <p><u>Proposal</u></p> <p>The Strategic Project team at the Department of Environment have requested a consultation response from Mid Ulster District Council on planning application LA08/2016/1328/F for the Construction of an underground gas pipe line and associated infrastructure: a new 85 bar High Pressure (HP) cross-country gas transmission pipeline approx. approx. 78km In Length and varying between 300-400mm diameter:</p> <p>New Intermediate pressure gas pipeline (approx. 107km) laid primarily in the public road, 7 above ground installations (AGI) and;</p> <p>8 district pressure governors (DPG), temporary ancillary development comprising temporary construction compounds, temporary pipe storage area and temporary constructions accesses.</p>
2.3	<p><u>Location</u></p> <p>High Pressure (HP) gas transmission pipeline (approx. 78km in length) between Derryhale above ground installation (AGI) at Portadown and Tullykenneye.</p> <p>Intermediate pressure (IP) gas pipelines approx. 107km in length from HP line to serve Cookstown/Magherafelt, Coalisland and Omagh; Enniskillen and Derrylin;.</p> <p>AGI sites; (i) Opp 64 Derryhale Rd, Derryhale; (ii) 150m North of 39 Moss Rd, Derrycoose; (iii) 50m West of 27 Old Moy Road, Donnydeade; (iv) Opposite 10 Culnagrew Road (v) 150m South of 59 Dergenagh Road; (vi) 200m North of 23 Ballymagowan Road, Tullybroom; (vii) 300m NW of 371 Belfast Road, Tullykenneye.</p>

3	Key Issues
3.1	<p>This proposal seeks planning permission to construct new gas pipeline networks and ancillary infrastructure comprising:</p> <p>* A new High Pressure (HP) gas transmission pipeline of approximately 78 kilometres in length to be built between Portadown and Tullykenneye (just west of Fivemiletown). The HP network will comprise a new 400mm/300 mm 85 bar HP pipeline and will run from an existing (Gas Networks Ireland [GNI]) off-take at Portadown across to the west of Northern Ireland providing further off-takes for Dungannon, Cookstown and Magherafelt, Coalisland, Omagh, Enniskillen and</p>

3.2	<p>Derrylin.</p> <p>* New Intermediate Pressure (IP) gas pipelines, approximately 107 kilometres in length. The IP pipeline will be laid to serve Dungannon, Cookstown/Magherafelt, Coalisland, Omagh and down to Enniskillen and Derrylin. The IP pipelines will be provided, primarily (except where obstacles at crossing points otherwise dictate) within highway carriageway and will have a design pressure of less than 7 bar.</p> <p>* Above Ground Installations (AGI): The main HP pipeline will be fed from a metered off-take connected to the GNI South North pipeline at the GNI Derryhale AGI near Portadown. Pressure Reduction/Regulator Stations (PRS) will be required on the main high pressure pipeline and for the Dungannon, Tullykenneye and Omagh off-takes for the intermediate pressure pipeline connections. The PRS comprises prefabricated kiosk type single storey buildings erected around important units such as regulators, boilers and control units. They also include above ground pipework and fittings situated close to ground level.</p> <p>* The Dungannon Tee AGI site facilitates the transition of the 400mm pipe, which runs from the Portadown offtake to Dungannon PRS, to the 300 mm pipe which continues westwards to the Tullykenneye PRS</p> <p>* Block Valve Sites: Isolation valves (Block Valves) are required at approximately 16km intervals along the high pressure gas transmission pipeline. There will therefore be a requirement for 1 No block valve site between the Portadown AGI and the Dungannon Tee AGI; a further Block Valve Site between the Dungannon off-take and the Tullybroom PRS (Omagh Off-take). The block valve will be buried but will have valve stem extensions to be accessible from above ground. There will be the need for a small kiosk to facilitate the need for remote monitoring / operation of the valves.</p> <p>* Cathodic Protection Ground Beds: The pipeline is protected from corrosion by use of a Cathodic Protection (CP) system. The CP ground bed comprises an excavated trench approximately 35m x 1m x 1m deep within which anodes are installed before backfilling with coke breeze. The CP ground beds are sited a minimum of 120m from the pipeline and are generally required to serve approximately 20km of pipeline depending on local ground conditions.</p> <p>* Temporary ancillary development comprising temporary construction compounds, temporary pipe storage areas and temporary construction accesses.</p> <p>The Planning Policies that should be taken into account in the assessment of this proposal are; Regional Development Strategy 2035, SPPS- 'Strategic Planning</p>
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	<p>Policy Statement for Northern Ireland', The Planning Strategy for Rural Northern Ireland - PSU2, PSU8 and PPS2 – Natural Heritage, PPS3 – Access, Movement & Parking, PPS6- Planning, Archaeological and built heritage, PPS13 – Transportation and land uses, PPS15- Planning & Flood Risk and PPS21- Sustainable Development in the Countryside.</p>
3.3	<p>Having considered the proposal against policy, it is recommended that Mid Ulster District Council offer no objection to the proposal subject to the advice of Environmental Health and other relevant consultees and impose any conditions they may deem necessary. Health & Safety Executive would be a key consultee in the design and implementation of this proposal and MUDC would welcome their comments.</p>
3.4	<p>MUDC would be keen to ensure there is no adverse impact on third parties, on any designated European or local sites, protected species and no detrimental impact on tourism in particular during construction phase.</p>

4	Resources
4.1	<p><u>Financial</u> N/A</p>
4.2	<p><u>Human</u> N/A</p>
4.3	<p><u>Basis for Professional/ Consultancy Support</u> N/A</p>
4.4	<p><u>Other</u> N/A</p>

5	Other Considerations
5.1	N/A

6	Recommendations
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6.1	That Mid Ulster District Council advise the Department of Infrastructure of their response in relation to the proposed development.
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7	List of Documents Attached
7.1	MUDC Environmental Health response forwarded to DFI.
7.2	Overview Location map of proposal.



Environmental Health Department

Our Ref:

Planning Ref: LA08/2016/1328/F

Date: 21/11/16

Comments on Planning Application

Location: Between Portadown and Tullykenneye

Proposal: Construction of an underground gas pipe line and associated infrastructure

The Environmental Health Service (EHS) has considered the proposal to construct an underground gas pipeline and associated infrastructure.

EHS has considered in particular Chapter 11 (Noise and Vibration Assessment) and noted the section of development which will occur within the Mid Ulster District Council District.

EHS notes the construction of the following:

- High Pressure (HP) gas transmission pipeline
- Intermediate Pressure (IP) gas pipeline
- Above Ground Installations (AGIs).

One of the primary noise sources is construction noise whilst the pipeline is being installed. EHS notes that this construction noise is transient and receptor property will be impacted for a period during the installation of the pipeline.

The Environmental Statement (ES) considers construction noise and Table 11.0 (page 11.15) provides a summary of the plant and equipment likely to operate at various phases of the installation.

EHS notes that construction activities associated with the proposed development will be restricted to operate between 0700 and 1900 hrs Monday – Friday and 0700 – 1600 hrs on a Saturday.

EHS would support the working hours suggested and the Planning Authority may wish to attach an appropriate planning condition to reflect this proposal.

EHS notes that there will be a requirement for mitigation measures at selected receptors. EHS would support the imposition of a planning condition or informative that all noise mitigation measures for construction activities, as outlined in Section 11.9 of the ES (September 2016), shall be implemented.

BS4142: 2014 has been used to assess noise impact from AGIs. There are a number of AGI's within the Mid Ulster District Council area. Table 11.11 contains the noise threshold limits to be adhered to for plant/equipment noise from the proposed development at the nearest noise sensitive properties to each of the AGI sites containing potentially noise generating equipment.

Table 11.11

Noise Sensitive Properties	Night-time Background Noise Levels (LA90) dB(A)	Penalty for Uncertainty dB(A)	Penalty for Tonality dB(A)	Derived Noise Threshold Limit at Property dB(A)
All properties adjacent to Dungannon AGI (4)	38	-3	-6	29
All properties adjacent to Dungannon Tee AGI (3)	29	-3	-6	20
All Properties Adjacent to Tullybroom AGI (6)	31	-3	-6	22
All Properties Adjacent to Tullykenneye AGI (7)	20	-3	-6	11

It is recommended that a suitable condition is attached to any permission granted setting a noise limit threshold at the closest property as specified in Table 11.11 above.

EHS notes reference is made to District Pressure Governor (DPG) stations through the gas pipeline route. The ES indicates that noise from all DPGs will be well below existing background noise levels at all properties proximate to the DPGs.

The ES indicates that all active planning applications within 1km of the pipeline route have been considered. EHS advises that there are a significant number of consented wind turbines in the District.

On the basis of information submitted, EHS would have no objection to the proposal subject to the imposition of relevant planning conditions or informatives to protect receptors from noise during the construction and operational phase of the development.

EHS has noted reference in Chapter 7 of the ES, which considers the discovery of any contaminated land during the construction phase. EHS considers that the following planning condition is appropriate:

In the event that unexpected contamination is encountered during the approved project, the development shall cease and a written report, detailing the nature of the contamination and its management, must be submitted to Mid Ulster District Council for approval. This investigation, risk assessment and (if necessary) remediation strategy and verification report, must be undertaken in accordance with current best practice.



Overview of preferred pipeline routes

F

Subject	Department for Infrastructure Consultation on Review of PD rights for Mineral Exploration
Date	9th January 2016
Reporting Officer	Chris Boomer Planning Manager
Contact Officer	Sinead McEvoy

1	Purpose of Report
1.1	To provide members with a response to the Department for Infrastructure consultation regarding proposed amendments to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 which deals with the Permitted Development rights associated with mineral exploration.

2	Background
2.1	In March 2016, the Minister of the Environment, Mark H Durkan issued a Call for Evidence which sought to gather views on what would be the best way to review the permitted development rights for mineral exploration. Mid Ulster Council replied to this Call for Evidence in a response which was approved by the committee. In total, there were 141 responses.
2.2	These responses were considered and the consultation document which is the subject of this appear was produced as a result. Apart from restrictions on blasting, all of the recommendations made by MUDC in response to the Call for Evidence are now being proposed in the current DFI consultation.

3	Key Issues
3.1	The Department of Infrastructure has asked a number of key questions in order to gauge opinion on their proposals for reviewing Mineral Exploration Permitted Development rights. These questions seek to establish views on the removal of PD rights relating to Petroleum Exploration; whether there should be a complete removal or whether there should still be some PD rights for preparatory work in relation to petroleum exploration.
3.2	Questions are also asked specifically regarding other more minor amendments to the PD regulations; namely, should we introduce height restriction criteria in relation to PD for mineral exploratory works; should we introduce a “relevant period” into the legislation as in England and Wales, and also if we should increase the time period whereby the Council can make a declaration removing PD rights under Article 7 from 21 days to 28 days.

3.3	This response, takes the same view as our earlier response to the call for evidence in that we agree that all PD rights for petroleum exploration should be removed and that a relevant period should be introduced as well as the extension of the time period from 21 days to 28 days for allowing the Council to make a declaration under Article 7 of the GPDO.
3.4	We also agree that a height restriction criteria should be introduced in relation to all PD for mineral exploration

4	Resources
4.1	<u>Financial</u> N/A
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	Members are requested to note the contents of the paper and agree that a response is issued to the Department for Infrastructure in line with the contents of this paper.

7	List of Documents Attached
7.1	Mid Ulster District Council response to Department of Infrastructure Consultation – Permitted Development Rights for Mineral Exploration - December 2016



**Department of Infrastructure Consultation – Permitted Development
Rights for Mineral Exploration**

December 2016

Department for Infrastructure Consultation on Permitted Development Rights for Mineral Exploration

Purpose: In response to a Consultation document from the Department for Infrastructure, this paper will provide members with comments relating to the proposed review of permitted development rights for mineral exploration under Part 16 of The Planning (General Permitted Development) Order (Northern Ireland) 2015. If agreed, these comments will be forwarded to the Department to inform the scope of their review of permitted development rights for mineral exploration.

Content: The paper provides:

- (i) Explanation of the current permitted development rights governing mineral exploration;
- (ii) Reminder of a previous call for evidence on this matter issued by the Department of the Environment in March 2016;
- (iii) Answers to specific questions posed by the Department of Infrastructure in relation to review of mineral PD rights

Recommendation: That the Council note the contents of the paper and agrees that a response be forwarded to the DoE call for evidence along the lines set out in the paper.

1.0 Introduction

1.1 The purpose of this paper is to provide members with a response to a recent consultation document on a proposed review of permitted development rights for mineral exploration. The consultation document sets out the Departments proposals for reducing or eradicating permitted development rights for petroleum exploration¹ from class A of Part 16 of the Schedule to Planning (General Permitted Development) Order (Northern Ireland) 2015.

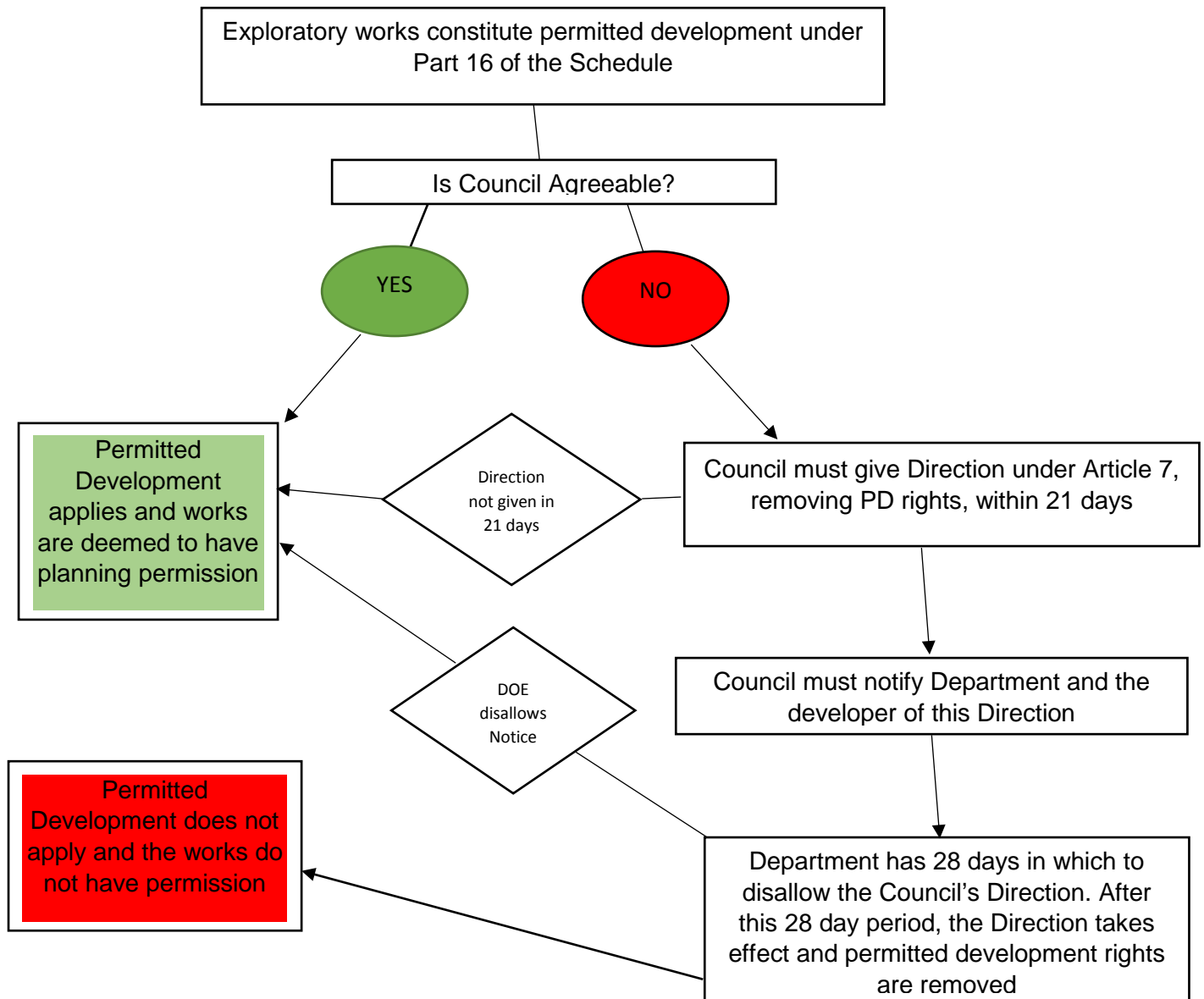
1.2 These proposals are being consulted on, following an initial call for evidence, issued by the Department of the Environment in March 2016, on permitted development rights for mineral exploration. The Council provided a response to this which is summarised below.

¹ Petroleum exploration can be defined as “the process of exploring for oil and gas resources in the earths sedimentary basins.” Definition taken from www.petroleumonline.com/content/overview

2.0 Existing Permitted Development Rights for Mineral Exploration

- 2.1** Permitted development rights for mineral exploration are set out in Part 16 of the Schedule to The Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO).
- 2.2** The GPDO allows permitted development (PD) rights for exploratory operations which only last for a maximum of four months.
- 2.3** If the work in question does not exceed this 4 month period, then the drilling of boreholes, the carrying out seismic surveys, the making of any other excavation for the purpose of mineral exploration and the assembly or provision of any structure required in connection with these works will constitute permitted development provided it is not found to be at odds with any of the following criteria:
- i. The developer must have informed the council in writing of the location and nature of the works, details of plant machinery and operations involved, the target mineral and the timeframe involved.
 - ii. Works must not be within an ASSI or an area of archaeological interest
 - iii. Works must not involve the use of an explosive charge of greater than 1kg is to be used
 - iv. Works must not include any structure assembled or provided that would exceed 3m in height and be closer than 3km to an existing airport.
- 2.4** In addition to these defined criteria, there are also a number of conditions which restrict any development which is permitted. These include conditions around the removal of trees, adequate restoration works taking place within 28 days, and the works being in accordance with the written notification previously given to the council.
- 2.5** Article 7 of the Order states that upon receipt of a written notification by a developer that works permitted under Part 16 of the Schedule (PD) are intended to be carried out, the Council can direct that PD rights will **not** apply to this development. That is to say, the council can remove PD rights from exploratory minerals workings in some cases. In these cases, the direction that PD has been removed must be made within 21 days of receipt of the notification by the council from the developer and must be made for one of the following reasons;
- i. The development is on or will affect land which is included in one of the following designations: Conservation Area; National Park; Nature Reserve; AONB; ASSI; Site of archaeological importance.
 - ii. The development, either by itself or in conjunction with other development, would cause serious detriment to the amenity of the area or would affect the setting of a listed building
 - iii. The development would cause serious nuisance to the amenity of a nearby school, hospital or residential building
 - iv. The development would endanger aircraft which happen to be making use of a nearby airport.

- 2.6** If the Council fail to make a direction within 21 days, then PD rights for the development will automatically apply. If the council directs that the development should not go ahead then the Department has 28 days to consider this direction and can potentially disallow it at any time within that 28 day period. The process is laid out in the diagram below:



- 2.7** It should be noted that whilst the council is considering whether or not to issue a direction under Article 7, it may also be required also carry out an EIA determination on the proposed works. If it is found that the works in question constitute EIA development, then they will not qualify for permitted development by virtue of Article 3 of the GPDO which states that permitted development rights will not apply to works which constitute EIA development.

3.0 **Departmental (DFI) Proposals**

- 3.1 The Department are proposing two main options for reviewing the permitted development rights for mineral exploration. Both options will reduce the scope for petroleum exploration to be carried out as permitted development and without planning permission;

OPTION 1 - Remove permitted development rights for the drilling of boreholes for petroleum exploration including the drilling of boreholes preparatory to petroleum exploration.

OPTION 2 - Remove permitted development rights for the drilling of boreholes for petroleum exploration but continue to allow permitted development rights for development preparatory to petroleum exploration (subject to certain limitations) for the drilling of boreholes for the purposes of carrying out groundwater monitoring, seismic monitoring and the locating and appraising the condition of mines.

- 3.2 In addition to these 2 main options, the Department are also proposing a number of more minor amendments to the regulations;
- i. Introduce a height restriction of 15m on structures which are to be considered as permitted development.
 - ii. Extend the 21 day period whereby the council can remove permitted development rights, under Article 7, to 28 days
 - iii. Introduction of a “relevant period” after the developer notifies the council. Until this relevant period has elapsed, permitted development will not apply.

4.0 **Previous Call for Evidence on Mineral Exploration**

- 4.1 As mentioned above, a previous Call for Evidence was issued by the Department of the Environment in March 2016. The purpose of the call for evidence was to explore the appetite for a review of mineral exploration and specifically, the following question was asked;

Do you believe that the existing provisions on permitted development rights for mineral exploration provide a suitable balance between supporting operational business activity and environmental protection?

- 4.2 There were 141 respondents to this call for evidence, with 110 (78%) being opposed to the current mineral exploration permitted development rights, a significant majority of which wanted all permitted development rights for minerals removed. Of the remaining responses, 16 (11%) considered that the current permitted development rights for mineral exploration provide a suitable balance, 5 (4%) indicated that although they support the current permitted development rights they would benefit from some amendment and the remaining 10 (7%) did not hold any particular views.

Mid Ulster District Council Response to earlier Call for Evidence

- 4.3** In relation to the specific question brought forward by the Call for Evidence, Mid Ulster District Council responded that we thought the existing permitted development rights **did not** provide a suitable balance between encouraging and supporting operational activity / economic growth and environmental protection.
- 4.4** We advocated keeping permitted development rights for mineral exploration in general but withdrawing them for exploration specifically related to the discovery and exploration of petroleum. We also suggested some changes to Part 16 of the Schedule to include, the extension of the time period of 21 days to 28 days for the council to make a direction under Article 7 of the GPDO, the introduction of a “relevant time period” before which permitted development will not apply and the introduction of more restrictions on blasting to concentrate on the frequency of blasts as well as the size of the explosive used.
- 4.5** Apart from the restrictions on blasting, all of the recommendations made by MUDC in response to the Call for Evidence are now being proposed in this consultation document.

5.0 Questions asked in Consultation Document

- 5.1** In order that the proposals put forward in their consultation are adequately considered, the Department have asked a number of specific questions and seek views on each of them. The questions along with the proposed responses are laid out below for member's consideration and if agreed, will form the council's formal response to the consultation document.

Question 1 – Do you agree that permitted development rights should be removed for petroleum exploration?

- 5.2** Mid Ulster District Council specifically proposed in its response to the DOE's Call for Evidence that permitted development rights for exploratory mineral works should be allowed with an exception being made for petroleum exploration which should have PD rights removed.
- 5.3** Due to the fact that it has been argued that modern exploration methods, particularly in relation to petroleum exploration, can have potentially harmful impacts such as leakage from drill pipes, spillage and contamination of nearby water supplies, then it would be inappropriate to allow these controversial techniques to be implemented without adequate consideration being given to the protection of the environment via the proper consideration and assessment of a planning application.
- 5.4** Mineral exploration techniques for non-energy minerals (i.e. minerals other than petroleum oil or gas) generally begin with non-invasive techniques and to remove PD for such techniques could significantly damage the mineral industry by placing an unnecessary deterrent in the way of development.
- 5.5** Therefore, Mid Ulster District Council agrees with the proposal to remove permitted development rights specifically for petroleum exploration.

Question 2 – If so, do you consider that the removal of permitted development rights for mineral exploration for petroleum should be brought forward by Option 1 or Option 2

- 5.6** Mid Ulster District Council would advocate the approach brought forward by Option 1. It can be argued that the drilling of boreholes for either groundwater monitoring or seismic surveys still has the potential to cause harm to the environment with specific reference to local water supplies. Additionally, it may be argued that once a borehole is drilled, then it introduces the possibility that it may be used for other uses apart from "preparatory" works and may open the door to unauthorised activity.
- 5.7** The document providing an analysis of responses to the call for evidence lays out the various arguments in favour of keeping permitted development rights for groundwater monitoring and seismic surveys. These include things like cost effectiveness, providing certainty for developers, providing useful information about shallow aquifers and groundwater chemistry but does not highlight any evidence about the lack of potential environmental risk.

- 5.8** Therefore in order to provide a balance between achieving a benefit to the industry and protection of the environment, in keeping with the initial question in the DOE call for evidence, it is felt that permitted development rights for all works relating to petroleum exploration should be removed and that **Option 1** should be the preferred option for removing them.

Question 3 – Do you agree that a height restriction of 15 metres for any structure assembled or provided under Part 16 should be introduced?

- 5.9** Mid Ulster District Council has no objections to a 15m height restriction. At present, Northern Ireland is the only jurisdiction in the UK not to have such a height restriction, apart from the 3m height limit within 3km of an airport, which obviously includes a relatively small portion of the country.
- 5.10** Therefore, the visual impact of works which constitute permitted development are not being considered and this is an important facet of environmental protection which is being neglected. We feel that the 15m height restriction would represent more environmental protection than is currently being exercised and would also be less restrictive on the industry than the corresponding 12m height restriction in Wales and Scotland, thus achieving a satisfactory balance.

Question 4 – Do you agree that the 21 day timescale under Article 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 should be increased to 28 days?

- 5.11** Mid Ulster District Council specifically proposed in its response to the DOE's Call for Evidence that the time period under Article 7 whereby a council can remove PD rights, should be extended from 21 days to 28 days.
- 5.12** This legislative mechanism is a useful tool which allows the Council to intervene if it is felt that the nature of the proposal will represent a significant risk to the environment. However, in order to enact this additional layer of environmental protection, it is felt that the 21 day time period is unduly strict and places an unreasonable burden on the planning authority.
- 5.13** Additionally, in some cases, an EIA determination is required to establish if the proposal will be excluded from Part 16 by virtue of Article 3 of the GPDO. This process takes 28 days and is obviously at odds with the 21 day time period laid out in Article 7.
- 5.14** Therefore, Mid Ulster District Council agree with the proposal to extend the 21 day timescale under Article 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015 to 28 days.

Question 5 – Do you agree that a “relevant period” should be introduced to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015?

- 5.15** Mid Ulster District Council specifically proposed in its response to the DOE's Call for Evidence that a "relevant period" should be introduced to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015.
- 5.16** Currently, if a developer fails to notify a council of their intentions, then permitted development under Part 16 will not apply. However, if notification is given to the council, then unlike in England and Wales, there is no mechanism which forbids development taking place until the council has or has not made a determination under Article 7 i.e. the lapse of a "relevant period" as referred to and defined in legislation.
- 5.17** This opens the door for potentially environmentally damaging works, which might well be the subject of a determination to remove PD rights under Article 7, to commence without the legislation being breached. This is obviously an unacceptable environmental risk.
- 5.18** Therefore, Mid Ulster District Council agree with the proposal to introduce a "relevant period", before which no development will be permitted by Part 16.

6.0 Conclusion

- 6.1** Mid Ulster District Council agree with all of the proposals put forward in the Departments consultation document and indeed had suggested the majority of them in the initial call for evidence which was published in March of 2016. With specific reference to the proposals for removing permitted development rights for petroleum exploration, we would prefer if **Option 1** was adopted as we feel this would provide a higher level of environmental protection.

7.0 Recommendation

- 7.1** It is recommended that the members note the contents of this paper and agree that a response is issued to the Department of Infrastructure in line with the contents of this paper.

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Subject	Confirmation of Provisional Tree Preservation Order (TPO)
Date	9th January 2016
Reporting Officer	Chris Boomer Planning Manager
Contact Officer	Sinead McEvoy

1	Purpose of Report
1.1	To provide members with a report recommending the confirmation of a Tree Preservation Order (TPO) on at Tree (horse chestnut) at 5 Mullagh Road, Maghera, which is the subject of a current provisional TPO.

2	Background
2.1	Following receipt of correspondence on behalf of the landowner at 5 Mullagh Road, querying the status of a previous TPO imposed by the Department in 2007, it has been established that the TPO placed on the site was not confirmed correctly.
2.2	Following a visit to the site and consideration of the amenity value and contribution of the tree, Mid Ulster Council served a Provisional TPO on 30 September 2016. At the same time notice of the provisional TPO was served on "land affected by the order" (including owners of land adjoining the land on which the tree is located) and in accordance with the Regulations they were given 28.no days to make their objection or representation.

3	Key Issues
3.1	No objections or representations have been made by neighbours or by the landowner in respect of the Provisional TPO.
3.2	This Horse Chestnut Tree is the last remaining mature tree which historically formed part of a larger group of trees within the LLPA. The tree dominates the skyline along with the church spire when leaving the town in the direction of Knockloughrim. The tree contributes positively to the character of the immediate street scene and the visual amenity in this immediate area. It stands with two other trees providing a backdrop to the development along and at no.5 Mullagh Road. It is also read with and above the trees in the neighbouring Rectory site, which are also the subject of a tree preservation

	order. It is considered that this tree is worthy of protection through confirmation of the TPO.
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4	Resources
4.1	<u>Financial</u> N/A
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	Members are requested to note the contents of the attached tree officer report and agree that the provisional TPO is confirmed without modification.

7	List of Documents Attached
7.1	Tree Officer Report.



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Tree Officer Report
Confirmation of Tree Preservation Order
Committee Application

Summary	
Committee Meeting Date: 9 th January 2017	
Application ID: TPO/2016/0034/LA09	Target Date: (30 th March 2017 to confirm)
Proposal: Confirmation of Provisional Tree Preservation Order (TPO)	Location: 5 Mullagh Road, Maghera
Recommendation:	Confirm TPO without Modification
Signature(s):	
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

Case Officer Report

Tree Location



Purpose of Report

To provide members with a report recommending the confirmation of a Tree Preservation Order (TPO) on a tree at 5 Mullagh Road, Maghera, which is the subject of a current provisional TPO.

Background

In considering whether to confirm the TPO for this site there are a number of background matters that are material to this case:

- i. On 13th May 1998 a request was made by the landowner at 5 Mullagh Road for a TPO to be placed on a number of mature Beech Trees on lands at 5 Mullagh Road, Maghera. On the 11th August 1998 an Arboriculturists Report was carried out with a view to the imposition of a TPO, however a TPO was not imposed at this time.
- ii. As part of a the background work to the Magherafelt Area Plan 2015 and the process of identifying potential TPO's within proposed Local Landscape Policy Areas (LLPA's) the Department revisited this site and on 29th September 2006 an updated Arboriculturists report was carried out again recommending the imposition of a Tree Preservation Order on the a number of mature beech trees at this site.
- iii. On 10th May 2007 a Provisional Tree Preservation Order was placed on the site by the Department.
- iv. On the 9th November 2007 a memo was sent from Planning Service Head Quarters to the Ballymena Divisional Planning Office stating that the Provisional TPO had been confirmed.
- v. In 2008 the Department were made aware of damage to the trees and a subsequent Arboriculturists report confirmed that some of the trees protected by the TPO had been poisoned. This resulted in all but 1 of the mature protected trees being felled for Health and Safety reasons.
- vi. In 2015 Mid Ulster Council consented to a request for remedial works on the remaining horse Chestnut tree based on an Arboriculturists report from the applicant.
- vii. On 8th August 2016 Heron Bros Ltd wrote to Mid Ulster Council on behalf of the landowner raising the following queries:
 - Whether or not the TPO was confirmed correctly;
 - If not what the implications are, and;
 - If it was, confirm that in reality the TPO only applies to the remaining tree and that the TPO will be amended to reflect this and that the Statutory Charge be amended accordingly.The letter from Heron Bros Ltd also advised that the landowner is currently reviewing her options regarding the site.
- viii. While investigating the contents of the letter from Heron Bros Ltd it came to our attention that the original TPO placed on the site in 2007, although clearly intended to be, had not actually been confirmed by the Department. The correct process for doing so had not been carried out as the confirmed order was not dated, signed, no records

of it being served on the landowner exist and importantly LPS have no record of a confirmed TPO being placed in the Statutory Charges Register.

Site Visit Details

Following the discovery that the original TPO had not been confirmed a site visit was made to establish if the final mature tree was worthy of protection and if it should be the subject of a new TPO.

The site visit revealed that no.5 Mullagh Road, Maghera is a large 2 storey detached house set at the junction of Mullagh Road and Church Street. It has substantially large gardens and while historically it had a number of mature trees, all but one of the mature trees that were on the site are now felled due to them being poisoned and becoming a health and safety issue to the wider public. The remaining tree, a mature Horse Chestnut (which is the subject of this report) stands along the Northern boundary along Church Street, providing shelter for public street furniture. This tree can be seen from a number of viewpoints on the attached photos:

- VP 1 – the tree stands along with two other trees providing a backdrop to the development along and No 5 Mullagh Road.
- VP 2 - when approaching the reduced speed limit area along Carricknakielt Road entering Maghera the tree can be seen above the trees in the neighbouring Rectory site which are also subject to a tree preservation order.
- VP- 3- the tree becomes more dominant from the junction of Mullagh Lane.
- VP – 4 – When leaving the town centre in the direction of Knockloghrim the tree stands alone dominating the skyline along with the church spire.

Magherafelt Area Plan 2015

The lands on which the subject tree is located lie within the designated Local Landscape Policy Area (LLPA) MA13. The Plan identifies the features and areas that contribute to the LLPA and they include a *“visually significant tree group and planting at the junction of Church Street and Mullagh Road providing a quality local focus on this main approach to the town”*. Although all but one of those trees have been removed, this horse chestnut tree is still visually significant to the wider public.

Provisional TPO Procedure

Following the visit to the site, consideration of the correspondence from Heron Bros Ltd. and the position of the tree within the LLPA and at an important visual position within the town it was considered appropriate to serve a Provisional Tree Preservation Order on 30 September 2016. In accordance with Part 2 of The Planning (Trees) Regulations (Northern Ireland) 2015 the Provisional TPO was served on the landowner (as well as their solicitor, attached to the tree in question and copied to Heron Bros Ltd.). In addition, notice was served on “land affected by the order” (including owners of land adjoining the land on which the tree is located) and in accordance with the Regulations they were given 28.no days to make their objection or representation.

No objections or representations have been made by neighbours or by the landowner in respect of the Provisional TPO.

Assessment of Case to confirm TPO

This Horse Chestnut Tree is the last remaining mature tree which historically formed part of a larger group of trees within the LLPA. The tree dominates the skyline along with the church spire when leaving the town in the direction of Knockloughrim. The tree contributes positively to the character of the immediate street scene and the visual amenity in this immediate area. It stands with two other trees providing a backdrop to the development along and at no.5 Mullagh Road. It is also read with and above the trees in the neighbouring Rectory site, which are also the subject of a tree preservation order.

There have been no objections or representations to the Provisional TPO placed on this site and it is considered that this tree is worthy of protection through confirmation of the TPO. It is not considered necessary to seek an Arboriculturists report on the tree as there was one provided a year ago by the landowner in order to obtain consent to do work to the trees and based on the visit to the site the tree still appears to continue to be in fair condition.





Summary of Recommendation:

It is recommended to confirm the Tree Preservation Order without modification.

Signature(s)

Date: