

**A**

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 1 March 2016 in Council Offices, Ballyronan Road, Magherafelt**

<b>Members Present</b>	Councillor Kearney, Chair  Councillors Bateson (7.09 pm), Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Reid, Robinson
<b>Officers in Attendance</b>	Dr Boomer, Planning Manager Mr Bowman, Head of Development Management Ms Doyle, Senior Planning Officer Mr Marrion, Senior Planning Officer Ms McCullagh, Senior Planning Officer Ms McKearney, Senior Planning Officer Ms McNally, Solicitor Miss Thompson, Committee Services/ Senior Admin Officer
<b>Others in Attendance</b>	Councillor McFlynn  Applicant Speakers LA09/2015/0084/O Mr Cassidy LA09/2015/0674/F Miss Burrows Mr Teague

The meeting commenced at 7.06 pm.

**P45/16      Apologies**

Councillor Mullen.

**P46/16      Declarations of Interest**

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

Councillor Glasgow declared an interest in application LA09/2015/0834/F.

Councillor McKinney declared an interest in application LA09/2015/0781/O.

**P47/16      Chairs Business**

The Chair advised that food would be available during the interval of the meeting.

**P48/16          Confirm Minutes of the Planning Committee Meeting held on  
Tuesday 2 February 2016**

Proposed by Councillor Cuthbertson  
Seconded by Councillor Glasgow and

**Resolved**      That the minutes of the meeting of the Planning Committee held on Tuesday 2 February 2016, (P19/16 – P28/16 & P34/16), were considered and signed as accurate and correct.

**Matters for Decision**

**P49/16          Planning Applications for Determination**

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

**LA09/2015/0084/O Dwelling and garage 18m SW of 40 Fallaghloon Road,  
Bracaghreilly, Maghera for Mr Kevin Glass**

Ms Doyle (SPO) presented a report on planning application LA09/2015/0084/O advising that it is recommended for refusal. Ms Doyle also referred to addendum to planning agenda which provided further information submitted by the architect.

*Councillor Bateson entered the meeting at 7.09 pm.*

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 referred to the photographs submitted as part of the addendum which he stated showed two buildings adjacent to the proposed site. Mr Cassidy stated that the images clearly indicate that the buildings are permanent, stand alone and that Google imagery also confirms that the buildings have been in situ in excess of five years. Mr Cassidy advised that the buildings are owned by the applicant's brother and are used as part of a farm business, he also referred to two planning appeal examples which indicate that current policy does not require a new building to be linked with the main farm building group but can be any two buildings on the holding.

The Planning Manager advised that the applicant cannot use buildings owned by someone else to get planning approval and that based on the information put forward by Mr Cassidy the application would be invalid. The Planning Manager also stated that it is DARD's view that the buildings shown do not form part of the farm and advised that a dwelling could be accommodated adjacent to buildings that are owned by the applicant.

Mr Cassidy advised that there were two listed buildings on the farm which would make trying to get planning approval difficult.

Councillor Clarke felt that the photographs appeared to show agricultural use of the buildings.

Ms Doyle advised that the case officer had stated domestic use of buildings based on their inspection.

Councillor Clarke felt that further clarification was required in relation to this application and stated he would not be happy making a decision tonight. The Councillor again stated that he felt the photographs submitted show agricultural use of buildings.

The Planning Manager stated that if the buildings shown in the photographs were owned by the applicant then there would be no difficulty in approving the application however, as this was not the case the Planning Manager suggested that the application be deferred for submission of further information relating to history of farm ownership.

Mr Cassidy agreed to provide this information.

Proposed by Councillor McPeake  
Seconded by Councillor Gildernew

That planning application LA09/2015/0084/O be deferred for submission of further information relating to history of farm ownership.

In referring to the photographic evidence Councillor Bateson felt that any farm building will have some domestic items therein.

Councillor Reid suggested changing the wording of the proposal to include delegating authority to the Planning Manager to approve the application subject to satisfactory information being submitted.

The Council Solicitor advised that the application had been presented to the Committee under the Scheme of Delegation and that following deferred consideration by officers it should be represented for Member decision.

Councillor Bell felt that family relationships should not be used to influence planning decisions.

The Planning Manager stated that buildings owned by another person cannot be used to gain planning approval, however as no objections had been received in relation to the application and there were no other concerns the committee could treat the application as an exceptional case and grant approval if it was minded to do so.

Councillor Cuthbertson referred to the apparent conflict of information coming from DARD not only with this application but applications discussed in previous months.

The Planning Manager stated that in this case the information coming from DARD was correct, in that the buildings were owned by the applicant's brother.



Councillor Cuthbertson felt it was not unreasonable to request that further information be submitted in relation to farm ownership.

The Planning Manager stated that, on reflection, it would be fair to defer the application to allow for submission of further information.

In referring to Councillor Cuthbertson's comments regarding information coming from DARD Councillor Bell felt that Councillor Cuthbertson should state the applications discussed previously as it was easy to make hypothetical arguments to sway decisions.

**Resolved** That planning application LA09/2015/0084/O be deferred to allow for submission of further information.

Councillor McKinney felt it was fair to defer the application.

Councillor Cuthbertson stated that information coming from DARD had been questioned by Members in previous months.

**LA09/2015/0674/F Retention of storage area for deposition and drainage of silt originating from quarry operations, for re-use within approved quarry area at Crancussy Road, Cookstown for Core Aggregates**

Ms McCullagh (SPO) presented a report on planning application LA09/2015/0674/F advising that it is recommended for approval.

The Chair advised the committee that a request to speak on the application had been received after the deadline however as Chair, he had used his discretion to grant the request. The Chair invited Miss Burrows to address the committee.

Miss Burrows cited numerous concerns in relation to the application namely –

- Breach of condition 7 of planning approval - I/1977/0072
- No enforcement of quarry
- Quarry not sited in location approved
- Quarry larger in scale than that approved
- Quarry not enclosed
- No noise assessment carried out at quarry

Miss Burrows also referred to enforcement proceedings taken against the quarry by NIEA in 2013 the result of which found the quarry to be immune from further action. Miss Burrows stated that the quarry should not hold immunity and encouraged further enforcement proceedings to be brought. Miss Burrows also went on to state that no action had been taken against the applicant.

Miss Burrows felt that the source of the problem was the silt being produced without adequate planning permission.

The Chair advised of further request to speak and invited Mr Teague to address the committee.

Mr Teague stated that he had worked closely with planners on this application. Mr Teague also referred to the 27 objections received and the time taken to respond to these.

With regard to Miss Burrow's comments with regard to past enforcement proceedings Mr Teague confirmed that Strategic Planning have stated that the quarry was immune from those particular enforcement actions and does not intend to pursue the matter any further.

Councillor Mallaghan proposed the approval of the application based on the information brought before Members.

Proposed by Councillor Mallaghan  
Seconded by Councillor McKinney and

That planning application LA09/2015/0674/F be approved subject to conditions as per the officers report.

In considering the objections raised the Planning Manager asked Members to bear in mind that the quarry has relevant planning permission and that the application before Members is limited to silt. The Planning Manager advised that there has been unauthorised activity at the site and enforcement cases are pending.

**Resolved** That planning application LA09/2015/0674/F be approved subject to conditions as per the officers report.

**LA09/2015/0834/F 500kw on farm anaerobic digestion (AD) plant; combined heat and power (CHP) plant; passing bay and ancillary site works at lands 70m NW of 10 Lower Kildress Road, Cookstown for Bally Renewables**

*Councillor Glasgow withdrew to the public gallery.*

Ms McCullagh (SPO) presented a report on planning application LA09/2015/0834/F advising that it is recommended for approval.

Councillor Cuthbertson stated that he had been opposed to a previous application for an anaerobic digester however he had no difficulty in proposing the approval of this application as it is to be sited at a rural farm location.

Proposed by Councillor Cuthbertson  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2015/0834/F be approved subject to conditions as per the officers report.

In response to Councillor Mallaghan's question Ms McCullagh advised that this application was called in by request of Councillor Glasgow.

Councillor Glasgow confirmed that he had requested the call in of the application due to its location.

Councillor Mallaghan stated that, by calling in the application, the planning process had probably been slowed down.

*Councillor Glasgow rejoined the meeting.*

**H/2012/0393/F      Wind turbine with a 40m hub height and 30m rotor diameter at site approximately 450m NW of 81 Oldtown Road, Castledawson for Mr J P Diamond**

Ms Doyle (SPO) presented a report on planning application H/2012/0393/F advising that it is recommended for approval.

Proposed by Councillor Reid  
Seconded by Councillor Robinson and

**Resolved**      That planning application H/2012/0393/F be approved subject to conditions as per the officers report.

**M/2015/0053/F      Conversion of former bank and provision of 3 storey extension to provide guest accommodation, providing 1 no. self-contained flat and 4 bedrooms at 13 The Square, Moy, Dungannon for Mr Vincent Daly - Ryandale**

Mr Marrion (SPO) presented a report on planning application M/2015/0053/F advising that it is recommended for approval. Mr Marrion referred to addendum to planning agenda and advised that further correspondence had been received from a neighbour to the proposal which stated that all points of objection had not been addressed. Mr Marrion advised that the points of objection raised by the neighbour in this latest correspondence had already been addressed in the report:

- Loss of daylight to kitchen and bathroom
- Overshadowing and loss of sunlight to rear balcony and garden
- Overlooking
- Car parking provision
- Plans do not show window on basement level
- Description of development misleading as it appears as a 4 bedroom apartment
- Inadequate living and amenity arrangements to cater for 14 people

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved**      That planning application M/2015/0053/F be approved subject to conditions as per the officers report.

**I/2015/0096/F      Extension to existing effluent plant, including 4 no. tanks and control room at 70 Molesworth Street, Cookstown for Karro Food Group Ltd**

Ms McCullagh (SPO) presented a report on planning application I/2015/0096/F advising that it is recommended for approval.

Councillor Clarke stated that there are occasions when there is a smell around this plant and asked if the proposed extension will help to eradicate this issue.

Ms McCullagh advised that Environmental Health have stated they have no objection to the application and did not request further information.

Proposed by Councillor Clarke  
Seconded by Councillor Mallaghan and

**Resolved** That planning application I/2015/0096/F be approved subject to conditions as per the officers report.

Councillor Mallaghan stated that the approval of this application was of significance as Karro Food Group were major employers in the Cookstown area.

**M/2015/0113/O      Dwelling and domestic garage at site adjacent to 38 Moghan Road, Castlecaulfield for Dr Patrick McKenna**

Mr Marrion (SPO) presented a report on planning application M/2015/0113/O advising that it is recommended for refusal.

In response to Councillor Gildernew's comments Mr Marrion reiterated concerns in relation to visual linkage and stated that the applicant has other lands available which would be suitable for development.

Councillor Reid proposed that planning application M/2015/0113/O be deferred for an office meeting.

Councillor Clarke stated that it was difficult to see from the photographs where else the applicant could site the dwelling.

Councillor Mallaghan seconded Councillor Reid's proposal.

The Planning Manager stated he was content to take the deferral of the application.

**Resolved** That planning application M/2015/0113/O be deferred for an office meeting.

**LA09/2015/0245/LBC**

**Change of use from bank to guest accommodation including 3 storey rear extension and internal alterations at 13 The Square, Moy, Dungannon for Mr Vincent Daly – Ryandale**

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 LA09/2015/0245/LBC be approved subject to conditions as per the officers report.

Mr Marrion advised that as this application involves a listed building there is a need to notify DoE of the recommendation to approve planning permission.

**LA09/2015/1156/O Site for 2 infill dwellings at lands between 15 and 17 Annaghnaboe Road, Coalisland for Mr Paul Quinn**

Ms McCullagh (SPO) presented a report on planning application LA09/2015/1156/O advising that it is recommended for refusal.

Councillor Mallaghan stated he had received information in relation to this application and advised that, since this application was last refused further construction has taken place close to the application site which may change circumstances. Councillor Mallaghan requested deferral of the application for an office meeting.

Proposed by Councillor Mallaghan  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2015/1156/O be deferred for an office meeting to consider whether new construction as advised by Councillor Mallaghan changes the circumstances of the application.

Councillor Mallaghan stated he had not visited the application site nor did he know the applicant or agent.

The Planning Manager stated the importance of applicants and agents attending the Planning Committee in order to provide clarification to Members.

Councillor Reid felt that applications were being held up and that agents should be bringing all relevant information to the attention of planners and the committee.

The Planning Manager advised of upcoming meeting to which all agents/architects have been invited, the purpose of this meeting is to explain planning protocols. The Planning Manager also stated the need for Members support

Councillor Bell felt that from looking at the map, the site looked sufficient for two infill dwellings.

Ms McCullagh advised that three buildings are required to achieve a built up frontage and there are only two in this instance.

Councillor Reid felt there were a number of points that required clarification in relation to this application.

**LA09/2015/1163/O Infill site for 2 no. dwellings at lands adjacent to and E of  
154 Battery Road, Moortown for Mr Declan Rocks**

Ms McCullagh (SPO) presented a report on planning application LA09/2015/1163/O advising that it is recommended for refusal.

Councillor Bell stated he could not understand why this site was not suitable as infill and felt that policy could be applied in this case.

Councillor Mallaghan stated that the applicant was unfortunate as to where the settlement line had fallen, the Councillor felt that this application should be treated as an exception as it would be approved under any other circumstance.

The Planning Manager agreed that if this site had not been next to the settlement limit then it could have been approved. The Planning Manager explained that the purpose of the settlement limit is to contain the spread of development into the rural area.

The Head of Development Management further explained that the application fails to meet policy in that it relies on development inside a settlement to extend into the rural area. It was also felt that approval of the application would be of detriment of the settlement of Moortown.

Councillor Clarke stated that two thirds of the population are rural dwellers and there needs to be space made to accommodate them. The Councillor referred to zoning and landowners who may not wish to sell land.

The Planning Manager advised Members that planning policy cannot be changed to suit circumstances and was of the belief that Council would be criticised for not applying policy in this instance. The Planning Manager advised that Moortown is classified as a village, it has a settlement limit and no zoning. He advised that the only argument for expansion outside a settlement limit is rounding off, however in this case the application could set a precedent for further ribboning.

Councillor Reid agreed that if this application was approved it would be setting a precedent for future applications.

Councillor Mallaghan felt that the circumstances of this application were exceptional and that the planning committee was in a position to make a difference. The Councillor felt that this application would be of no detriment to the settlement or to visual amenity and that it makes sense to round the settlement off. Councillor Mallaghan proposed the approval of the application.

The Planning Manager read from policy CTY15 in relation to settlement limits and felt it would be difficult to make this application an exceptional case.

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

Councillor Cuthbertson asked if social housing needed to be considered.

The Planning Manager advised that social housing need for the area would have been considered and that in respect of this application he would be more sympathetic to a proposal for a single dwelling if significant need was demonstrated. The Planning Manager suggested the deferral of the application for an office meeting.

Councillor Mallaghan withdrew his proposal to approve the application.

Proposed by Councillor McAleer  
Seconded by Councillor Reid and

**Resolved** That planning application LA09/2015/1163/O be deferred for an office meeting.

**LA09/2015/1184/O Dwelling and garage approx. 80m S of 99 Killeeshil Road,  
Dungannon for Mr Martin Hamill**

Mr Marrion (SPO) presented a report on planning application LA09/2015/1184/O advising that it is recommended for refusal.

Councillor McAleer asked if the proposal was moved within the site if this would make a difference to the recommendation.

Mr Marrion advised that the site could be reduced but that this would reinforce the theory that three dwellings could be accommodated and that the site was therefore not a small gap site.

Councillor Mallaghan proposed holding a decision on the application for 3 days to allow the applicant to submit further information based on need.

The Planning Manager advised of the planning protocol in place and recommended that the application be deferred for an office meeting.

The Council Solicitor advised the committee that it should not be deferring decisions to an officer as it does not have the authority to do so and that delegated authority can only be given through Council. The Solicitor urged Members to make a decision on an application either to approve, refuse or defer for an office or site meeting. Applications which require a meeting will then be brought back to committee for decision.

Proposed by Councillor Mallaghan  
Seconded by Councillor Bateson and

**Resolved** That planning application LA09/2015/1184/O be deferred for an office meeting.

**LA09/2015/1297/O Site for dwelling at lands approx. 33m S of 44 Derryoghill Road, Dungannon for Mr Gary Lavery**

Mr Marrion (SPO) presented a report on planning application LA09/2015/1297/O advising that it is recommended for refusal.

Councillor Bateson felt that more credibility would be given to applications recommended for refusal if the applicant or agent were in attendance to make representation.

Proposed by Councillor Bateson  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2015/1297/O be refused on grounds stated in the officer's report.

**Clarification**

Councillor Reid asked for clarification in respect of earlier comments made by Council Solicitor.

The Planning Manager felt that Members were getting to a stage of deferring an application and seeking to delegate authority just because it was recommended for refusal. The Planning Manager stated that, in order to defer an application, there needed to be a reasonable possibility of bringing it to an approval.

Councillor Reid asked whether this would affect past decisions made by the committee.

The Council Solicitor advised that she would have no concerns relating to past decisions unless they were challenged.

Councillor Clarke felt that applicants/agents need to put the effort into their applications and provide adequate information in order to assist Members in coming to a decision regarding an application.

The Planning Manager referred to the Scheme of Delegation which is in statute and advised Members that when there is deviation from this Council can be subject to legal challenge.

Councillor Bell felt that the threat of judicial review when making a decision was not beneficial.

The Planning Manager clarified that he has guided the Committee when making decisions but that he had never made the threat cited by Councillor Bell.



The Council Solicitor advised Members that when making decisions they should give consideration to “JR proofing” as this reduces the risk of a successful challenge.

*The meeting recessed at 8.58 pm and recommenced at 9.17pm.  
Councillor Gildernew did not return to the meeting.*

**M/2014/0448/F      Single storey extension, car parking and synthetic pitch  
with ball stop fencing at Tamnamore EOTAS, 151  
Tamnamore Road, Dungannon for Southern Education and  
Library Board**

Mr Marrion (SPO) presented a report on planning application M/2014/0448/F advising that it is recommended for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved**      That planning application M/2014/0448/F be approved subject to conditions as per the officers report.

Councillor Cuthbertson asked if the work related to this application had already been completed.

Mr Marrion advised that there were other extensions to the school that were approved previously but he was not aware of work having commenced regarding this application.

Councillor Cuthbertson advised of parking issues around the school which restricted access to adjacent Tamnamore Close and asked if the two mobile classrooms will be removed as part of the application.

Mr Marrion advised that amended plans have provided an additional four car parking spaces, he further stated that as the mobile classrooms encroach onto the site they should be removed as part of this proposal.

Councillor Reid asked if it was possible to include a condition within the approval that the roadway into Tamnamore Close would not be blocked.

The Planning Manager felt that the conditions of approval attached to the application, as stated within the report, were adequate.

**M/2015/0059/O      Dwelling 60m N of 12 Rossmore Road Dungannon for Mr  
Ciaran Quinn**

Mr Marrion (SPO) presented a report on planning application M/2015/0059/O advising that it is recommended for approval. Mr Marrion referred to addendum to planning agenda and asked Members to note that the description of the development should read ‘dwelling’.

Proposed by Councillor Mallaghan  
Seconded by Councillor Reid and

**Resolved** That planning application M/2015/0059/O be approved subject to conditions as per the officers report.

**M/2015/0165/O Site for dwelling between 33 and 35 Cookstown Road, Dungannon for Mr Raymond McCann**

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

Proposed by Councillor Mallaghan  
Seconded by Councillor Bateson and

**Resolved** That planning application M/2015/0165/O be approved subject to conditions as per the officers report.

**LA09/2015/0781/O Dwelling and garage adjacent to 45 Gortahurk Road, Desertmartin for Mr John Murphy**

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

*Councillor McKinney declared an interest in the application.*

Proposed by Councillor Bateson  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2015/0781/O be approved subject to conditions as per the officers report.

**P50/16 Consultation response to Northern Ireland Housing Executive on "Sustainable Rural Communities – Full Policy Framework"**

Members noted previously circulated report which provided the Council's response to the Northern Ireland Housing Executive (NIHE) consultation on "Sustainable Rural Communities – Full Policy Framework" which relates to the NIHE Rural Housing Policy.

## **Matters for Information**

**P51/16 Appeal Decisions Received**

The Head of Development Management presented previously circulated report advising Members of recent decisions made by Planning Appeals Commission and highlighted the commissioner's comments in relation to I/2014/0390/O which concluded that foundations/footings do not constitute a building.

In response to Councillor McPeake's question the Head of Development Management advised that the planning department of this Council insists that there are buildings in place.

The Planning Manager stated that the system needs to be seen to fair and that each application will be accessed on its own merits.

In response to Councillor Bateson's question the Planning Manager stated he did not believe there were retrospective implications in respect of the recent PAC decision.

The Council Solicitor stated that it is difficult to stray from the requirement of having 3 or more buildings (which are built) in order to meet policy.

The Planning Manager agreed that policy should be followed however there may be exceptional cases.

Councillor McPeake asked if the fact that buildings were not in place was the reason for original refusal.

The Head of Development Management stated that the Councillor was correct.

#### **P52/16      Report of Delegated Decisions Issued in January 2016**

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

#### **CONFIDENTIAL BUSINESS**

Proposed by Councillor Glasgow  
Seconded by Councillor Reid and

**Resolved**      That items P53/16 to P56/16 be taken as confidential business.

#### **P57/16      Duration of Meeting**

The meeting was called for 7.00pm and ended at 10.30 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

**B**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> H/2014/0072/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 1 No. Norwin 225kW Wind Turbine, Hub height of 40.156 metres, 14.550 metre Rotor Radius - Overall Height 54.706 metres	<b>Location:</b> Approximately 317 NNW of 134 Tirkane Road Maghera County Londonderry BT46 5NH
<b>Referral Route:</b>  This application is being presented to Committee as there has been 3 objections received in relation to the proposed development.	
<b>Recommendation:</b>	<b>APPROVE</b>
<b>Applicant Name and Address:</b> Mr. Peter McKenna 6 Tirnony Road Maghera County Londonderry BT46 5NF	<b>Agent Name and Address:</b> T4 Architects 169 Coagh Road Stewardstown Dungannon BT71 5LW
<b>Executive Summary:</b>	
<b>Signature(s):</b>  <b>Malachy McCrystal</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Eircom UK Limited	No Objection
Non Statutory	MP & E Trading Company & EMR Integrated Solutions	No Objection
Non Statutory	The Joint Radio Company	No Objection
Non Statutory	P.S.N.I. Information And Communications Services	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	No Objection
Non Statutory	NI Transport - Enniskillen Office	Substantive Response Received

Non Statutory	N.I Water - Windfarms	No Objection
Non Statutory	Belfast International Airport	No Objection
Non Statutory	Ofcom Northern Ireland	Substantive Response Received
Non Statutory	National Air Traffic Services	No Objection
Non Statutory	Env Health Magherafelt District Council	Add Info Requested
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	No Objection
Non Statutory	Arqiva Services Limited	No Objection

**Representations:**

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues****Representations:**

Three representations have received which related to the following issues:-

- The visual impact, including the cumulative impact, of the turbine on the local landscape;
- The proposal is being promoted by a private company with no community benefit;
- The use of the existing access laneway is unsuitable for use by the required heavy construction traffic. Use of the laneway by such traffic would damage the laneway.

The visual impact of the turbine has been considered from all the local vantage points and in doing so, it is my opinion that the turbine, while by its very nature will be highly visible, it benefits from the rising ground to the rear which forms a backdrop and therefore lessens the visual impact. While there is no doubt that the proposed turbine will be viewed in the same plane as the existing and approved turbines, it is sufficiently well spaced from those so as not to create a detrimental cumulative impact.

Although the turbine may be proposed by a private company and while there may be additional benefits in having it linked to a community use, the fact that it is not, is not a justifiable reason for refusal.

The use of the existing laneway is a private matter for the owners/users of the laneway to consider. If damage is sustained during the construction works due to construction traffic or other means, this is a civil matter and not for consideration in the assessment of this application.

**Detail of the proposal:**

The proposal is for the erection of a single Norwin 225Kw wind turbine with a height of 40.156m to the centre of the hub and a 33.0m rotor diameter, giving an overall height of 56.656m from the ground to the top of the rotor tip. The turbine is set on a concrete base designed by structural engineers with a 39.0m high tubular tower, painted white and non-reflective with three blades and rotor housing also white non-reflective fibreglass while the control box is british racing green.

**Relevant Site Histories:**

There is no previous planning approval on this site.

**Characteristics of the site and area**

The application site is situated approximately 305 metres North North West of 134 Tirkane Road Maghera, within the open countryside as defined by the Magherafelt Area Plan 2015. The site lies within Sperrins AONB and within LCA 39 Glenshane Slopes. The site is also located 275m west of Carnatogher Dispersed Rural Community as designated in the Magherafelt Area Plan 2015. The site is located within a field which rises up steeply towards the northern boundary which is defined by a low hedge of gorse bushes. There is a post and wire fence defining the eastern field boundary. The site is accessed via an existing road/farm lane which also provides access to a number of dwellings at no's 134, 134A and 136 in addition to a number of farm building groups and farm lands.

**Planning Assessment of Policy and Other Material Considerations****Development Plan and Key Policy Consideration:**

The site is located within an area of unzoned land in the rural area and is also within the Sperrins Area of Outstanding Natural Beauty.

**Other Policy and Material Considerations**

The main policy considerations in the assessment of this proposal are as follows:-

- Strategic Planning Policy for Northern Ireland (SPPS)
- Regional Development Strategy – RG5, RG9
- Planning Policy Statement 2 – Planning & Nature Conservation
- Planning Policy Statement 3 (Revised) – Access, Movement & Parking
- Planning Policy Statement 18 - Renewable Energy
- PPS 18 Best Practice Guidance
- Planning Policy Statement 21 – Sustainable Development in the Countryside in relation to ancillary buildings & structures elsewhere in the countryside.
- Magherafelt Area Plan 2015
- DCAN 15 Vehicular Access Standards
- Wind Energy Development in Northern Ireland's Landscapes- supplementary Planning Guidance to accompany PPS18 'Renewable Energy' – Aug 2010.

The proposal is for a single Norwin 225Kw wind turbine with a height of 40.156m to the centre of the hub and a 33.0m rotor diameter, giving an overall height of 56.656m from the ground to the top of the rotor tip. From guidance provided in PPS 18 Best Practice Guidance I estimate that a turbine with a capacity of 225Kw has the capability to provide electricity for approximately 144 homes. PPS 18 is supportive of projects for generating renewable energy and its aim is to facilitate the siting of renewable energy generating facilities in appropriate locations. An objective is to ensure that the environmental, landscape, visual and amenity impacts associated with or arising from renewable energy development are adequately addressed. Policy RE1 of PPS18 states 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. It adds that development that generates energy from renewable resources will be permitted provided that the proposals will not result in an unacceptable adverse impact on :-

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



- (b) visual amenity and landscape character;
- (c) biodiversity, nature conservation or built heritage interests;
- (d) local natural resources, such as air quality or water quality; and
- (e) public access to the countryside.

The site is located within the Sperrins Area of Outstanding Natural Beauty as indicated within the Magherafelt Area Plan 2015 and is also in an area of undisturbed solid ground. The site is located in an area of unimproved grass land which has little habitat value. Assessment of the visual impact of wind energy development is not restricted to designated landscapes. Policy RE1 states that the supplementary planning guidance "Wind Energy Development in Northern Ireland's Landscape's" will be taken into account in assessing all wind turbine proposals. Each landscape has a different capacity for accommodating wind energy development. The supplementary guidance places the site within the Glenshane Slopes (LCA), which is identified as No.39.

By their very nature, wind turbines are likely to be visible in the landscape. However, there are some situations where such a proposal would not result in an adverse impact on visual amenity and landscape character. The aforementioned supplementary planning guidance (SPG) identifies LCA 39 as having a high overall sensitivity to wind turbine development. The location, siting, layout and design considerations advises that this LCA is a very exposed landscape with very high landscape and visual sensitivity. It recommends that any turbine development be closely associated with and reflects the scale of farmsteads. However, care should be taken to avoid adverse impacts on the extremely sensitive open, exposed slopes and ridgelines and on key landscape and visual characteristics and values of the LCA.

There will be transient views of the proposed turbine when travelling along the Tirkane Road, in either an north-westerly or south-easterly direction. There will also be views of the turbine when travelling along the Halfgayne Road or the Urbalshinny Road, and also along the Slaghtneill Road. There is a definite potential for cumulative impact of this turbine with other existing, approved and proposed turbines with the nearest (approved but not erected) turbine being 370m to the north west with two additional turbines being 830m north-west (proposed) and 1Km north, north-west (existing). However, on viewing these from the aforementioned critical viewpoints, it is my opinion and that of the Principal Planning Officer, that the proposed turbine will be sufficiently well spaced from the others so as not to cause a detrimental cumulative impact. The proposed turbine will benefit from rising ground which continues to rise towards the north west with Tullykeeran Mountain and Carntogher in the background.

#### Assessment of the first part of policy

(a) Due to the scale, location and distance of this turbine from the nearest dwelling and public road, I do not anticipate any negative impact on human health and residential amenity.

Magherafelt District Council – Environmental Health Department originally advised that a detailed noise impact assessment was required. Subsequent to further information being provided, Environmental Health Department advised that this was acceptable and provided suggested conditions.

(b) As the supplementary planning guidance is not intended to be prescriptive, an assessment must be made of the proposal's likely impact on visual amenity and local character. The site is located on an undulating landscape but given the topography of the land, the turbine will be visible with the turbine already approved under H/2011/0046/F, the turbine currently under consideration under H/2013/0253/F as well as an existing turbine. However, the four turbine will be read together from a distance and will benefit from the rising ground to the north and west which provides a good back drop. The turbine which is proposed to have a hub height of 40.156m would be most visible from the Tirkane Road and the Halfgayne Road when travelling north-west/south-east or north-east/south-west respectively. The turbine would also be visible on approach along the Urbalshinny Road and Slaghtneill Road. From these viewpoints a turbine would not be visually dominant in the rural landscape.

- (c) The site is located on agricultural land and is not in the proximity of any archaeological monument.
- (d) The proposal will not have an adverse impact on air or water quality.
- (e) The proposal will not impact on public access to the countryside.

Assessment of the second part of the policy:-

- (i) Also addressed under point (b) above. The proposal will go towards meeting Government targets and EU directives with regard to renewable energy production targets. Given this commitment by Government, it is important for society at large to accept wind turbines as a feature of many areas of the Region for the foreseeable future. This medium size commercial wind turbine will be visible from the Tirkane Road, Halfgayne Road, Urbalshinny Road and the Slaghtneill Road. Due to the winding road network and existing mature roadside hedging, there will be filtered views of this proposal in the landscape.
- (ii) An extant approval exists for a turbine 370m to the north west of the proposed site under H/2011/0046/F with a second turbine currently still under consideration Ref: H/2013/0253/F a further 460m to the north/north west. A further turbine has been erected in the region of 1Km to the north-west of the proposed site and at present is the only turbine which is visible with the proposal. There is potential for a cumulative impact with the existing and approved turbines in addition to the proposed turbine still under consideration. However, while this would be the fourth turbine in total in this area, in my opinion in consultation with the Principal Planning Officer, there is an acceptable separation distance between all the turbines in addition to the rolling landform and the large area of coniferous forest, to provide an acceptable visual break between these. It is therefore the considered opinion that the proposal will not have an unacceptable cumulative impact.
- (iii) The proposal is to be located on relatively solid ground and as the site is relatively flat, therefore there is no risk of landslide or bog burst.
- (iv) the proposal does not appear to be close to communications installations; radar or air traffic control systems, emergency services communications, or other telecommunication systems and will not have detrimental impact on them.
- (v) the proposal is located 250m back from the public road. PPS 18 considers that for small individual turbines e.g. on a farm enterprise, the fall over distance (i.e. the height of the turbine to the tip of the blade) plus 10% is often used as a safe separation distance. In this case that equates to  $56.65\text{m} + 5.66 = 62.31\text{m}$ . There are no sensitive receptors within the relevant fall distance. The proposal is not close to any railways or airports and will not have detrimental impact on them.
- (vi) Addressed under point (a) above.
- (vii) If approved, a condition can be attached requiring the removal of the turbine and to restore the land to its original state within 12 months of the cessation of electricity production from the turbine.

### Consultee responses

Magherafelt District Councils Environmental Health Department advised that a noise assessment was required. Following the submission of this assessment, EHD advise that they have no further concerns.

OFCOM advised that there is the possibility of two fixed links being affected. The operators of these links were consulted and subsequently advised that they have no issues with the proposal. No other consultees has any issues with the proposed development.

As required by the SPPS, I have taken into account the wider environmental, economic and social benefits of the proposal. In this evidential context, appropriate weight has been given to these material considerations as they are considered to outweigh the adverse impact on the area's visual amenity and landscape character. Accordingly I recommend that the proposal should be approved.

<b>Neighbour Notification Checked</b>	<b>YES</b>
<b>Summary of Recommendation:</b>	
Approve subject to conditions	
<b>Conditions</b>	
<p>1. As required by Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: Time Limit.</p>	
<p>2. Within 12 months of the cessation of electricity generation at the site all structures shall be removed and the land restored in accordance with a scheme to be submitted to and agreed in writing with Mid Ulster District Council at least one year prior to the commencement of any decommissioning works.</p> <p>Reason: To restore and maintain the landscape quality of the area.</p>	
<p>3. Within 4 weeks from receipt of a written request from Mid Ulster District Council, following an amplitude modulation (AM) complaint which is judged to be reasonable 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 Mid Ulster District Council for its written approval. The scheme shall be in general accordance with:</p> <ul style="list-style-type: none"> <li>- Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance;</li> <li>- Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology;</li> <li>- The methodology published by Renewable UK on the 16th December 2013;</li> </ul> <p>and implemented within 3 months of the written request of Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.</p> <p>Reason: To control the levels of AM from the development at noise sensitive locations.</p>	
<p>4. The level of noise immissions from the wind turbine (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 the table 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 the tables shall be represented by the physically closest location listed in the tables unless otherwise agreed by Mid Ulster District Council.</p>	
Table 1: Noise Limits dB LA90 at all times	
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
140 Tirkane Road	35.3   36.5   37.6   38.7   39.8   39.8   39.8   39.8   39.8
145 Tirkane Road	29.9   31.0   32.2   33.3   34.5   34.5   34.5   34.5   34.5
150 Tirkane Road	30.5   31.7   32.8   33.9   35.1   35.1   35.1   35.1   35.1
15 Sefinn Hill	27.2   28.3   29.5   30.6   31.7   31.7   31.7   31.7   31.7
136 Tirkane Road	29.8   30.9   32.1   33.2   34.3   34.3   34.3   34.3   34.3
134 Tirkane Road	35.4   36.6   37.7   38.8   39.9   39.9   39.9   39.9   39.9

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

5. Within 4 weeks of a written request by Mid Ulster District Council, 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 turbine 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 Mid Ulster District Council for written approval prior to any monitoring commencing. Mid Ulster District Council 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.

6. The wind turbine operator shall provide to Mid Ulster District Council the results, assessment and conclusions regarding the noise monitoring required by Condition 5, 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 Mid Ulster District Council unless otherwise extended in writing by Mid Ulster District Council.

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

7. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind turbine. This data shall be retained for a period of not less than 12 months. At the request of Mid Ulster District Council, the recorded wind data, standardised to 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be made available to it.

Reason: To facilitate assessment of monitoring exercises and complaint investigation.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	4th March 2014
<b>Date First Advertised</b>	20th March 2014
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 134 Tirkane Road, Tirkane, Maghera, Londonderry, BT46 5NH, Michael McKenna 134, Tirkane Road, Maghera, Londonderry, Northern Ireland, BT46 5NH Eamonn McKenna 134A Tirkane Road, Maghera, Londonderry, Northern Ireland, BT46 5NH The Owner/Occupier, 134A Tirkane Road, Tirkane, Maghera, Londonderry, BT46 5NH, The Owner/Occupier, 136 Tirkane Road, Tirkane, Maghera, Londonderry, BT46 5NH, John McKenna 136, Tirkane Road, Maghera, Londonderry, Northern Ireland, BT46 5NH	
<b>Date of Last Neighbour Notification</b>	1st June 2015
<b>Date of EIA Determination</b>	1 <sup>st</sup> April 2014
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: H/2014/0072/F Proposal: Proposed 1 No. Norwin 225kW Wind Turbine, Hub height of 40.156 metres, 14.550 metre Rotor Radius - Overall Height 54.706 metres Address: Approximately 317, NNW of 134 Tirkane Road, Maghera, County Londonderry, BT46 5NH, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	

**Drawing Numbers and Title**

Drawing No. 06

Type: Further Particulars

Status: Submitted

Drawing No. DOC 01

Type: Further Particulars

Status: Submitted

Drawing No. DOC 02

Type: Further Particulars

Status: Submitted

Drawing No. 04

Type: Site Appraisal or Analysis

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Site Appraisal or Analysis

Status: Submitted

Drawing No. 05

Type: Proposed Elevations

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> M/2014/0454/F	<b>Target Date:</b> 31.12.2014
<b>Proposal:</b>  Proposed 2 no. pig fattening sheds and 1 no. sheep shed with 2 no. feed bins (Pig sheds to contain 1950 pork pigs in total)	<b>Location:</b>  Land approx 875m North of 14a Doolargy Road Branny Aughnacloy
<b>Referral Route:</b>  2no objections received.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b>  Mr D Sawyers  39 Altamuskin Road  Sixmilecross  Co Tyrone  BT79 9DP	<b>Agent Name and Address:</b>  Henry Marshall Brown Architectural Partnership  10 Union Street  Cookstown  BT80 8NN
<b>Executive Summary:</b> No consultee returned comment of objection. The proposal complies with the policy for this type of application in the countryside. The objections relate to the adjacent road, damage to the road, access arrangements, rush hour traffic, smell, decrease in value and noise. All of these points have been addressed below. Accordingly I recommend approval.	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Natural Heritage	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	Consulted in Error
Non Statutory	Rivers Agency	No Objection
Non Statutory	DARDNI - Omagh	Substantive Response Received
Non Statutory	Industrial Pollution & Radio Chemical Inspectorate	Considered - No Comment Necessary
Non Statutory	NI Transport - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Superseded by further Consultation
Non Statutory	Industrial Pollution & Radio Chemical Inspectorate	Substantive Response Received
Non Statutory	NI Transport - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	No Objection
Non Statutory	Water Management Unit	Add Info Requested
Statutory	NIEA	Advice



Non Statutory	NIEA	Substantive Response Received
Non Statutory	NI Transport - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	No Objection
Statutory	NIEA	Content
Statutory	NIEA	Advice
<b>Representations:</b>		
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	
<b>Summary of Issues</b>		
<p>Rivers Agency and Water NI have been consulted for opinion on the back of issues raised by the objectors and neither consultee returned comment of objection. NIEA had expressed concerns regarding ammonia emissions, subsequent Air Quality Impact Assessments, including those from proposed sheep numbers, allayed their concerns. No other consultee has any objection to the proposal.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The northern boundary of the site is defined by post and wire fence. The southern boundary of the site is defined by existing agricultural laneway approximately 500m off Doolargy Road. The western boundary of the site is defined by post and wire fence further north and bushy hedge approx 4m tall. The eastern boundary of the site is undefined on the ground; The current land use is existing slurry pit and agricultural field The land slopes downwards from the north and north east to the south and south west. The site is a cut out plot of a larger field.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>PPS 21 - Sustainable Development in the countryside.</p> <p>CTy 12 - Agricultural and Forestry Development.</p> <p>Dungannon and South Tyrone Area Plan 2010 PPS 3: Access, Movement and Parking. PPS 21: Sustainable Development in the Countryside. Strategic Planning Policy Statement.</p> <p>There is no planning history on the site.</p> <p>2No objections have been received on file.</p>		

First objection received 13.10.2014.

Summary of issues raised:

Potential detrimental impact on natural landscape surrounding Branny Hill rath:

Branny hill rath lies to the south east lies 400-450m approx away. The application site lies outside of any hazard zoning on Departmental computer system. PPS 6, Planning, Archaeology and the built Heritage states the Department will pay particular attention to the impact of the proposal on 'the critical views of, and from the site or monument; the access and public approaches to the monument and the understanding and enjoyment of the site or monument by visitors.

Case officer is of the opinion that the proposal will not affect critical views of the site. The site is set off the public road approx 500m on low lying land. Land rises beyond the application site towards the north and south. The proposal will not affect the access and public approaches to either monument nor is likely to affect the understanding and enjoyment of the site by visitors, given Environmental Health comments dated received 27.10.2014.

Odour and use of Manure - NIEA had asked for clarification on the levels of emissions and also relating to dispersion. This information was provided by the applicant and NIEA subsequently had no concern of objection. Similarly Environmental Health had no objection given the distance to the nearest receptor.

Damage to Doolargy Road: No evidence was produced to substantiate claims that the approval of this application would further damage the bridge mentioned. Similarly, the potholes referred to are symptomatic of many rural roads in our district. The objector also quotes the access to Doolargy Road, increase in traffic and rush hour/peak traffic. Transport NI had no objection to the proposal or comment on the objection.

The second objection received raised similar issues to the first. Transport NI and EnvHealth were both consulted for opinion on the matters raised on the objections and returned comment stating that TNI felt they could not sustain reason for refusal on the grounds raised and Env Health felt there was adequate separation to the nearest receptor that loss of amenity would not be felt by those closest. As per the first objection I do not consider Mid Ulster Council could sustain reason for refusal on grounds of these objection letters given consultee responses to same.

#### Assessment of Policy

There are no environmental protection or other protective zonings on the application site

In terms of CTY 12, permission will be granted for development on an active and established agricultural holding where it is demonstrated that:

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

The applicant submitted a P1C form with their application and has indicated their farm business is established pre 2000. DARD were consulted and confirmed the applicant is an established farmer 6+ years and the applicant claims Single Farm Payment.

The applicant has presented a supporting statement with their application dated 16th January 2014. The applicant has indicated their client does not have the space at their existing farmyard to accommodate the proposal, and has picked the most suitable site. The applicant currently has sows and pigs on their farmyard, but due to lack of space at current farmyard, has to pay other farmers to feed pigs on their farms until the animals are ready to go to food processing plant. This is unsatisfactory to the applicant due to risk of disease, additional transport costs and

problems supervising. Existing buildings are all utilised which gives the applicant no option but to utilise a new site. The applicant has indicated the new site is less prominent than the existing farm and will better integrate.

b) In terms of character, it is appropriate to its location and it visually integrates into the local landscape and additional landscaping is provided where necessary;

There are no issues with build up for this site. It is located within the NW corner of the host agricultural field. The site is located at a lower level than Doolargy Rd and benefits from dropping levels. The applicant has provided existing and proposed levels, including a section, demonstrating the pig house will be located at a lower level than the adjacent road. The NW boundary of the proposed site is defined by mature deciduous trees and hedge. The SW/roadside boundary is defined by a 1.5m - 2m mature deciduous hedge. A portion of the existing hedge will have to be removed to accommodate the site access, however the applicant has provided a supplementary planting scheme to reduce integration issues.

Public aspect of this site is limited to Doolargy Road. Whilst the site is not invisible, in particular from the Tjunction travelling east views are intermittent through mature hedge row.

d) It will not have an adverse impact on the natural or built heritage; NIEA were consulted for opinion on same and have no overall objection subject to condition. The site is not located within an area of special interest. There will be no detrimental impact on natural or built heritage.

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

Environmental Health have been consulted in respect of the proposed scheme and have objection, given the separation distances.

In cases where a new building is proposed, applicants will also need to provide sufficient information to confirm:

- There are no suitable existing buildings on the holding that can be used. This is the type of proposal by its very nature is not one which one would expect to be able to be accommodated on other buildings within the farm holding.

- The design and materials are sympathetic to the locality and adjacent buildings

The building is similar to other agricultural buildings in the vicinity of the site, and is designed for the purposes of agriculture.

- The proposal is sited beside existing farm buildings

Although the sheds are not sited beside existing farm buildings, I consider a degree of betterment here to maximise the distance to the nearest third party receptors, taking into account a predominant sw wind direction.

Exceptionally, consideration can be given to an alternative site away from the farm buildings, provided there are no other sites available at another group of buildings on the holding, where:

- It is essential for the efficient functioning of the business or
- There are demonstrable health and safety years.

In light of the supporting evidence, approval is recommended. The applicant has demonstrated they are an established farmer, who has clear health and safety needs to locate a pig house

away from the main farm on a well integrated site in order to prevent the spread of airborne disease and to enable him to diversify his activities.

In terms of PPS 3, Access, Movement and Parking, policy AMP 2 (Access to public roads) states: planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic

Transport NI had no objection subject to condition to the proposal at this location using the existing access. The TAF indicates on average 1.6 HGV movements per week to the facility, these are outlined on page 4 of same. I do not consider this excessive for this type of proposal and TNI had no objection.

In terms of the Strategic Planning Policy Statement for Northern Ireland, it allows for farm diversification, where the proposal is necessary for the efficient operation of the holding or enterprise. The SPPS stresses the importance of development being sited and designed to integrate sympathetically with their surroundings and not having an adverse impact on the rural character of the area and meeting other planning and environmental considerations, including drainage, sewerage, access and road safety. I have addressed these issues above.

Rivers Agency, NI Water, Transport NI have no objections. NIEA have no objections and Environmental Health had no concerns.

Although the objectors raised grounds for concern, neither consultee felt they could sustain these at appeal, if refused.

I recommend the application be approved subject to recommended conditions.

#### **Neighbour Notification Checked**

**Yes**

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

I recommend the application be approved as the additional information supplied by the applicant has satisfied those consultees who asked for additional information. I do not consider MUC could sustain the grounds for concerns on the 2no objections at appeal if minded to refuse the application. The proposal complies with the relevant policy for this type of application in the countryside.

#### **Conditions:**

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

Reason: Time Limit.

2. The existing mature trees and vegetation along the entire site boundaries shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

3. The vehicular accesses, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No.02 bearing the date stamp 17/09/2014 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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.

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

#### Informatives

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

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

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

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

5. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.

6. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any

structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

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

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 90569605

7. The applicant should be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014.

The applicant should refer and adhere to the precepts contained in DOE Standing Advice Notes 4.

Pollution Prevention Guidance, 5. Sustainable Drainage Systems, 11. Discharges to the Water Environment and 12. Agricultural Developments

Standing Advice notes are available at:

[http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice.htm](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm)

**Signature(s)**

**Date:**

ANNEX	
Date Valid	17th September 2014
Date First Advertised	22nd September 2014
Date Last Advertised	
<b>Details of Neighbour Notification</b> (alladdresses)  Concerned Doolargy Road Residents   Local Resident	
Date of Last Neighbour Notification	
Date of EIA Determination	24th September 2014
ES Requested	Yes /No
<b>Planning History</b>  Ref ID: M/2014/0454/F  Proposal: Proposed 2 no. pig fattening sheds and 1 no. sheep shed with 2 no. feed bins (Pig shedsto contain 1950 pork pigs in total)  Address: Land approx 875m North of 14a Doolargy Road Branny Aughnacloy,  Decision:  Decision Date:	
<b>Summary of ConsulteeResponses</b>	

<b>Drawing Numbers and Title</b>
<p>Drawing No. 02</p> <p>Type:</p> <p>Status: Approved</p> <p>Drawing No. 01</p> <p>Type:</p> <p>Status: Approved</p> <p>Drawing No. 03</p> <p>Type:</p> <p>Status: Approved</p>
<b>Notification to Department (if relevant)</b>  <p>Date of Notification to Department:</p> <p>Response of Department:</p>





## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> M/2014/0524/F	<b>Target Date:</b> 09.02.2015
<b>Proposal:</b>  Proposed mushroom production, packaging, storage and distribution complex and associated site works.	<b>Location:</b>  Land approx 30m SW of 15 Annaghilla Road Augher
<b>Referral Route:</b>  1no objection received.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b>  Mr Peadar Mc Gee  Drumconnolly  Emyvale  Co Monaghan	<b>Agent Name and Address:</b>  Mr Bernard Donnelly  30 Lismore Road  Ballygawley  BT70 2ND
<b>Executive Summary:</b>  <b>Executive Summary:</b> The proposal is for an industrial scale development creating 45-50 part time and full time jobs in Augher. The site will access onto the Annaghilla Road, a protected route outside of and	

**immediately adjacent to the settlement of Augher. One objection has been received. I recommend the application be approved for reasons explained below.**

**Signature(s):**

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Industrial Pollution & Radio Chemical Inspectorate	Considered - No Comment Necessary
Non Statutory	NI Transport - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Substantive Response Received
Non Statutory	Protecting Historic Monuments	Add Info Requested
Non Statutory	Rivers Agency	No Objection
Non Statutory	NI Transport - Enniskillen Office	Superseded by further Consultation
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Considered - No Comment Necessary
Non Statutory	Rivers Agency	Considered - No Comment Necessary
Non Statutory	Land and Resource Management	Considered - No Comment Necessary
Statutory	NI Transport - Enniskillen Office	Standing Advice
Statutory	Environmental Health Mid Ulster Council	Additional Information Required
Statutory	NI Transport - Enniskillen Office	Advice

Non Statutory	Rivers Agency	No Objection
<b>Representations:</b>		
Letters of Support	2	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p>Consultee responses have been outlined at the conclusion of this report.</p> <p>The letter of objection raised several concerns including : traffic generation, noise and lights, the environmental effects and the effect on the increase in traffic on the main road.</p> <p>The letters of support from the First Minister and Department of Agriculture minister Michelle O'Neill outline both the economic benefits to the locality the applicant's economic background requesting the case officer deal with the application in an expedient manner.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The northern boundary of the site is defined by post and wire fence and lane way to the adjoining dwelling to the NE.</p> <p>The southern boundary of the site is defined by existing River Blackwater and small line of semi mature native species hedge line.</p> <p>The western boundary of the site is defined by 4-5m grass verge and post and wire fence along its entirety.</p> <p>The eastern boundary of the site is defined by post and wire fence and along the southern half a mature native species hedge line 5-6m high and a line of 'wind' bushes further north of approx. same height. The land mass falls from the north towards the south and is agricultural grazing land.</p> <p>The village of Augher lies immediately across the river Blackwater above the application site to the south.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>PPS 21 - Sustainable Development in the Countryside</p> <p>PPS 4 - Planning and Economic Development</p> <p>PPS 6 - Planning, Archaeology and the Built Environment</p> <p>PPS 3 - Access, Movement and Parking</p> <p>PPS 1 - General Principles</p> <p>Dungannon _ South Tyrone Area Plan 2010.</p> <p>Strategic Planning Policy Statement for Northern Ireland</p> <p>2no letters of support have been received from First minister Arlene Foster and Michelle O'Neill MLA.</p> <p>There is no previous planning history on this site.</p>		

The proposal lies outside of any development limit as defined in the Dungannon and South Tyrone Area Plan 2010 and therefore PPS 21, amongst other policy, is the material planning consideration. PPS 21 allows for development in the countryside in a limited number of cases, in terms of economic development proposals it refers the reader to PPS 4, Planning and Economic Development.

The site lies on a protected route, the Annaghilla Road which is the main thoroughfare between Enniskillen and Belfast. PPS 3, Access, movement and parking deals with access/parking standards. PPS 3 AMP 3 - Access to protected routes. DOE issued an addendum to PPS 3 Clarification of Policy AMP 3 (Access to protected routes) but for this category of development the guidance within same remains that contained in the original document.

AMP3 serves to 'restrict the number of new accesses and control the level of use of existing accesses onto Protect Routes. Outside of settlement limits PPS 3 states approval may be justified in particular cases for other developments which would meet the criteria for development within a Green Belt where access cannot be reasonably be obtained from an adjacent minor road. In this instance use of the lane to the north is not viable as the lands are not within the control of the applicant. Additionally use of this access would necessitate additional land NE of the access which is not within the control of the applicant. Moving the access towards the village would have the benefit of taking it away from the corner at the top of the hill, the new access would be in plain sight when travelling from Augher and traffic would already have had to have slowed somewhat for the corner on approach to Augher.

AMP 3 serves to restrict the number of new accesses, not ban them altogether. I have given weight to the fact the proposal is immediately adjacent to the settlement of Augher. AMP 3 states its aim is to protect the roads which facilitate efficient movement of traffic over long distances in Northern Ireland. The roads contribute significantly to economic prosperity by providing efficient links between all the main towns'.

I don't consider that approval here, immediately adjacent to the settlement limit, would damage the ability of the road network to fulfil the role of facilitating efficient movement of traffic and accordingly recommend this be treated as an exception in this case bearing in mind location and economics and the site as discussed below. Full standards shall be agreed with Transport NI prior to any commencement of works on the site.

PED 2 (Economic Development in the Countryside) of PPS 4 is relevant to this application. PED 2 states proposals for economic development uses in the countryside will be permitted in a number of instances (PED 3, 4, 5 and 6):

The first of these is the expansion of an established economic development use in the countryside (PED3). PED 3 refers to the reuse and extension of existing buildings on site, which is clearly not applicable in this instance as the site is currently being used as agricultural land.

PED 4 is the redevelopment of an established economic development use in the countryside.

Again, I do not consider that PED 4 is applicable as it refers to redevelopment of established uses in the countryside and alternative uses of economic development sites in the countryside. I do not consider this to be applicable.

PED 5 refers to Major Industrial Development in the Countryside.

PED 5 refers to development making a significant contribution to the regional economy. I consider that the scale of the proposal even with a proposed 45-50 staff visiting the site daily as indicated in the P1 application form to be below the threshold to be considered under PED5

### PED 6 (Small Rural Projects)

PED 6 opens by stipulating 3no criteria against which proposals for small rural industrial enterprise on land outside a village or smaller rural settlement will be assessed. Each of these must be satisfied in order that permission would be forthcoming outside of the settlement limit.

The criteria are 1) that no suitable site exists within the settlement limit; 2) the proposal would benefit the local economy or contribute to community regeneration and thirdly that the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl. I will deal with these in order they appear in policy;

In terms of suitable sites within the settlement limit, I refer to the supporting statement provided by the applicant date stamped received 29 January 2015. The applicant has examined other sites, due to the scale of the proposal 5no sites are appropriate in terms of size.

Area A to north of Main Street, adjacent to the school is within the Q100 flood zoning and not deemed suitable by the applicant. The proposal is unlikely to satisfy any of the requirements laid out in FLD 1 of PPS15.

Area B has a live application for residential development and is too restricted in terms of physical size.

Area C has recently been approved for residential development and would be unsuitable by virtue of its layout.

Area D is accessed by Dunroe Road, a single track road network which would be entirely unsuitable for this type of vehicular traffic attracted to the site;

Area E again has unsuitable topography, steeply sloping hills and single track road access, unsuitable for HGV traffic.

No other site exists within the settlement limit of a size which would be necessary for the development proposed.

I would therefore agree that no suitable site exists within the development limit and the proposal satisfies PED 6 (a).

PED 6 (b) states the proposal must benefit the local economy or contribute to community regeneration. The agent has indicated the costs of building the proposal to be in the region of £2.5million. The applicant has provided evidence of funding being in place to support the project. In the supporting brief the applicant has indicated there will be 60 direct jobs and 50 indirect jobs. On the P1 forms, the agent has indicated 45-50 employees visiting the site daily. Taking the conservative figure, 45-50 jobs in a settlement the size of Augher is a significant boost to the local economy, even setting aside the benefits to the local economy of construction period with builders employed and spending money in the village.

I therefore conclude that the applicant has successfully argued that the proposal would benefit the local economy, satisfying PED 6 (b).

PED 6 (c) requires that the development is clearly associated with the settlement, but will not dominate it, adversely affecting landscape setting or otherwise contribute to urban sprawl.

Approaching from the east (Belfast direction), passing the junction with Annaloughan Road, the land mass slopes moderately downwards to the bridge and upwards again towards the mini

roundabout in the centre of the village. The sheds as annotated on drawing area approximately 110-115m at their nearest point to the village limits. On approach from the east they will clearly be visible with and read with the village of Augher, which will act as back drop for the proposal. The sheds are low profile and do not in my opinion contribute to urban sprawl.

I therefore conclude that the proposal also meets PED6c.

PED 6 is somewhat two pronged in its approach to establishing whether a proposal is acceptable and then it lays out the order in which sites will be given preference:

The first is that they must be on land adjacent to the existing settlement limit, subject to amenity and environmental considerations (The settlement limit of Augher lies immediately adjacent to the southern boundary of the application site, across the river. The proposal therefore meets the first preference option.)

Neither NIEA (subject to condition) nor Environmental Health returned comment of objection. I have discussed these in detail below.

The proposal then complies with this second facet of PPS 4 in that it utilises land adjacent to the settlement limit, subject to amenity and environmental consideration.

PPS 4 also includes policy PED 9 (General Criteria for Economic Development). Any proposal for economic development in addition to any other relevant policy provisions of PED9 will be required to meet all other 13 criteria laid out. I will examine these in order:

(a) it is compatible with surrounding land uses;

The proposal would be compatible with adjacent land uses. The surrounding land uses are agricultural land, residential and commercial towards Augher Main Street, several hundred metres away.

Environmental Health were consulted for opinion and returned comment of no objection the proposal.

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

The amenities of nearby residents could potentially be harmed by noise, traffic disturbance and potential odour issues.

Traffic NI have been consulted for opinion and whilst raising objection regarding the protected route policy, MUC are of the opinion that sufficient land exists along road verge and within the site to provide necessary infrastructure. Environmental Health did not raise any reason for refusal based on the disturbance of amenity of adjoining residents. Clarification was sought on external noise generating plant and it was confirmed by way of email on 27.01.2016 that there would be no external noise generating plant at the premises. Subsequent to this

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

NIEA monuments were consulted and returned comment of no objection, subject to condition.

There were no NIEA natural designations in the immediate area of the site to warrant consultation.

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

the southern boundary of the application site is within the Q100 flood zone. Rivers Agency were consulted for opinion and have confirmed that the southern boundary of the site is within the Q100 but that given the location of the flooding it would be unlikely to cause any problems. A Drainage Assessment was also provided which Rivers Agency did not object to.

(e) it does not create a noise nuisance

The applicant has provided details that 2 sheds (12 tunnels in total) will be emptied weekly (taking 4 hours) 2 lorries will be required per tunnel to remove old compost. Each tunnel is power washed and steamed to prevent spread of disease. The washings from this are collected quarterly.

Additionally, two lorries arrive daily to collect produce.

The applicant has indicated opening hours will be 06.30 -17.30 mon - fri and 0630-lunch sat and sun for hand picking only. Any times outside these hours are to facilitate compost delivery (4lorries /week)

The nearest property to the facility lie to the immediate north east and north west of the application site. These dwellings, given their locations approx. 25-30m off the Annaghilla Road and Annaloughan Roads already experience noise levels associated with a busy road route between Belfast and Enniskillen. I have perused the information contained in the supporting statement and do not believe that the addition of delivery collection vehicles nor supply vehicles would increase the levels of noise already in existence at that road to such a level as to warrant refusal on that ground alone.

Environmental Health did query the presence of any external noise generating plant, as state above they were satisfied with the agent's confirmation that there was none. Further information came to light during the processing of the application that part of the machinery may be required outside, Environmental Health were also advised of this and returned an informative to be added to any decision if we were minded to recommend approve.

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

NIEA Waste Management Unit were consulted for opinion and had no objection to same.

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

Transport NI have objected to the proposal on the grounds that the access is coming on to a Protected Route. New accesses onto a protected route are restricted. I have discussed same and I am minded, if approval is forthcoming, to recommend approve with negative condition to ensure full standards are met.

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

Transport NI were consulted for opinion, the general access standards achievable, parking and manoeuvring were not queried by them.

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



This proposal is for a private industrial enterprise on the edge of a settlement, there is therefore no requirement to include rights of way etc. within scheme. The proximity to the main street negates same, the site is within 5 min walk to village. The units are designed to produce final goods for sale/transport to supermarket, therefore not attracting public visits.

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

the site layout and building design are typical of those required for such a scheme. The buildings are low lying and roofing and wall panels coloured green to minimise visual intrusion into the countryside.

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

I have sought additional plans from the agent to bolster the landscaping along the road side of the site to further integrate the proposal and soften the appearance of the development on this edge of village site.

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

the proposal will include small floodlighting to ensure the yard areas are luminated and to promote safety within the site. Environmental Health were consulted on same and are satisfied with the proposal.

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

As per the above, I have asked for additional planting to assist integration of the proposal into the landscape. The proposal has the backdrop of Augher to the south, an urban setting, but nonetheless the landscaping should go some way to further aiding integration at this location.

PPS 21 (Sustainable Development in the Countryside) also requires that all development in the countryside must be sited and designed to integrate with their surroundings. In terms of integration and build up/rural character (PPS 21, CTY 13 and 14) I consider that the works will be visible in the landscape. Whether this is of such a degree as to warrant a refusal is another matter. The main body of the building is 4.5m high with a 6m high end section with pitched roof. The roller shutter doors are to be coloured green, as are the roof and PVC insulated panels along the road elevation. Landscaping can be conditioned along site frontage to the rear of visibility splay.

## REPRESENTATIONS

One objection was received from resident at 4 Annaloughan Road, Augher, approx 165-170m away from the nearest part of the main building.

The objector's first concern were the large lorries which would be delivering compost and collecting produce. My understanding is that once the unit is operational, 2 tunnels will be filled weekly and two tunnels emptied weekly. Each tunnel requires 3 lorry loads (2 x compost, 1 x casing). That equates to 6 lorry movements to fill the tunnels.

Two tunnels are emptied /week, two lorry loads/tunnel. That equates to four lorry loads emptying.

There are two lorry load of collections/day.

The combined lorry movement in 5 day working week therefore is on average 6/week filling, 4/week emptying, 10/week collecting produce.

20 lorry movements/5day working week \_ 4/day average mon -fri, less is compost is delivered outside normal working hours stipulated in supporting statement. I do not consider that an extra 4no lorry visits /day on the Belfast Road would be noticeable at any stretch along this road. I regularly travel the road and am aware of the general volume of traffic using the route between Belfast and Enniskillen. I am of firm opinion Mid Ulster Council (MUC) could not sustain this as a reason for refusal at appeal.

Similarly the building in my opinion would be far enough away to negate any impact from lights. The proposed access is 160 - 170m away from the objector's property. The lorries within the site will be below the level of the objector's property and at an angle to same. By the time the vehicles pass the objector's property, their lights will not have any more impact on his property than those traversing the main road.

His sleep similarly in my opinion should not be affected given the vehicle movements discussed above, most of which will be during regular working hours. Environmental Health had no comment

The objector states that he believes a complex 'of this size would in my opinion require regular supplies, and collection of produce'. The objector neither provides evidence of same nor evidence of his qualifications for making such an assertion. In the absence of same, I assess the application on the basis of the information before me.

The objector raises the issue of noise and light pollution. Environmental Health did ask for further information in respect of the light and returned comment of no objection. Neither NIEA waste management unit nor Environmental Health had any comment to make in respect of odour issue. The applicant has indicated that there is no external storage for spent compost, this can be conditioned by Council also, and the compost is collected on day of emptying. In terms of vermin, the tunnels are cleaned and steamed to prevent disease. I would not consider it in the best interest of the company to maintain their operations in any other way than deterring vermin and having a well maintained storage area and yard.

The objector states the proposal will have an adverse impact on the environment and character of the area without saying how or providing any evidence to substantiate his claim. NIEA IPRCI and waste management unit and Environmental Health were consulted and returned comment of no objection.

The objector goes on to state that the Annaghilla Road is an extremely busy road, with increased traffic since 1983 with some serious accidents. Unfortunately this could be said for most if not all roads in the country, especially those arterial routes to Belfast. He states the proposal will 'have an extremely adverse effect on road safety'. Again, no evidence has been provided to substantiate the claim and I am unaware of the objector's qualifications in road safety. I must consider the application based on the evidence before me. I do not consider that this sole business will have any adverse impact on road safety, the proposal is to improve visibility around the corner when travelling from Belfast. Traffic leaving the village will be within the 30mph zone until the bridge to the south and will have clear visibility to the proposed access point, a RTL will also be proposed.

The objector concludes by stating the proposal will have a very detrimental effect on his family's wellbeing.

Strategic Planning Policy Statement for Northern Ireland.

Growing a sustainable economy and investing in the future is a key strategic priority of the NI Executive. The SPPS talks about how three of the regional strategic objectives are to promote sustainable economic development in an environmentally sensitive manner, tackle disadvantage and create job employment and to sustain a vibrant rural community.

I consider that the proposal ticks these boxes expanding the work force, sustaining vibrant rural community and promoting economic development in an area of West Tyrone which sees little if any opportunities such as this for job creation.

Having assessed all of the above, I recommend the application be approved, the proposal sits readily within PPS 4. I am convinced that there is ample and reasoned argument for considering allowing access to the Protected Route, in this particular instance given the combination of factors mentioned above.

In addition to standard conditions, robust conditions shall be attached requiring complete Transport NI agreement to access and visibility arrangements prior to the commencement of works on the site.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

I recommend the application be approved subject to the following conditions below. The objection has been taken into account and however I do not consider that the reasons given in same could be sustained as reasons for refusal at appeal.

**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. An access point shall be agreed with Transport NI and the applicant shall notify and provide 4no copies of scale drawings to Mid Ulster Council of the details of this agreed access point PRIOR to the commencement of any works on the site.

Reason: To ensure a satisfactory form of access is agreed.

3. All planting comprised in the approved plans shall be carried out in the first planting season following the commencement of the building 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.

4. The existing mature trees and vegetation along the entire site boundaries shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

5. No site works 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 Council. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

#### Informatives

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

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

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

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

5. Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.

6. For guidance on the preparation of the Written Scheme and programme of archaeological work, which should be submitted for approval at least 4 weeks before work is due to begin, contact: NIEA - Protection Historic Monuments, 5 - 33 Hill Street, Belfast, BT1 2LA. Quote planning application ref: M/2014/0542/F

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th November 2014
<b>Date First Advertised</b>	19th November 2014
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)  The Owner/Occupier, 10 Annaghilla Road,Tully,Augher,Tyrone,BT77 0BN, The Owner/Occupier, 15 Annaghilla Road Derries Augher The Owner/Occupier, 2 Annaloughan Road Tully Augher The Owner/Occupier, 4 Annaghilla Road Augher Tenements Augher Keith Jameson 4 Annaloughan Road Tully Augher Michelle O'Neill MLA Dundonald House Upper Newtownards Road Ballymiscaw Arlene Foster MLA Netherleigh House Massey Avenue Ballymaghan	
<b>Date of Last Neighbour Notification</b>	10th February 2015
<b>Date of EIA Determination</b>	8th April 2015
<b>ES Requested</b>	No

### Planning History

Ref ID: M/2014/0524/F

Proposal: Erection of mushroom tunnels and associated works

Address: Land approx 30m SW of 15 Annaghilla Road, Augher,

Decision:

Decision Date:

Ref ID: M/1975/0001

Proposal: ROADSIDE SIGN (SIGN NO2).

Address: TULLY, AUGHER

Decision:

Decision Date:

### Summary of Consultee Responses

NIEA have requested an archaeological evaluation and are satisfied this can be resolved post decision if minded to approve.

Transport NI have expressed their objection to any relaxation of the protected route policy, however have added that any departure from standards must be applied for to Transport NI HQ for approval. They have concluded if this were not forthcoming, then TNI could not issue a licence granting permission for any works to be undertaken on the A4 Annaghilla Road.

Rivers Agency have no objection.

Environmental Health added an informative regarding the lighting proposed.

### Drawing Numbers and Title

Drawing No. 01

Type:

Status: Approved

Drawing No. 02REV01

Type:

Status: Approved

Drawing No. 03REV01

Type:

Status: Approved

Drawing No. 04REV02

Type:

Status: Approved

Drawing No. 05

Type:

Status: Approved

Drawing No.

Type:

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> M/2014/0592/F	<b>Target Date:</b>
<b>Proposal:</b> Light industrial workshop	<b>Location:</b> Site adjacent to 8 Glen Road Coalisland
<b>Referral Route:</b>  This application is over 2 hectares and is therefore considered a major application for the Committee to decide upon.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Dukart Properties Ltd 11 Mountjoy Road Coalisland	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Transport - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Substantive Response Received
Statutory	NI Transport - Enniskillen Office	Advice
Non Statutory	DETI - Geological Survey (NI)	Issues to be addressed in future application
Non Statutory	Health & Safety Executive for NI	Substantive Response Received
Statutory	NI Transport - Enniskillen Office	Content
Statutory	NI Transport - Enniskillen Office	Content
Non Statutory	DETI - Geological Survey (NI)	Substantive Response Received

Statutory	NI Transport - Enniskillen Office	Advice
<b>Representations:</b>		
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	
<b>Summary of Issues</b>		
<p><b>Characteristics of the Site and Area</b></p> <p>This application site slightly above the road and is located south of No 8 Glen Road in Coalisland. It measures approximately 1.2 hectares and is assessed off the Glen Road. Currently the site is disused land which is securely enclosed by a metal fence. The northern boundary of the site is mostly vegetated and runs along the rear of No 4-8 Glenview Heights and the dwelling located at No 8 Glen Road which is a bungalow, the rest are two storey. The site includes a Right of Way which accesses 2 agricultural fields adjacent and north of the site. This access is separated from the rest of the site by large palisade railings which enclose this part of the site. The access and only section of the site at the roadside includes a lay-by and a disused green area adjacent to the public footpath. The south eastern boundary of the site runs along an established Traveller's site and the western boundary is adjacent to an agricultural field with the Parochial House sitting to the west on an elevated position.</p> <p><b>Area Characteristics</b></p> <p>The site is located within the development limits of Coalisland and is whiteland in the Dungannon and South Tyrone Area Plan. The land adjacent on south of the site is zoned as housing land - CH 05 – Land north west of “An Tearmann”. The area surrounding the site is a mixture of residential (including an established Traveller's site) and social and community uses.</p> <p><b>Planning History</b></p> <p>M/1999/0939/O was granted planning approval on this site in April 2002 for the Development of vacant land to provide 3 no commercial serviced sites including determination on access road.</p> <p>In July 2006 application M/2005/0413/F was approved for the retention of access road to serve 3 No commercial serviced sites.</p> <p><b>Proposal Description</b></p> <p>This is a full application for the erection of a single workshop for light industrial use which would sit parallel to and approximately 20 metres from the rear western boundary. It measures 22 metres wide and 56 metres in length with a ridge height of 10.5 metres FGL. The roof are part of the walls will be green cladding with the lower walls comprising 2.6 metres of block work.</p>		

It would have a footprint of 1,232 metres squared.

The front elevation has 4 roller shutter doors measuring 4 metres wide and 5 metres in height. These all have a pedestrian doorway sited to their left with a fifth doorway close to the northern boundary.

Two offices at each end of the front elevation have windows and both gables have 2 windows for the toilets associated with each office. The western elevation has 5 pedestrian doors.

### **Representations and Consultations**

The Environmental Health Department have no objection to this proposal, provided the use is restricted to B2 – Light Industrial.

The Geological Survey of NI state the site contains 6 mine shafts and there are numerous shafts in the surrounding area ranging in depth to 30 metres. They recommend a Geological Survey be undertaken. This was submitted and from the findings of the report they recommended pile foundations or Vibrofloatation to decrease the risk from structural damage due to ground subsidence

Transportni requested a Transport Assessment. Upon receipt of this they requested the access arrangements be set out as per the previous permission on the site and requested the unit be scaled down in size to comply with parking arrangements. The agent made amendments and provided additional car parking spaces also on the site

There was no response to the neighbour notification process nor the advertisement in the local press.

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

The Strategic Planning Policy Statement (SPPS) published in September 2015 reiterates the importance of locating industrial development within settlements. It retains a number of the existing Policies and therefore it is PPS 4 Planning and Economic Development which is applicable to this application.

The industrial units proposed fall into Use Class B2 (Light Industrial) which is for any industrial process that can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Policy PED 1 - Economic Development in Settlements states that any proposal for Class B2 Light industrial will be permitted where it is demonstrated that the scale, nature and design of the proposal is appropriate to the character of the settlement and it is not incompatible with any nearby residential use.

Policy PED 3 – Expansion of an Established Economic Development Use in the Countryside in PPS 4 states that a proposal will be permitted where the scale and nature does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

The existing warehouse on this site has a footprint of approximately 773 metres squared. This proposal would create an additional 376 metres squared of additional floorspace. This proposal is a substantial increase, however it does not impact on the surrounding area as the site is approximately 0.1 hectares and has the capacity to accommodate this expansion without the need for additional land.

Policy PED 9 General Criteria for Economic Development states any proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

Although there are some residential uses adjacent to this site, Environmental Health are content with this proposal provided it is only used for B2 Light Industrial uses. If the use were to change they would have concerns due to the presence of a number of sensitive receptors and a Noise Impact Assessment would be required.

The uses of this site for such a business was considered acceptable as can be seen from the planning histories above and therefore I am satisfied it would be compatible with surrounding land uses.

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

As stated above, the use on this site would not be deemed as harmful to any nearby residents.

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

There are no sites of archaeological importance close to this site and as it is currently disused land, I would not have any heritage concerns regarding this proposal.

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

The site is not located within any designated flood plain.

(e) it does not create a noise nuisance;

Environmental Health have been consulted and have no concerns regarding noise with this use for light industrial.

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

From the information submitted this proposal does not involve the discharge of any emissions or effluent.

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

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

Transportni initially had concerns as there was no parking indicated in this proposal. The agent amended the proposal and indicated 187 car parking spaces which is over 100 above that required by the Department's Parking Standards, therefore there are no issues regarding parking. The access was amended also with gates set back 20 metres. I do not have concerns regarding access or traffic subject to conditions if this application is approved.

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

This site is conveniently located within the town of Coalisland and would support sustainable methods of travel due to the accessibility of its location. The Right of Way indicated on the drawings remains unaffected by this proposal.

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

In terms of layout and design, I consider this proposal acceptable. The materials of green cladding and block work are appropriate for industrial use buildings.

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

This application proposes landscaping around the whole site which will aid to screen the proposed development from view when travelling along the Stewartstown Road.

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

Fencing currently surrounds the site.

#### **Neighbour Notification Checked**

**Yes**

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

I am satisfied this proposal complies with the policy requirements of PPS 4 and taking into consideration the planning history on the site I would recommend approval.

#### **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 vehicular access shall be provided in accordance with Drawing No 01REV6 bearing the date stamp 17<sup>th</sup> February 2016, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The 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 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.

4. No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No 01REV6 bearing the date stamp 17<sup>th</sup> February 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 building shall be used for light industrial only, as defined in Class B2 of the Planning (Use Classes) Order (NI) 2015.

Reason: To control the use of the site.

6. During the first available planting season prior to the occupation of the building for the use hereby permitted, the landscaping scheme as annotated on drawing 01REV6 date stamped received 17<sup>th</sup> February 2016, shall be planted. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

Reason: In the interest of visual amenity.

7. 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 Department, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

### **Informatives**

This notice relates to drawing No 01REV 6 which was received on 17th February 2016 and drawing No 02 which was received on 22nd December 2014.

This approval does not apply to any signs or advertising material which the developer or occupier may wish to erect at the premises.

Signs may require separate approval under the Planning (Control of Advertisements) Regulations (NI) 2015. Their size, construction, content and siting should be approved by Mid Ulster Council BEFORE any such signs are erected.

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 DRD's consent before any work is commenced which involves making openings to any fence or hedge bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon. A deposit will be required.

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land

owned or managed by the Department for Regional Development for which separate permissions and arrangements are required.

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 and surface water from the roof of the development hereby approved does not flow onto the public road, including the footway.

This approval does not apply to any signs or advertising material which the developer or occupier may wish to erect at the premises.

It is recommended that any lighting to the proposed is designed having consideration to the Institution of Lighting Professionals *Guidance Notes for the Reduction of Obtrusive Light GN01:2011*. The guidance provides advice on the design and installation of lighting when assessed against the relevant environmental zones.

The developer is reminded of comments made by GSNI on 20<sup>th</sup> November 2015.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	22nd December 2014
<b>Date First Advertised</b>	14th January 2015
<b>Date Last Advertised</b>	16th January 2015
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 31 Brackaville Road Brackaville Coalisland The Owner/Occupier, 4 Glenview Heights Brackaville Coalisland The Owner/Occupier, 5 Glenview Heights Brackaville Coalisland The Owner/Occupier, 6 Glenview Heights Brackaville Coalisland The Owner/Occupier, 7 Glenview Heights Brackaville Coalisland The Owner/Occupier, 8 Glen Road, Coalisland The Owner/Occupier, 8 Glenview Heights Brackaville Coalisland The Owner/Occupier, 9 Glenview Heights Brackaville Coalisland	
<b>Date of Last Neighbour Notification</b>	12th January 2015
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2014/0592/F Proposal: Light industrial workshop Address: Site adjacent to 6 Glen Road, Coalisland, Decision: Decision Date:  Ref ID: M/2005/0413/F Proposal: Proposed retention of access road to serve 3 No commercial serviced sites Address: Site adjacent to 6 Glen Road, Coalisland Decision: Decision Date: 03.07.2006  Ref ID: M/1999/0939/O	



Proposal: Development of vacant land to provide 3 no commercial serviced sites including determination on access road.

Address: Site adjacent to 6 Glen Road, Coalisland

Decision:

Decision Date: 16.04.2002

Ref ID: M/1998/0119

Proposal: Erection of 6 no. dwellings

Address: GLEN PARK COALISLAND

Decision:

Decision Date:

Ref ID: M/1997/0062

Proposal: Detached 2 storey dwelling

Address: SITE ADJACENT TO 12 GLEN ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/1991/0478

Proposal: Extension to existing bungalow

Address: 1 GLEN COTTAGES COALISLAND

Decision:

Decision Date:

Ref ID: M/1991/0013

Proposal: Extension to site for travelling people

Address: OLD RAILWAY TRACK BETWEEN BRACKAVILLE ROAD AND STEWARTSTOWN ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/1980/0714

Proposal: MV ALTERATIONS

Address: GLEN ROAD, COALISLAND

Decision:

Decision Date:

Ref ID: M/1979/0478

Proposal: IMPROVEMENTS TO DWELLING

Address: 8 GLEN COTTAGES, COALISLAND

Decision:

Decision Date:

### **Summary of Consultee Responses**

The Environmental Health Department have no objection to this proposal, provided the use is restricted to B2 – Light Industrial.

The Geological Survey of NI state the site contains 6 mine shafts and there are numerous shafts in the surrounding area ranging in depth to 30 metres. They recommend a Geological Survey be undertaken. This was submitted and from the findings of the report they recommended pile foundations or Vibrofloatation to decrease the risk from structural damage due to ground subsidence

Transportni requested a Transport Assessment. Upon receipt of this they requested the access arrangements be set out as per the previous permission on the site and requested the unit be scaled down in size to comply with parking arrangements. The agent made amendments and provided additional car parking spaces also on the site.

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

Date of Notification to Department:

Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> M/2015/0042/F	<b>Target Date:</b>
<b>Proposal:</b> Renewal of residential development of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments	<b>Location:</b> 62m SW of 5 Old Eglisk Road Mill Field Dungannon
<b>Referral Route:</b>  This application proposes more than 50 dwelling units and the site measures 3.3 ha, therefore it is a major application for which the Committee are responsible for making a final decision.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> E Herron, R Donnelly and B Devlin c/o Michael Herron Architects	<b>Agent Name and Address:</b> Michael Herron Architects 2nd Floor Corner House 64-66a Main Street Coalisland BT71 4NB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Transport - Enniskillen Office	Add Info Requested
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	NI Transport - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Advice
Statutory	NI Transport - Enniskillen Office	Standing Advice
Statutory	NI Transport - Enniskillen Office	Content
Statutory	Rivers Agency	Content

### Representations:

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

Number of Petitions of Objection and signatures	No Petitions Received
<p><b>Characteristics of the Site and Area</b></p> <p>This application site is located at 62m SW of 5 Old Eglish Road, Mill Field, Dungannon. It is a rectangular shaped field which slopes in a northerly direction. The north western boundary is a stepped wall which runs along the rear of Nos 8-52 Beechvale. The south western boundary which is adjacent to Manse Road comprises hedgerow and winds to the Old Eglish Road which forms the eastern boundary. There are clear views of the site from here as only patched of hedgerow are present. The northern boundary which is adjacent to the Ulsterbus Station also runs along the vacant Old Mill building off the Old Eglish Road. The site rises to a height in the westernmost corner and electricity poles traverse the site close to the northern boundary. In the north eastern corner of the site a football pitch was previously sited.</p> <p><b>Area Characteristics</b></p> <p>This site is located within the development limits of Dungannon just south of the Town Centre boundary. It is zoned as Housing land under DH19 – Land North of Manse Road in the Dungannon and South Tyrone Area Plan. The Manse Road which forms the southern boundary of the site here marks the development limit of Dungannon. The surrounding area contains a mixture of residential, commercial and industrial uses. The housing in the immediate area is of high density and the Ulsterbus Depot sits to the north and a large Tesco to the north west.</p> <p><b>Planning History</b></p> <p>M/2008/0538/F was granted approval in July 2010 for residential development 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments at 62m SW of 5 Old Eglish Road, Mill Field, Dungannon.</p> <p><b>Proposal Description</b></p> <p>This is a full application for the Renewal of residential development of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments at 62m SW of 5 Old Eglish Road, Mill Field, Dungannon.</p> <p>This application gains vehicular access from the Old Eglish Road. A block of two storey 3 bedroomed apartments sit north of the access with three 2 storey detached dwellings fronting onto the Old Eglish Road. In the southernmost corner a park area of public open space is provided with four 2 and 3 storey apartment blocks due north.</p> <p>A grassed area is identified some 15 metres deep along the southern boundary at Manse Road and five pairs of 2 storey semi detached dwellings sit north of this. Along the western boundary, four pairs of 2 storey semi detached dwellings are located. Another four pairs of 2 storey semi detached dwellings and a v shaped 2 storey apartment block with 2 bedroomed apartments sit parallel to the northern boundary.</p> <p>A mixture of semi detached and terraced dwellings are in the remaining central portion of the site. A terrace of 3 and 2 storey apartments are linked to a terrace of apartments by a 3 story apartment block.</p> <p><b>Representations and Consultations</b></p> <p>This application was advertised in the local press and a total of 65 letters were sent to residents neighbouring this site. There were no objections received about this proposal.</p>	

NI Water state a foul sewer is within 20 metres of the site, there is available capacity at the WWTW and therefore they have no objections to this proposal.

Transportni requested additional information showing spot levels at 20 metre intervals on the proposed access road and 5 metres up private drives. They also required all details and dimensions associated with the previous approval showing all retaining walls and embankments within 6 metres of the existing road.

Upon receipt of this information and a further request to amend the PSD drawings, they have no objections to this development.

Rivers Agency reviewed the Drainage Assessment which was submitted and requested the agent provide a letter from the local office of Rivers Agency for consent to discharge storm water. Following the submission of this letter they have no objections.

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

A Habitats Risk Assessment was carried out and the potential impact of this proposal on Special Areas of Conservation, Special Protection Areas 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). It was deemed this proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

An Environmental Impact Assessment was also undertaken as this application falls under Schedule 2 Part 10 b –Urban Development projects on an area of floorspace. From this it was determined no Environmental Assessment was required as any issues would be dealt with through the normal development management process in the determining of this application.

A Drainage Assessment was submitted as this proposal included over 10 dwellings.

This proposal is for the renewal of Planning permission M/2008/0538/F granted on 8th July 2010. This application was received on 27th January 2015, before the expiry date. This application has been made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 to renew planning permission where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

The Strategic Planning Policy Statement which was published in September 2015 has retained PPS 7 which was the policy the original application was assessed under and thus applicable for this application.

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

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

The principle of residential development has been established on this site as it is zoned as housing land in the Dungannon and South Tyrone Area Plan and as is evident on the planning history above. Although the housing density of the area surrounding this site is a mixture of

medium to high density, there are no 3 storey residential buildings within the vicinity. This proposal will introduce this new feature into the landscape.

In the Development Plan there were a number of Key Site Requirements designated for this zoned housing land which were deemed to be achieved in the initial application.

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

There are no archaeological features in the immediate vicinity of this site.

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

There is sufficient private amenity space provided for each dwelling in this application. Two public areas of open space are also located within the development along the southern boundary with a park area in the southernmost corner close to the road.

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

There is no requirement to provide local neighbourhood facilities as part of this change of house type application.

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

Footpaths are provided along the internal road in this development and additional footpaths are provided to allow access from this development onto Beech Valley as was a key site requirement in the zone designation in the plan. The location of this site within the town of Dungannon make it very accessible for walking and very convenient access to public transport, particularly as the bus station is located adjacent to the site.

f) adequate and appropriate provision is made for parking;

There is adequate in-curtilage space for parking provided for each dwelling proposed. There is a deficit of 4 parking spaces for the apartment developments however this was deemed acceptable at the initial application.

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

The proposed materials of grey black roof tiles, a mixture of render and red/brown brick dwellings, timber framed windows, hardwood doors and black uPVC rainwater goods are acceptable in this development proposal.

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

The design and orientation of the dwellings takes into consideration those proposed and existing dwellings in the immediate vicinity of the site, particularly those along Beech Valley. A 0.6 metre high wall with railing define curtilages to the front of each dwelling and a 1.8 m high close board fence will separate the rear curtilages offering privacy. A 2 metre high close board fence and acoustic barrier will also reduce any sound from the Ulsterbus Station to the north.

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

The footpath leading to Beech Valley has a landscaped area, benches and street lights located along it, there are no concerns about this regarding this proposal.

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

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

The density of 27 dwellings per hectare in this proposal is suitable on this zoned site within an established residential area.

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

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

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

The sizes of the dwellings proposed exceed the minimum recommended standards.

#### **Neighbour Notification Checked**

**Yes**

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

This site is zoned housing land and planning permission has already been granted on this site for which this application proposes to renew.

Given there has been no change to policy, no objections were submitted and the consultees are satisfied with the proposal, I would recommend to approve this renewal application.

#### **Conditions:**

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



Reason: Time Limit

2. Prior to the occupation of 50% of the dwelling units/apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas (including all peripheral planting) as indicated on the approved plans, Drawing No.02 REV-4 date stamped received 08-JUL-2010. The trees indicated within individual plots shall be planted during the first available planting season after the occupation of any dwelling on the plot. These trees shall be retained and maintained by the owner of the plot and the condition referring to such retention and maintenance shall be placed as a condition of the sale of the plot.

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

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely manner and to assist in the provision of a quality residential environment in

3. No dwelling unit/apartment hereby approved shall be occupied until the Department agrees in writing that an acceptable Management and Maintenance Agreement has been signed and put in place with an appropriate management company for all areas of public open space and landscaping as identified in condition No.02 (see informative No.01).

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

4. Areas of designated open space as referred to in Condition No.02 shall be managed and maintained in accordance with the provisions of the 'Landscape Management Plan (stamped as drawing No.04 REV-4) date stamped received by The Planning Service on the 05-OCT-2009 unless otherwise agreed in writing with the Department.

Reason: To ensure that open space provided, is managed and maintained in accordance with the Departments Planning Policy Statement 7 (PPS 7) Quality Residential Environments and Planning Policy Statement 8 (PPS 8) Open Space, Sport and Outdoor Recreation.

5. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed as detailed on Drawing No's.02 REV-4 & 03 REV-9 bearing the date stamp received 08-JUL-2010.

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

6. The 2 metre high acoustic barrier as identified on Drawing No.03 Rev-9 date stamped received 08-JUL-2010, shall be erected prior to occupation of any dwellings located on site No's 50, 51, 52, 53, 54, 55, 56 & 57.

Reason: In the interest of residential amenity.

7. The existing hedge that forms the southern boundary of the site (along the Manse Road frontage) as indicated on Drawing No.03 Rev-9 shall be retained between 2.0 metres and 3.5 metres high except where it is required to provide the lay-by and the 33 metre forward sight line. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Department, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Department in writing at the earliest possible moment.

Reason: In the interests of visual amenity and to protect residential amenity.

8. The existing mature trees and vegetation along the remaining site boundaries as indicated on Drawing No.03 REV-9 shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Department, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Department in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

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 Department, 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 Department gives its written consent to any variation.

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

10. The Private Streets (Northern Ireland) Order 1980.

The 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.23 bearing the date stamp 24-MAY-2010.

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.

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

No part of the development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 23 bearing the date stamp 24-MAY-2010. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

12. The visibility splays of 2.4 metres by 70 metres at the junction of the proposed housing access road with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any 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.

13. No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of each phase of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

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

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

15. The development hereby permitted shall not be occupied until the 2 metre wide footway adjacent to the Old Eglish Road has been completed in accordance with the details indicated on Drawing No.23 date stamped received 24-MAY-2010.

Reason: To ensure there is adequate provision for pedestrians in the interests of road safety and the convenience of road users.

### **Informatives**

This notice relates to drawing Drawing Nos 01REV1, 2REV2, 3REV1, 05, 06, 07, 08, 09, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 which were received on 6th August 2015, the Landscape Management Plan which was received on 6th August 2015, Drawing Nos 10REV1, 11REV1 and 12REV1 which were received on 16th February 2016 and Drawing No 24 which was received on 21st September 2015.

In order to comply with condition 3, the arrangements for the future management and maintenance in perpetuity of areas of public open space acceptable to the Council include:

- a) a legal agreement transferring ownership of and responsibility for the open space to the local district council; or
- b) a legal agreement transferring ownership and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or
- c) a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements.

Evidence should be submitted to the Council include:

Articles of Association

Memorandum of understanding, and

Evidence of registration of the company

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

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

#### Private Streets Order (Northern Ireland) 1980

Under the above Order the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Council to make the roads and sewers in accordance with the Private Streets Construction Regulations.

Separate approval must be received from Transportni in respect of detailed standards required for the construction of streets in accordance with the Private Streets Construction Regulation.

The service strips coloured red/green on the approved plan have been determined as lands to be adopted by the DRD. It is, therefore, essential that vendors inform house purchasers of their limited rights within such strips. It is strongly recommended that the developer does not sell or lease the land from the service strips as parts of housing plots. If land for service strip is to be sold or leased to house purchasers the vendor must insert in the deeds the following clause or covenant:-

The purchaser hereby covenants with the vendor that he/she, the purchaser, and his successors in title will not at any time hereafter erect or construct any building wall or fence or plant any tree or shrub on the strip of land shown green/red on the plan annexed hereto, nor do or suffer to be done therein or thereon any act, matter or thing whereby the cover of soil over or the support of the pipes, wires and/or cables laid in the said strip of land shall be altered or which may render access thereto more difficult or expensive and shall understand that the road authority and statutory undertakers have unencumbered right of access to the said strip of land.

Details of any retaining walls required shall be submitted to and approved in writing by the DRD under the Technical Approval Scheme prior to any construction work being undertaken. The necessary TAS 1 forms to be obtained from Transportni.

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

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

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 Transportni drainage system.

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

Water Management Unit of the Environment and Heritage Service recommends:  
In order to decrease the risk of the incorrect diversion of foul sewage to drains carrying rain/surface water each building shall be provided with such sanitary pipework, foul drainage and rain water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain water separately from that building. The drainage system should also be designed to minimise the risk of wrongly connecting the foul sewage system to the rain water drainage system, once the building are occupied.

The buildings associated with this planning application should not be occupied unless the necessary sewerage infrastructure is in place to transfer foul sewage to a NI Water Service sewer or a wastewater treatment facility consented by EHS. It should be noted that EHS does not favour existing sewerage infrastructure being utilised in such a way as to act as a temporary cesspit. Where a temporary cesspit is to be utilised, it should be designed in accordance with the current best practice and any transfer or movement of sewage, by tanker or other means, shall be carried out in accordance with the Controlled Waste (Duty of Care) Regulations (NI) 2002.

The new dwellings should be completely plumbed to prevent wrong connections by residents to any storm system.

The storm drainage of the site should be designed and constructed according to the principals of Sustainable Urban Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways.

Construction of SuDS should comply with the standards in the design manual for Scotland and Northern Ireland (CIRIA C521)

Any oil tanks serving the new dwellings should be bunded. Pollution Prevention Guideline (PPG2).

The applicant complies with the attached Pollution Prevention Guideline (PPG 5 and 6) in order to minimise the impact of the construction phase of the project on the environment. It should be noted that several SuDS features may be useful pollution prevention measures during the construction phase.

Should a sewage pumping station be required for this development then the applicant must apply to EHS WMU for a Water Order (1999) consent for an "emergency overflow".

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

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

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

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

Public water supply available, subject to Northern Ireland Water approval to connect. If required a connection will be granted on approval of a completed Application Form. Contact Northern Ireland Water's Customer Relations Centre at 0845 7440088 or email [waterline@niwater.com](mailto:waterline@niwater.com) to obtain an application form and information on charges, or download from the website [www.niwater.com](http://www.niwater.com)

Foul water sewer available, subject to Northern Ireland Water approval to connect. If required a connection will be granted on approval of a completed Application Form. Contact Northern Ireland Water's Customer Relations Centre at 0845 7440088 or email [waterline@niwater.com](mailto:waterline@niwater.com) to obtain an application form and information on charges, or download from the website [www.niwater.com](http://www.niwater.com)

Surface water sewer not available. Surface water must not be taken to the foul sewer. Where it is proposed to discharge surface water to a river, stream or watercourse prior written consent for such discharge must be obtained from the Department of Agriculture's River Agency.

To ensure compliance with the Water & Sewerage Service (NI) Order 2006, consultation with Northern Ireland Water is essential at design stage with regard to the following matters:

- (a) water supply requirements;
- (b) foul water and surface water sewerage requirements;
- (c) existing water main crossing the site;
- (d) existing sewer crossing the site.

Contact Northern Ireland Water's Customer Relations Centre or telephone Waterline on 0845 7440088.

No construction to be made, trees planted or other obstruction made within 3 metres (or 1.5 times the depth, whichever is the greater) of sewers or 4 metres (or 1.5 times the depth, whichever is the greater) of watermains. Contact Northern Ireland Water for a record request or proposals for a diversion. Application forms are available at [www.niwater.com/business/services](http://www.niwater.com/business/services) for the developer's asp. There is a charge for this service.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th January 2015
<b>Date First Advertised</b>	4th February 2015
<b>Date Last Advertised</b>	6th February 2015
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, Dungannon Buscentre, Beechvalley Way, Dungannon BT71 7BN The Owner/Occupier, 1 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 10 Beechvalley Ballysaggart Dungannon The Owner/Occupier, 11 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 12 Beechvalley Ballysaggart Dungannon The Owner/Occupier, 12 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 13 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 14 Beechvalley Ballysaggart Dungannon The Owner/Occupier, 14 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 15 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 16 Beechvalley Ballysaggart Dungannon The Owner/Occupier, 16 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 17 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 18 Beechvalley Ballysaggart Dungannon The Owner/Occupier, 18 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 19 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 2 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 20 Beechvalley Ballysaggart Dungannon The Owner/Occupier, 20 Glenmont Park Mullaghanagh Dungannon The Owner/Occupier, 21 Glenmont Park Mullaghanagh Dungannon	



The Owner/Occupier,  
22 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
22 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
23 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
23A Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
24 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
25 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
26 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
27 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
28 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
28 Black Lane,Mullaghanagh,Mullaghanagh,Dungannon,Tyrone,BT71 7AY,  
The Owner/Occupier,  
28 Old Eglish Road,Mullaghanagh,Dungannon,Tyrone,BT71 7BE,  
The Owner/Occupier,  
29 Black Lane,Mullaghanagh,Mullaghanagh,Dungannon,Tyrone,BT71 7AY,  
The Owner/Occupier,  
29 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
2A Windmill Hill Road,Ballysaggart,Dungannon,Tyrone,BT71 7BS,  
The Owner/Occupier,  
3 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
30 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
32 Beechvalley Ballysaggart Dungannon  
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34 Beechvalley Ballysaggart Dungannon  
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36 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
38 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
4 Glenmont Park Mullaghanagh Dungannon  
The Owner/Occupier,  
40 Beechvalley Ballysaggart Dungannon  
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42 Beechvalley Ballysaggart Dungannon  
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44 Beechvalley Ballysaggart Dungannon  
The Owner/Occupier,  
46 Beechvalley Ballysaggart Dungannon

The Owner/Occupier,  
 48 Beechvalley Ballysaggart Dungannon  
 The Owner/Occupier,  
 4A Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 4A Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 4B Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 4C Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 4D Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 4E Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 4H Beechvalley, Ballysaggart, Dungannon, Tyrone, BT71 7BN,  
 The Owner/Occupier,  
 5 Glenmont Park Mullaghanagh Dungannon  
 The Owner/Occupier,  
 5 Old Eglis Road Ballysaggart Dungannon  
 The Owner/Occupier,  
 50 Beechvalley Ballysaggart Dungannon  
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 52 Beechvalley Ballysaggart Dungannon  
 The Owner/Occupier,  
 6 Glenmont Park Mullaghanagh Dungannon  
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 7 Glenmont Park Mullaghanagh Dungannon  
 The Owner/Occupier,  
 8 Beechvalley Ballysaggart Dungannon  
 The Owner/Occupier,  
 8 Glenmont Park Mullaghanagh Dungannon  
 The Owner/Occupier,  
 9 Glenmont Park Mullaghanagh Dungannon  
 The Owner/Occupier,  
 Avoca, 30 Black Lane, Mullaghanagh, Mullaghanagh, Dungannon, Tyrone, BT71 7AY,  
 The Owner/Occupier,  
 Dungannon United Youth, Mullaghanagh, Black Lane,, Dungannon BT71 7AY  
 The Owner/Occupier,  
 Prospect Manse, Manse Road, Ballysaggart, Dungannon, Tyrone,,

<b>Date of Last Neighbour Notification</b>	6th February 2015
<b>Date of EIA Determination</b>	<b>NA</b>
<b>ES Requested</b>	No

## Planning History

Ref ID: M/2015/0042/F

Proposal: Renewal of residential development of 49 no. dwellings and 42 no. apartments, two and three storey dwellings and three storey apartments

Address: 62m SW of 5 Old Eglish Road, Mill Field, Dungannon,

Decision:

Decision Date:

Ref ID: M/1979/0070

Proposal: 11 KV O/H LINE, 33 KV O/H LINE

Address: GRANVILLE, LISNAHULL, MULLAGHANAGH, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1997/6041

Proposal: Road Improvement Scheme Old Eglish Road Dungannon

Address: Old Eglish Road Dungannon

Decision:

Decision Date:

Ref ID: M/1993/0573

Proposal: Realignment of Manse Road and extension of footway along C644

Address: BETWEEN MANSE ROAD AND GLENMONT PARK DUNGANNON

Decision:

Decision Date: 18.01.1994

Ref ID: M/2008/0538/F

Proposal: Residential Development for 49 No. dwellings and 42 No. Apartments (91 in total) Two & three- storey dwellings and three-storey apartments.

Address: 62 metres south west of 5 Old Eglish Road, Mill Field Dungannon

Decision:

Decision Date: 27.07.2010

Ref ID: M/1988/0702

Proposal: Housing Development

Address: REAR OF 8 TO 52 CLARE TERRACE BEECHVALLEY DUNGANNON

Decision:

Decision Date:

Ref ID: M/2006/1617/Q

Proposal: Housing Development

Address: Mill Field Site, Dungannon

Decision:

Decision Date:

Ref ID: M/1979/0731

Proposal: NEW CHIMNEY STACK OF APPROXIMATELY 84 FEET TO REPLACE EXISTING 40 FEET

Address: BEECHVALLEY MILL, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2010/0434/F

Proposal: Proposed side extension to existing bus station to incorporate new toilet layout and staff facilities

Address: Translink, Dungannon Bus Station, Beechvalley Road, Dungannon

Decision:

Decision Date: 27.07.2010

### **Summary of Consultee Responses**

NI Water state a foul sewer is within 20 metres of the site, there is available capacity at the WWTW and therefore they have no objections to this proposal.

Transportni requested additional information showing spot levels at 20 metre intervals on the proposed access road and 5 metres up private drives. They also required all details and dimensions associated with the previous approval showing all retaining walls and embankments within 6 metres of the existing road.

Upon receipt of this information and a further request to amend the PSD drawings, they have no objections to this development.

Rivers Agency reviewed the Drainage Assessment which was submitted and requested the agent provide a letter from the local office of Rivers Agency for consent to discharge storm water. Following the submission of this letter they have no objections.

### **Drawing Numbers and Title**

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

Date of Notification to Department:

Response of Department:



## Development Management Officer Report

### Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0067/F	<b>Target Date:</b> 23.07.2015
<b>Proposal:</b>  Erection of single wind turbine 40m hub height with 33.1m rotor diameter, associated access and 2No.electricity cabinets	<b>Location:</b>  Lands 200m East of 129 Screeby Road Fivemiletown
<b>Referral Route:</b>  Recommendation of Refusal.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b>  Mr Donald Ellison 129 Screeby Road Fivemiletown	<b>Agent Name and Address:</b>  Strategic Planning Pavilions Office Park Kinnegar Drive Hollywood BT18 9JQ
<b>Executive Summary:</b>  The application for a single wind turbine satisfies all but one of the criteria laid out in RE1 of PPS18. Nonetheless, RE1 specifically states all criteria must be met. The applicant has been afforded the opportunity to submit a shadow flicker report and has failed to provide same, instead requesting MUC approve with a negative condition to provide the report should a problem arise. I do not consider that this is best practice as RE1 specifically states that the development will also	

be required to demonstrate the following: ..not cause significant harm to the safety or amenity of sensitive receptors arising from ..shadow flicker...' To approve the application in the absence of such information could potentially leave MUC open to challenge, in my opinion.

**Signature(s):**

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Belfast International Airport	Content
Statutory	NI Transport - Enniskillen Office	Content
Statutory	UK Crown Bodies - D.I.O. Safeguarding	Content
Statutory	Environmental Health Mid Ulster Council	Additional Information Required
Statutory	Ofcom Northern Ireland	Advice
Statutory	NIEA	Advice

Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Adelphi Net1 Limited	No Objection
<b>Representations:</b>		
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	
<b>Summary of Issues</b>		
<p>All consultees returned comment of no objection overall and no third party representations were received. 2no letters of support were received from those with a financial interest in the scheme.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The site is a small cut out plot of a larger field. As such there are no defined boundaries on the ground.</p> <p>The land is agricultural grazing land south of 41 Garlaw Road, Fivemiletown. The site is slightly elevated in the landscape above both Garlaw Road to the north and Screeby Road to the west. A small hedge line approx 1m high runs along the immediate NW of the red line of the application site</p> <p>The area is predominantly agricultural in make up with scattered single dwellings along road side in small plots.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>PPS 18 - Renewable Energy. sPPS</p> <p>Assessment of Policy</p> <p>The application is for a single wind turbine in the countryside. PPS 18 renewable Energy and accompanying supplement guidance is therefore the applicable policy consideration. PPS 18 lays out a number of criteria against which proposals for wind turbines shall be assessed. PPS 18 generally supports renewable energy proposals unless they would have an unacceptable adverse effect which are not outweighed by the local and wider environmental, economic and social benefits of the development.</p> <p>There is also a statutory duty on government departments and district councils to promote sustainable development under s25 of Northern Ireland (Miscellaneous Provisions) Act 2006. The nearest dwelling to the proposed turbine is located approximately 295m north west. Environmental health have been consulted and have no further comment to make. It is not anticipated therefore that the proposal would have any other adverse impact on safety, health or residential amenity.</p> <p>Examining the local landscape character then, the NIEA landscape character assessment rates this area , Clogher Valley Lowlands, as having high sensitivity, it is recommended that any turbines be integrated into and reflect the scale of existing pattern of small hills, ridges and</p>		

mature vegetation. There are no other single turbines in the immediate locality of the application site and therefore it is not thought that the addition of this turbine would adversely affect the visual amenity of the area.

I have carried out a survey of the natural heritage zonings in the vicinity and can confirm there are no nature conservation or built heritage interests designated in the immediate area of the application site.

In terms of local natural resources, the turbine will produce no emissions to effect air quality or water quality.

The turbine is located on private agricultural farm land, no public right of way has been indicated on the drawings, public access to the countryside will not be prejudiced.

Applications for wind energy development have a specific number of criteria to satisfy under policy RE1 (Renewable Energy Development) of PPS 18:

I am of the opinion that the proposal will not have an unacceptable impact on visual amenity or landscape character which has been assessed as having high sensitivity (LCA17). Combined with the fact the proposal is for one turbine case officer does not deem this to be critical in the determination of the application. In a landscape such as this, wind farms are common place and these would not affect the visual amenity in my opinion to such an extent to warrant refusal.

The proposal is set off the public road approx 210m, the land slopes moderately downwards from the application site towards the north and west. The site itself is not steeply sloping nor is the access route or immediately surrounding land through which vehicles may have to traverse to gain access. It is not anticipated that the free draining slope and proposed excavations would create a risk of bog burst or landslide.

In terms of electromagnetic interference or interruption of communication signal, OFCOM and a number of other consultees were consulted for opinion. OFCOM advised consulting ADELPHI who returned comment of no objection, including Belfast International Airport.

In terms of physical safety to general public, PPS 18 recommends a fall over distance of height of turbine +10% =  $56.6 + 5.66\text{m} = 62.26\text{m}$ . The proposal is approx. 290m away from the nearest point to the road.

Similarly I consider that the proposal is far enough removed from the public road network that ice throw is not critical. Policy RE1 of PPS 18 goes on to further add that permission will only be granted where it can also be demonstrated that the development will not cause significant harm to the safety or amenity of any sensitive receptors (including future occupants of committed developments) arising from noise; shadow flicker..

No other above ground plant has been included in the application.

I have assessed the application and examined the nearest receptors. The nearest receptor is approx 290m away from the turbine. The cordon for properties potentially affected by shadow flicker, however slim the chances of it occurring are set at 10 times rotor diameter, which would equate to 331m. I have asked the agent to supply information in the form of a shadow flicker report to demonstrate as per RE1 that no significant harm would result to those people living in that property. No information has been supplied by the agent and I therefore have no option to conclude that there may be potential for significant harm to result to the safety of nearby residents by means of shadow flicker.

In terms of the strategic Planning Policy Statement for NI, it states making use of renewable energy sources is supported by wider government policy, including the RDS 2035, which is affirmed by DETI's strategic aim for a more sustainable energy system, as contained in the Strategic Energy Framework for NI 2010.

The sPPS re-iterates the need to assess applications in accordance with normal planning criteria ... noise and shadow flicker.



2no letters of support have been received from those having a financial interest in the application. No third party representations have been received and no consultee returned any comment of objection.

Having taken all of the above into consideration, I recommend the application be refused as being contrary to RE1 of PPS 18 in that the applicant has failed to provide information, as requested to do so, to demonstrate the development would not cause significant harm to the safety or amenity of the nearest sensitive receptor.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

I recommend the application be refused as the applicant has failed to provide the necessary information to demonstrate the proposal would comply with all relevant policy requirements laid out in RE1 of PPS18.

**Reasons for Refusal:**

1.The proposal is contrary to Policy RE1 of Planning Policy Statement 18 - Renewable Energy, in that the applicant has failed to demonstrate that the development would not, if permitted, cause significant harm to the safety or amenity of any sensitive receptors arising from shadow flicker.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	13th April 2015
<b>Date First Advertised</b>	27th April 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)  Donald Ellison 129 Screeby Road, Fivemiletown, Tyrone, Northern Ireland, BT75 0TP  Robert Ellison 41 Garlaw Road, Clogher, Tyrone, Northern Ireland, BT76 0TN	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	27th April 2015
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2015/0067/F  Proposal: Erection of single wind turbine 40m hub height with 33.1m rotor diameter, associated access and 2No.electricity cabinets  Address: Lands 200m East of 129 Screeby Road, Fivemiletown, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	

OFCOM recommended Adelphi be consulted specifically due to potential for affecting their fixed links. Adelphi returned comment of no objection.

No other representations.

**Drawing Numbers and Title**

Drawing No. 02

Type: Site Layout or Block Plan

Status: Approved

Drawing No. 01

Type: Site Location Plan

Status: Approved

Drawing No. 03

Type: Elevations and Floor Plans

Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0085/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 80m South East of 11 Strawmore Lane Draperstown Access via Doon Road
<b>Referral Route:</b>  This application is being presented to Committee as it is being recommended for refusal.	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Gerard Kelly C/o.agent	<b>Agent Name and Address:</b> CMI Planners Ltd Unit C8 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
<b>Executive Summary:</b>	
<b>Signature(s):</b> Malachy McCrystal	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DARDNI - Coleraine	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	Consulted in Error
Statutory	NI Transport - Enniskillen Office	Content
Non Statutory	DARDNI - Coleraine	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DARDNI - Coleraine	Substantive Response Received

<b>Representations:</b>		
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	
<b>Summary of Issues</b>		
No representations have been received in respect of this proposed development.		
<b>Description of proposal</b>		
The proposal is for a site for a dwelling and garage.		
<b>Characteristics of the site and area</b>		
<p>The site is located within a small field and set to the rear of an existing bungalow (no.11) with the base of a second dwelling located to the rear of no.11. The site is accessed from an existing laneway which leads past a shed and adjacent compound and also past the two aforementioned dwellings. Ground levels rise up from the Doon Road towards no.11 before falling towards the entrance to the site. The landform continues to rise from the site towards the south before falling away again towards the public road. There are post and wire fences along the boundaries to the north and west with a mature thorn hedge along the southern boundary while the eastern boundary is undefined.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for a dwelling in the rural area and is linked to an established farm business.</p> <p>The main policy considerations in the assessment of this application are:-</p> <p>CTY 10 – Dwellings on Farms</p> <p>Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-</p> <ul style="list-style-type: none"> <li>• the farm business is active and has been established for at least 6 years</li> <li>• 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.</li> <li>• 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 :- <ul style="list-style-type: none"> <li>• demonstrable health and safety reasons; or</li> <li>• verifiable plans to expand the farm business at the existing building group.</li> </ul> </li> </ul> <p>DARD have been consulted and have advised that the farm business has been in existence for more than 6 years, and that the business has claimed SFP or LFACA or Agri Environment scheme in the last 6 years.</p>		

A farm check has revealed no previous approvals on the farm holding or development opportunities which could have been disposed off since 25th November 2008. However, it should be noted that the name of the business owner has changed since a previous application was submitted under H/2012/0159/O. Under that application, the business owner was Charles Kelly of 47 Moneyneany Road, Draperstown or 44 Moneyneany Road, Draperstown. Under the current application the business owner is listed as Gerard Kelly of 11 Strawmore Lane, Draperstown. At the time of the previous appeal into the refusal under H/2012/0159/O, no.11 also belonged to Gerard Kelly who at that time was identified as a member of the farm business. However, the Commissioner in that appeal, 2014/A0017, considered that the footings to the rear of no.11 cannot be considered as representing part of an established building group for the purposes of CTY 10. The dwelling and garage at no.11 represent two buildings side by side and do not constitute a group. In that respect, there has been no change in circumstances between that appeal and the current application. It is clear from the farm maps submitted with the application that the farm buildings are located at 47 Moneyneany Road. Therefore, in my opinion, in order to be visually linked or to cluster with a group of buildings on the farm, the proposed dwelling would need to be located adjacent to that group of buildings. Consequently, a dwelling on the site as proposed would not be visually linked or be sited to cluster with an established group of buildings on the farm.

PPS 3 - Access, Movement and Parking;  
Transport NI advised that they have no objection to the proposed development subject to conditions.

Consultation responses  
All consultees have responded positively.

### **Recommendation**

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

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

The application should be refused for the reasons stated below:-

#### **Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	14th April 2015
<b>Date First Advertised</b>	27th April 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11A Strawmore Lane, Doon, Draperstown, Londonderry, BT45 7JJ,	
<b>Date of Last Neighbour Notification</b>	28th April 2015
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2015/0085/O Proposal: Dwelling and garage Address: 80m South East of 11 Strawmore Lane, Draperstown, Access via Doon Road, Decision: Decision Date:  Ref ID: H/2004/0391/O Proposal: Site of dwelling and garage. Address: 370m North West of 10 Doon Road, Draperstown. Decision: Decision Date: 14.12.2004  Ref ID: H/2002/0407/O Proposal: Site for Dwelling & Garage. Address: 200m south of 10 Strawmore Lane, Moneyneany, Draperstown. Decision: Decision Date: 09.09.2002  Ref ID: H/2006/0065/RM Proposal: Proposed New Dwelling & Garage Address: 200m South Of 10 Strawmore Lane, Moneyneena Decision: Decision Date: 10.05.2006	



Ref ID: H/2003/0014/O

Proposal: Site of dwelling and garage.

Address: Approx. 200m South of 10 Strawmore Lane, Moneyneeny, Draperstown.

Decision:

Decision Date: 18.03.2003

Ref ID: H/2003/0561/O

Proposal: Site of dwelling and garage.

Address: Approx 300m SE of No 10 Strawmore Lane, Moneyneeny, Draperstown.

Decision:

Decision Date: 19.01.2004

Ref ID: H/2004/0390/O

Proposal: Site of dwelling and garage.

Address: 220m North North West of 10 Doon Road, Draperstown.

Decision:

Decision Date: 14.12.2004

Ref ID: H/2010/0471/F

Proposal: Dwelling and garage on a farm

Address: Approx 80m East of 11 Strawmore Lane, Draperstown, accessing from Doon Road.

Decision:

Decision Date: 03.06.2011

Ref ID: H/2006/1003/RM

Proposal: Dwelling and garage

Address: 300m South East of 10 Strawmore Lane, Draperstown

Decision:

Decision Date: 24.04.2007

Ref ID: H/2012/0159/O

Proposal: Proposed dwelling and garage

Address: 30m South East of 11 Strawmore Lane, Draperstown. Access via Doon Road,

Decision: PR

Decision Date: 18.03.2014

Ref ID: H/2004/0965/RM

Proposal: Dwelling and garage

Address: 280m South East of, 10 Strawmore Lane, Moneyneena, Draperstown

Decision:

Decision Date: 03.08.2005

Ref ID: H/2003/0562/O

Proposal: Site of dwelling and garage.

Address: Approx 280 SE of No 10 Strawmore Lane, Moneyneena, Draperstown.

Decision:

Decision Date: 19.01.2004

Ref ID: H/2005/1056/F

Proposal: 11KV Overhead Line

Address: NW of 10 Strawmore Lane, Draperstown  
Decision:  
Decision Date: 10.04.2006

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

Drawing No. 02  
Type: Farm Boundary Map  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0243/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2 No. infill dwellings and garages	<b>Location:</b> Lands between 37 and 43 Drumlamph Road Castledawson
<b>Referral Route:</b>  This application is being presented to Committee as it is being recommended for refusal.	
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Applicant Name and Address:</b> Cathal Shivers C/o. Toome Industrial Park 21 Hillhead Road Toomebridge BT41 3SF	<b>Agent Name and Address:</b> Vision Design 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b>	
<b>Signature(s):</b>  <b>Malachy McCrystal</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

- Unoccupied dwelling indicating no strong demand for additional houses in the area;  
The above issue does not demonstrated the current demand for dwelling in the area and is not a planning issue;
- Increase in traffic in the area;  
It is noted that Transportni have not raised any issues of concern relating to the volume of traffic or additional traffic;
- Build-up of dwellings leading to a change in character of the area;  
This issue is dealt with below under Policy CTY 14;
- The site is located on a step hill which causes flooding of the amenity space of a neighbouring dwelling;  
The site is on relatively flat land which it is not accepted causes any flooding. The flood maps on the planning portal do not indicate any areas of pluvial flooding within the objectors property;
- The proposal would double the number of dwelling in the area thereby resembling a mini-housing estate which would require similar level of services;  
The proposal is only for two dwelling, with four dwellings already in the immediate area. As the site is within a rural area and with a relatively small number of dwelling, services such as street lighting, public sewerage system, foot paving, winter gritting would not be applicable and are not issues for consideration in the is application;

### **Description of proposal**

The proposal is a full application for two dwellings and garages on an infill site.

The dwelling on site 1, to the west, is a large two storey detached dwelling with a 16.2m frontage with a side annex of 6.5m, a 10.6m gable depth, a ridge height of 9.2. The dwelling has a full height front return, centred over the porch with vertical emphasis to the windows and two chimneys centred on the ridge. There is a large one-and-a-half storey rear return. The design and finishes of the dwelling are acceptable apart from the chimneys which are proposed as yellow brick with sandstone coping. As brick is generally not a traditional material in the countryside, this element of the design is unacceptable.

The dwelling on Site 2 to the east, is also two storey detached dwelling, but this is a more straight forward dwelling, having a simple rectangular footprint with a 5.1m side annex. The frontage measures 14.2m with a gable depth of 9.3m and a ridge height of 9.5m. Again the dwelling has a vertical emphasis to the windows and has two chimneys centred on the ridge. There is a much smaller single storey porch centred on the front elevation and all finishes are traditional.

There is one access point proposed for the two sites and is centred along the site frontage. The garages are to be positioned to the side and rear of the dwellings. The site plan indicates a new hedge behind the sight visibility splays.

### **Characteristics of the site and area**

The site consists of a small road frontage field and also includes a portion of a second larger field, also road frontage, but which wraps around the back of the smaller field. In total the site has a road frontage of 100m. The field rises up gently from the public road towards the north. There are two existing dwelling to the east, No's. 41 and 43, both on road frontage sites with a third dwelling to the north west, No.37. The dwelling to the north west is set back 90m from the road and has 35m of amenity space in front. The amenity space is bounded by a mature hedge, 50m back from the Drumlamph Road, which separates the dwellings curtilage from a small paddock which extends to the road frontage and which also abuts the western boundary of the site. The access to the third dwelling is via an existing laneway to the west of the paddock and is

bounded by tall mature trees and hedges on both sides. The paddock has a road frontage of 30 metres and is 50m deep. The site is bounded along the Drumlamph Road by mature trees and hedgerow with a similar hedgerow separating the smaller field from the larger field.

There is a dwelling on the opposite side of the road, No.26, on a site cut into Frew's Plantation which extends along both eastwards and westwards of the site boundaries. Due to the mature boundary hedgerows in the immediate area in addition to the plantation of the opposite side of the road, there are only localised critical views of the site at present. However, in order to provide the necessary visibility splays, the road frontage hedge would have to be removed.

### **Relevant planning history**

H/2004/1480/O - Site of dwelling and garage, withdrawn 19.01.2006 following a recommendation to Refuse.

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

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

PPS 21 – sustainable development in the countryside

The proposal falls to be considered under Policy CTY 8. In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap is present. Secondly, an assessment of the gap is required in order to ascertain whether it is 'small' in the context of the policy. Although it does not purport to provide an exhaustive list of circumstances, CTY 8 states that a substantial and built up frontage "includes a line of 3 or more buildings along a road frontage without accompanying development to the rear".

The site is bounded to the east by two detached dwelling on generous road frontage plots. To the west there is a third dwelling but this is set back off the road and does not have a frontage to the road. This dwelling is positioned 90m back off the Drumlamph Road and while there is amenity space around the front of the dwelling, there is a separation of 50m between the amenity space and the Drumlamph Road. The area in between is a small paddock which does not form part of the dwellings curtilage and therefore the third dwelling cannot be considered to form part of a substantial and continuously built up frontage. Furthermore, the access laneway to No.37 is 30m west of the sites boundary and due to the mature boundary vegetation around No.37, this dwelling is not visible from the Drumlamph Road. The application sites would have a common frontage with the two existing dwelling at No's 41 & 43 and would be visually linked. Therefore the application site is regarded as creating ribbon development.

While an assessment of the size of the site would suggest that it is of similar size as the plot containing the two dwellings at no's. 41 & 43, as it is not considered to be located within a substantial and continuously built up frontage, it is contrary to this policy as it would result in the creation of ribbon development at this location.

While the site fails to satisfy the requirements of CTY 8, it also has to be considered under other policies ie. CTY 13 – Integration and CTY 14 – rural character.

CTY 13 – Integration

The proposed site will require the removal of the site frontage in order to provide the necessary visibility splays. This will inevitably open up views into the site and in doing so, will leave the dwellings with less potential to integrate into the surrounding landscape. The result being that dwellings on this site would then rely heavily on proposed planting to aid integration.

**CTY 14 – Rural Character**

As the site is not considered to be an infill site, and given that the site frontage will be required to be removed to provide the necessary access arrangements, any dwelling on this site will then be intervisible and will be read with the existing dwellings at no's. 41, 43 and 26. This will particularly be the case on approach from the east from where the dwellings at no's 41 and 43 are visible first, then no. 26 comes into view and then the proposed dwellings would also be visible. They would appear as a continuation of the built form along Drumlamph Road thereby resulting in ribboning and a suburban style build-up of development.

**CONSULTATIONS**

Transport NI, Environmental Health and NI Water have all advised that they have no issues of concern with the proposed site.

**Recommendation**

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

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

Refuse for the reasons stated below:-

**Reasons for Refusal:**

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site and would, if permitted, result in the creation of ribbon development along this stretch of the Drumlamph Road.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site will result in the removal of long established natural boundaries and as a consequence is unable to provide a suitable degree of enclosure for the building and therefore it would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this part of the Drumlamph Road and therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

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<b>ANNEX</b>	
<b>Date Valid</b>	18th May 2015
<b>Date First Advertised</b>	1st June 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 37 Drumlamph Road Drumlamph Bellaghy The Owner/Occupier, 43 Drumlamph Road Drumlamph Bellaghy Mr. Philip and Dr. Brenda O'Neill 43 Drumlamph Road, Castledawson, BT45 8EJ The Owner/Occupier, Beech Manor 26 Drumlamph Road Drumlamph	
<b>Date of Last Neighbour Notification</b>	2nd June 2015
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: H/2003/0793/O Proposal: Site of dwelling and garage. Address: Site 530m North East of Hillhead Road, Drumlamph Road Junction. Decision: Decision Date: 05.03.2004  Ref ID: H/2009/0123/F Proposal: Retrospective application for change of house type and garage, amended access and relocation of dwelling and garage from previously approved application H/2005/0158/F Address: 530m North East of Hillhead/Drumlamph Road junction, Castledawson. Decision: Decision Date: 16.06.2009  Ref ID: H/2004/1035/F Proposal: Storey and a half dwelling house with attached garage Address: 530m North East of, Drumlamph Road and Hillhead Junction Decision: Decision Date: 03.08.2004	



Ref ID: H/2002/0864/O

Proposal: Site of dwelling and garage.

Address: 530m North East of Drumlamph Road / Hillhead Road junction.

Decision:

Decision Date: 18.11.2002

Ref ID: H/2005/0158/F

Proposal: Dwelling and garage to supersede outline approval H/2002/0864/O

Address: 530m NE of Hillhead Road/Drumlamph Road Junction, Maghera

Decision:

Decision Date: 19.08.2005

Ref ID: H/2004/1480/O

Proposal: Site of dwelling and garage.

Address: Opposite no 26 Drumlamph Road, Knockloughrim, Castledawson

Decision:

Decision Date: 19.01.2006

Ref ID: H/2004/1220/O

Proposal: Site of dwelling and garage

Address: Drumlamph Road, 390m North East of junction with Hillhead Road, Castledawson

Decision:

Decision Date: 11.10.2005

Ref ID: H/2002/1140/F

Proposal: Dwelling and garage.

Address: Drumlamph Road, 430m NE of junction with Hillhead Road, Castledawson.

Decision:

Decision Date: 18.03.2003

Ref ID: H/2012/0200/F

Proposal: Proposed garage extension

Address: 37 Drumlamph Road, Castledawson, Magherafelt,

Decision: PG

Decision Date: 03.08.2012

Ref ID: H/2012/0188/F

Proposal: 11kv Overhead Line

Address: 33 Drumlamph Road, Castledawson,

Decision: PG

Decision Date: 03.09.2012

Ref ID: LA09/2015/0243/F

Proposal: Proposed 2No. infill dwellings and garages

Address: Lands between 37 and 43 Drumlamph Road, Castledawson,

Decision:

Decision Date:

**Summary of Consultee Responses**

Transportni, Environmental Health and NI Water advised that they have no issues of concern with the proposal.

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0355/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2 no Semi Detached Dwellings	<b>Location:</b> Adjacent and SW of 4 Hawthorne Crescent Dungannon
<b>Referral Route:</b>  This application is recommended for refusal as it is contrary to PPS 7 and PPS 15.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Gerard Donnelly 2 Hillcrest Lurgaboy Dungannon BT71 6SJ	<b>Agent Name and Address:</b> Donnelly Design Services 8 Devesky Road Carrickmore Omagh BT79 9BU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Statutory	Rivers Agency	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

### Characteristics of the Site and Area

This application site comprises a narrow parcel of land at Hawthorne Crescent in Dungannon. It sits adjacent and west of No 4 Hawthorne Crescent and it appears this site was previously utilised as the garden associated with No 4. The site measures 0.04 hectares, is 25 metres at its widest and approximately 70 metres at its deepest.

Currently the site is an area of open space in Hawthorne Crescent and electricity poles traverse the site. The north eastern boundary which separates the site from the curtilage of No 4 is a post fence ranging from 1 metre at the front to 1.5 metres. The rear boundary of the site is a post and wire fence with a watercourse running along this and the south western boundary which is treed and adjacent to the Mullaghmore Road which sits at a higher level than the site.

### **Area Characteristics**

This site is located within the development limits of Dungannon in the western section. Hawthorne crescent is a cul-de-sac which comprises three pairs of semi-detached two storeys. One dwelling which was part of a terrace of three at the entrance to the development was demolished to provide car parking for the adjacent local shop. The surrounding area is a mixture of residential and community uses with playing fields south of the site and a local shop to the east.

This site is whiteland in the Dungannon and South Tyrone Area Plan.

### **Proposal Description**

This is a full application for a 2 no Semi Detached Dwellings on land adjacent and south west of No 4 Hawthorne Crescent, Dungannon.

This application proposes two two storey dwellings which measure 7 metres wide and 9 metres deep.

### **Planning History**

In September 2004, planning application M/2004/1107/O was granted approval for a dwelling and garage on this site. An application was subsequently submitted under M/2004/2006/O on the site for two semi-detached townhouses. This application was withdrawn in June 2005.

### **Representations and Consultations**

NI Water have no objections and state there is available capacity at the WWTW.

Transportni state Hawthorne Crescent is an unadopted private driveway which has not been designed as to be suitable for adoption. They recommend refusal as the proposal could only be permitted if the developer upgraded the section of the roadway to allow a determination to Transportni standards.

Rivers Agency state this site lies within a 1 in 100 year fluvial floodplain of the minor watercourse Park Lake Stream and they object to this proposal.

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

The Strategic Planning Statement which was published in September 2015 retained a number of existing policies, of which PPS 7 was one and is the relevant policy in this application proposal.

As this application seeks outline permission, it is the principle of development which is assessed. Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments states all proposals for residential development will be expected to conform to all of the following criteria:

a) The immediate surrounding area is mostly residential with a variety of semi-detached and detached two storeys with community and local facilities available close by with a local convenience shop, playing fields and nursing home also.

The principle of residential development is generally acceptable within the development limit of Dungannon and this proposal respects the use of the surrounding area which is mainly residential. However I have concerns regarding the layout and scale of the proposal. The existing dwellings in this development measure approximately 9 metres wide with a depth ranging 9-12 metres. Nos 3 and 7 Hawthorne Crescent have much larger garden areas than the other properties, as did No 4 Hawthorne Crescent.

I am of the opinion two dwellings on this site would be an intensification of development and this proposal would constitute overdevelopment of the site as I do not think it is capable of accommodating two dwellings.

b) There are no archaeological features in the immediate vicinity of the site. The vegetation existing on the south western boundary would be worthy of protection and could be conditioned so if this application were approved.

c) I am not convinced there is adequate space to provide the required 70 metres squared of private rear amenity space for each dwelling.

d) Given the nature, scale and location of the development, there is no requirement for public open space to be provided as part of this application.

e) The location of this site within the town of Dungannon supports walking and cycling and there is convenient access to public transport.

f) There appears to be adequate space for parking at the front of both proposed dwellings.

g) the appropriateness of the design of the development will be determined at reserved matters stage as details are not required to be submitted at outline stage.

h) The agent was requested to submit revised drawings as there were concerns regarding inaccuracies of the indicated scale of the drawings. As no information was submitted, it was more difficult to ascertain correct measurements and distances.

The submitted block plan shows the dwellings set back from the building line of Nos 4 and 5. This would mean one of the houses is very close to the boundary of No 4 Hawthorne Crescent which also has a number of openings on the western gable. I am not satisfied there would not be unacceptable adverse impacts on this neighbouring dwelling and for the proposed dwelling.

i) There are no concerns regarding crime and personal safety with this proposal.

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

(a) The density of the existing development at Hawthorne Crescent is 6 dwellings per hectare. This proposed development would have a significantly higher density of 50 per hectare and I would have concerns this would considerably alter the character of this established residential cul-de-sac.

(b) The pattern of development in the immediate area is semi-detached dwellings and I consider the type of dwelling proposed, albeit smaller than what is existing, would not have an impact on the overall character and environmental quality of this established residential area.

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

The size of the house cannot be determined at outline stage.

Policy FLD 1 – Development in Fluvial (Rivers) and Coastal Flood Plains states that development will not be permitted within the 1 in 100 year fluvial flood plain or the 1 in 200 year flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

Rivers Agency state this application site lies within the floodplain of the designated watercourse Park Lane Stream – U4304 and object to this proposal.

The agent in reply to Rivers Agency's comments has stated;

- The floor levels proposed will be the same as the adjoining dwellings who have never experienced flooding.
- The developer plans to build a retaining wall along the line of the existing stream to protect from flooding and would sign a waiver of responsibility against responsibility should any flooding occur.

I am not of the opinion the agent has demonstrated this proposal is an exception to policy, this site is immediately adjacent to the watercourse with it running along the south western and western boundaries.

The applicant did not submit a Flood Risk Assessment to,

- demonstrate all sources of flood risk to and from the proposed development identified,
- there are adequate measures to manage and mitigate any increase in flood risk arising from the development.

The agent also failed to demonstrate how this site would be an “exception” as is detailed in the policy.

This application site is much closer to the watercourse than the existing dwellings the agent referred to and therefore more likely to be impacted by it in the event of a flood.

Transportni have also recommended refusal as this application is contrary to AMP 2 in PPS 3 as Hawthorne Crescent is an unadopted private driveway which has not been designed to the normal layout design standards that make it suitable for adoption. Therefore the application could only be permitted if the developer proposes to upgrade the section of roadway to allow determination to the department's standards. The width and visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

The agent has stated the applicant is not in possession of the land required to do this and highlighted that previous planning approvals in Hawthorne Crescent including a change of use would have caused intensification of this junction also.

I am not convinced by the agent's argument and therefore would state this proposal fails to meet with the policy requirements of AMP 2 in PPS 3.	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>  Having conducted a site visit and taking the planning history into account also, I do not feel this site has the capacity to accommodate two dwellings while providing adequate amenity space associated with each dwelling. Transportni have recommended refusal also due to intensification of an unsatisfactory unadopted road. I also have concerns regarding flooding on this site following an objection from Rivers Agency and conclude this application fails to meet the policy requirements of FLD 1 in PPS 15. Therefore refusal is recommended.	
<b>Reasons for Refusal:</b>  <ol style="list-style-type: none"> <li>1. This proposal fails to meet the policy requirements of QD1 in PPS 7 in terms of;           <ol style="list-style-type: none"> <li>a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced area;</li> <li>c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area.</li> <li>h) the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;</li> </ol> </li> <li>2. This proposal also fails part b of LC1 in the Addendum to PPS 7 in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area due to an increased density.</li> <li>3. This proposal is contrary to Policy FLD 1 in PPS 16 as the applicant has failed to demonstrate that the proposal constitutes an exception to the policy.</li> <li>4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the intensification of use of this existing substandard private access in close proximity to a road junction would add to existing traffic hazards created by the slowing down and turning movements of vehicles entering and leaving the access.</li> <li>5. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width, visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.</li> </ol>	



<b>Signature(s)</b>
<b>Date:</b>

<b>ANNEX</b>	
<b>Date Valid</b>	8th June 2015
<b>Date First Advertised</b>	22nd June 2015
<b>Date Last Advertised</b>	26th June 2015
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Wellbrook Avenue,Dungannon, Co Tyrone The Owner/Occupier, 3 Hawthorne Crescent,Drumcoo,Dungannon,Tyrone,BT70 1QS, The Owner/Occupier, 4 Hawthorne Crescent Drumcoo Dungannon The Owner/Occupier, 9 Wellbrook Avenue,Dungannon, Co Tyrone	
<b>Date of Last Neighbour Notification</b>	22nd June 2015
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2015/0355/O Proposal: Proposed 2 no Semi Detached Dwellings Address: Adjacent and SW of 4 Hawthorne Crescent, Dungannon, Decision: Decision Date:  Ref ID: M/2004/1107/O Proposal: Site for dwelling & garage Address: Adjacent No4 Hawthorne Crescent, Dungannon Decision: Decision Date: 15.09.2004  Ref ID: M/2006/1897/Q Proposal: Proposed Development Address: Hawthorne Crescent/Mullaghmore Road, Dungannon Decision: Decision Date:  Ref ID: M/2005/0639/F	

Proposal: Ground floor shower room and study Extension to dwelling.  
Address: 4 Hawthorne Crescent, Dungannon, County Tyrone  
Decision:  
Decision Date: 13.06.2005

Ref ID: M/2004/2006/O  
Proposal: 2 No Semi Detached Town Houses  
Address: Adjacent 4 Hawthorne Crescent, Dungannon  
Decision:  
Decision Date: 08.06.2005

Ref ID: M/1983/0401  
Proposal: RETIREMENT DWELLING  
Address: HAWTHORNE CRESCENT, DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1978/0411  
Proposal: 2 NO DWELLINGS  
Address: QUARRY LANE, DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1977/0208  
Proposal: 4 NO DWELLINGS  
Address: QUARRY LANE, DUNGANNON  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

NI Water have no objections and state there is available capacity at the WWTW.

Transportni state Hawthorne Crescent is an unadopted private driveway which has not been designed as to be suitable for adoption. They recommend refusal as the proposal could only be permitted if the developer upgraded the section of the roadway to allow a determination to Transportni standards.

Rivers Agency state this site lies within a 1 in 100 year fluvial floodplain of the minor watercourse Park Lake Stream and they object to this proposal.

### **Drawing Numbers and Title**

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0598/F	<b>Target Date:</b>
<b>Proposal:</b> Replacement office and storage unit associated with an established business (retrospective)	<b>Location:</b> 50m West of 35 Moss Road Ballymaguigan Magherafelt
<b>Referral Route:</b>  This application is being presented to Committee as it is being recommended for Refusal.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Christopher Cassidy 58 Aughrim Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 80-82 Rainey Street Magherafelt
<b>Executive Summary:</b>	
<b>Signature(s):</b> Malachy McCrystal	

## Case Officer Report

### Site Location Plan



### Consultations:

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

The proposal is for the erection of a large, flat roofed, prefabricated building measuring approximately 9.9m x 9.5m with a roof height of 3.1m. While the plans as submitted show the building to have a finished floor level of 0.5m above ground level, the building has already been installed on site and has been erected on top of large concrete pipes which are approximately 0.9m high. With the finished floor levels being approximately 0.30m-0.50m above the levels of the concrete pipes, this will result in the finished floor levels being approximately 1.20m-1.40m above ground levels. This is in addition to the ground levels which have been raised already by approximately 0.60m. Overall the finished floor level will be around 2.00m above the original ground levels.

The building is to be positioned in the south-western corner of the site with car parking to the front of the site, between the building and the public road. The access to the site is to be positioned at the north-eastern corner of the site. No details have been provided regarding the existing or proposed site levels or finished floor level other than those scaled off the elevations drawing no.02.

The proposed building contains one large office measuring 9.50m x 6.00m with a meeting room measuring 4.00m x 2.90m and a kitchen measuring 3.00m x 2.90m. The front elevation has a pair of entrance doors opening directly into the large office which also has a larger window to the front and two additional windows to either side. Similarly the meeting room and kitchen have large windows. Most windows have a vertical emphasis although three of the four in the large office have more of a square than vertical emphasis. The external finishes are :-

Roof : flat roof;

Walls : white smooth faced curtain wall with cedar cladding between the windows on the front and north western elevations;

Doors/windows : hardwood;

Plinth ; Natural stone

Rainwater goods : concealed gutter with black uPVC downpipes:

The provision of the access will require the removal of approximately 18m of the roadside hedge. This will necessitate the replacement of this section of hedging. New hedgerows are also proposed along the north-western and south-western boundaries of the site.

## Characteristics of the site and surrounding area

The site is comprised of a large area of rough overgrown land on a road frontage site. There is a bungalow, no.35, immediately to the eastern boundary. The site contains a small portacabin and the frame of a larger prefabricated building, which has been set up on concrete pipes as a base. These pipes are approximately 1.0m high and have been filled with concrete to provide a stable base for the steel frame of the prefab building. The prefab building is in poor state of repair with two of the four sides having been removed. The other two sides have been partially removed with the timber frame exposed. The floor level of the prefab building sits approximately 1.2m above existing ground level.

There is an existing hedge along the roadside boundary with a 3m high hedge along the eastern boundary next to no.35. The other boundaries on the south and west are defined by trees and bushes/shrubbery. The site lies outside the settlement development limit of Ballymaguigan as defined in the Magherafelt Area Plan 2015. The site is some 80m outside the development limit on the southern side of the Moss Road. There is a vacant site opposite the site with the entrance to Moss Tiles to the east.

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

### **Relevant planning history**

An application was submitted under LA09/2015/0347/LDE which sought to establish that the existing porta cabin on site was used by the applicant for meeting and storage rooms for more than 5 years and therefore was lawful. This application was determined on the basis of the information available at that time and was refused as it was considered that insufficient evidence had been provided to demonstrate that the porta cabin has ever been used for the use as applied for.

### **Development Plan and key policy 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.

In considering the proposal under PPS 21, Policy CTY 1 advises that planning permission will be granted for industry and business uses in accordance with PPS 4.

PPS 4 – PED 4: the Redevelopment of an Established Economic Development Use in the Countryside.

The overarching criteria for considering the proposed business development in the countryside is PPS 4 Policy PED 4 – Redevelopment of an established economic development use in the countryside, which states that proposals for the redevelopment of an established business use in the countryside for business purposes will be permitted where all of the stated criteria are met, these are considered below:-

- While the proposed development would result in the removal of the existing porta cabin from the site, this would be replaced by a much larger structure which would have a much greater visual impact. The existing porta cabin is barely noticeable as it is located to the rear of the mature roadside hedge and is well screened. The provision of the proposed access would necessitate the removal of at least 18m of this hedge and would open up views into the site thereby revealing the much larger building to a greater degree. Therefore, the proposed development will undoubtedly have a detrimental impact on the character and appearance of the local area. Furthermore, while the proposal deal comprehensively with the full extent of the existing site, it includes a much enlarged site. The existing porta cabin and the access/hard surfaced area is contained within a small area to the front of the proposed site and extends to around 430m<sup>2</sup>, whereas the proposed site extends to around 1300m<sup>2</sup>. This is an increase in site area of over 300%. The proposed site, however, does not extend to the full extent of the field in which it is situated as this extends to approximately 0.75Ha. The proposal does not have a proportionate increase in the site area.
- Given that the proposal includes the provision of a large prefabricated building on a rural site which is void of any similar buildings or development, there can be no perceived environmental benefits as a result of the proposal. In addition, the proposed development will generate an increase in traffic on this dead-end road to a greater degree than existing. The P1 form advises that there will be on average an additional 18 vehicles per day attracted to the site. Although



Transport NI have not raised any issues regarding this increase, this would not be considered to be an environmental benefit.

- At 94m<sup>2</sup>, the floorspace of the replacement building is significantly larger than the existing building which extends to approximately 27m<sup>2</sup>. This is an increase of around 350%. The height of the proposed building is also much higher than the existing porta cabin. When all the above factors are taken into account ie. the larger footprint, increased height, the raised ground levels which have already taken place, the required hedge removal, the design of the building, the visual impact of the proposed building will undoubtedly be significantly greater than the existing porta cabin.

As the proposal fails to meet all the stated criteria within Policy PED 4 it is therefore contrary to this policy.

#### **PPS 4 – PED 9: General criteria for economic development.**

The proposal also falls to be assessed under Policy PED 9 and must meet all of the stated criteria, as discussed below;

- It is considered to be incompatible with the adjacent rural landuses which are residential.
- The dwelling at no.35 is positioned approximately 7m from the boundary of the site and has an area of amenity space to the front. There is the potential for noise disturbance due to the amount of traffic and people which will be attracted to this site.
- The proposed development will not have any adverse affect on natural or built heritage nor will it be at risk from, nor cause flooding.
- The proposed development will not result in the discharge of any emissions and Environmental Health have not raised any issues of concern regarding the discharge from the septic tank.
- Likewise, Transport NI have not raised any concerns regarding the increase of traffic nor the proposed access and parking arrangements, however, the proposal to locate a business in this rural location does not support modes of transport other than by vehicles. Nor is it adequately serviced by public transport.
- The proposal layout and the building design are not of an acceptable quality and do not promote sustainability.
- Although new hedges are proposed along the southern and western boundaries in addition to along the rear of the visibility splays, it will be a considerable time before such planting will provide adequate screening to the proposed building to assist it to integrate into the surrounding landscape.
- In general, the proposal will deter crime and promote personal safety.

In considering the proposal under Policy PED 9, the proposal fails to meet all the stated criteria as discussed.

#### **PPS 21 – Policy CTY 1**

As the proposal has already been assessed under PPS4: Policy PED 4 above and is considered contrary to that policy, it then falls to be considered under PPS 21: Policy CTY 1 – Development in the Countryside. In doing so, as the proposed development lies outside the development limit of Ballymaguigan, unless there are overriding reasons why the proposal is essential at this location and cannot be located in a settlement, it must be considered unacceptable. In addition, all proposals must be sited and designed to integrate sympathetically with their surroundings.

It is noted that the applicant has submitted six sworn affidavits that the existing mobile has been in continuous use as storage and for meetings since June 2009. The applicant and an employee state that they used the existing porta cabin for meetings on a three times per week and once per week basis respectively. It is not clear whether they attended at the same or different times. However, from the evidence given, it is clear that the existing porta cabin, although used for storage purposes, was not continuously occupied by staff. While the applicants business currently operates from Unit C5, Rainey Street, Magherafelt, they have failed to provide any justification as to the need for the proposed unit or why the proposed unit has to be at this

location. Workspace/Network Personnel, who are the owners of the applicants current office accommodation, have advised that they currently have additional vacant office accommodation at Rainey Street. Therefore there is scope for the applicant to expand their business at their current location. That town centre location would be more suitable and sustainable as opposed to relocating seven staff to this rural site.

**Policy CTY 8 – Ribbon Development;**

When travelling along Moss Road, in either direction, the perception is of buildings on the opposite side of the road. These buildings are within the settlement limit of Ballymaguigan. The only view of development on the same side of Moss Road is of the adjacent dwelling at no.35. Therefore the proposal is contrary to this policy as it is not considered to be a small gap within an otherwise substantial and continuously built up frontage.

**Policy CTY 13 – Integration and Design of Buildings in the Countryside;** when assessed under this policy the proposal is again considered to be unacceptable due to the design and proposed siting.

The proposed building has been set up on a raised concrete base which also sits on a raised area of hardcore. While there is an existing hedgerow along the front of the site, this does not extend along the full length of the fields frontage and therefore there are views into the site which will result in the proposed building being visually intrusive. In addition to the existing views into the site, if the required visibility splays are to be provided, this will open up further views into the site as 18m of the road frontage hedge are to be removed. It is therefore my opinion that the proposed building would be a prominent feature in the landscape.

The site has undefined boundaries to both the south and east and together with the removal of the road frontage hedge to provide the necessary visibility splays, will rely on proposed planting to achieve an acceptable degree of integration.

The design of the building, which is typical of mobile buildings, is considered to be inappropriate and unacceptable for this rural location as it will fail to blend with the character of the surrounding area. This design is similar to that of mobile residential homes, which, as advised under Policy CTY 9 limit its potential for integration.

**Policy CTY 14 – Rural Character;** As discussed above, the proposed development is unacceptable as it is considered to be prominent. Although there is an existing porta cabin on site, the proposal would result in a much larger building set back into the site with formalised access and car parking arrangements. Due to the size and positioning of the building on this site, it would result in a suburban style build-up of development when viewed with existing buildings in the area.

The proposal will also result in the creation of a ribbon of development at this location on the Moss Road. When viewed with the existing dwelling at no.35 and its ancillary buildings together with the access to other buildings to the rear it is seen as extending the built form in a westerly direction. Although the existing porta cabin is on site already, this is well screened from view and is much smaller in size and scale and does not have the same visual impact as the proposed building. At present, the access into the site amounts to a gap in the roadside hedge. This will be formalised with the provision of visibility splays and hedge removal thereby raising awareness and drawing attention to the development.

**PPS 3 - Access, Movement and Parking;** Transport NI have been consulted and have advised that they have no objections to the proposal.

**Environmental Health**

EHD were consulted and have advised that they have no objections to the proposal.

**Recommendation**

Given the above assessment of the proposal under the relevant policies, it is my opinion that the proposed development fails to meet the policy tests of PPS 4: PED 4, PED 9, PPS 21: CTY 1, 8, 13 and 14 and therefore planning permission should be refused for the following reasons:-

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

Refuse for the reasons stated below:-

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Planning Policy Statement 4, Planning and Economic Development: Policy PED 4 - Redevelopment of an Established Economic Development Use in the Countryside, in that the development would, if permitted; harm the rural character and appearance of the local area as there is a substantial increase in the site area; there are no environmental benefits; and the proposed development would have a significantly greater visual impact than the existing building.
3. The proposal is contrary to Planning Policy Statement 4, Planning and Economic Development: Policy PED 9 - General Criteria for Economic Development, in that the development would, if permitted fail to provide an acceptable movement pattern and access to public transport, fail to promote sustainability and fail to integrate into the surrounding landscape.
4. 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 this part of Moss Road.
5. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building will fail to integrate as the proposed site lacks long established natural boundaries and much of the front boundary is proposed to be removed. The proposed site is therefore unable to provide a suitable degree of enclosure for the building to integrate into the surrounding landscape as it will rely primarily on the use of new landscaping for integration.
6. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the proposed building would, if permitted; result in a suburban style build-up of development when viewed with existing buildings; create a ribbon of development; and would therefore result in a detrimental change to the rural character of the countryside.

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

<b>ANNEX</b>	
<b>Date Valid</b>	30th July 2015
<b>Date First Advertised</b>	10th August 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 30 Moss Road Ballymaguigan Magherafelt The Owner/Occupier, 32 Moss Road,Ballymaguigan,Magherafelt,Londonderry,BT45 6LJ, The Owner/Occupier, 35 Moss Road Ballymaguigan Magherafelt The Owner/Occupier, 36 Moss Road Ballymaguigan Magherafelt The Owner/Occupier, 37 Moss Road,Ballymaguigan,Magherafelt,Londonderry,BT45 6LJ,	
<b>Date of Last Neighbour Notification</b>	17 <sup>th</sup> August 2015
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: H/2011/0360/O Proposal: Proposed infill dwelling and garage Address: 40m NW of 37 Moss Road,Ballymaguigan,Magherafelt, Decision: Decision Date: 20.01.2012  Ref ID: H/2009/0190/O Proposal: Site of proposed residential housing development and proposed widening of Moss Road and provision of footway between the proposed site and B18 Ballyronan Road. Address: No 36 Moss Road, Ballymaguigan, Magherafelt including lands immediately to the east and the west. Decision: Decision Date: 10.12.2009  Ref ID: H/1999/0025 Proposal: REPLACEMENT DWELLING Address: 37 MOSS ROAD BALLYMAGUIGAN Decision: Decision Date:	

Ref ID: H/1989/0106  
Proposal: SITE OF REPLACEMENT DWELLING  
Address: 37 MOSS ROAD BALLYMAGUIGAN  
Decision:  
Decision Date:

Ref ID: H/1993/0120  
Proposal: SITE OF REPLACEMENT DWELLING  
Address: 37 MOSS ROAD BALLYMAGUIGAN  
Decision:  
Decision Date:

Ref ID: H/2003/0365/F  
Proposal: Proposed sun room extension and first floor conversion to dwelling.  
Address: 37 Moss Road, Magherafelt.  
Decision:  
Decision Date: 29.07.2003

Ref ID: H/1992/0061  
Proposal: ALTS & ADDS TO DWELLING  
Address: 37 MOSS ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2006/0693/F  
Proposal: Replacement dwelling and detached garage  
Address: 37 Moss Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 08.12.2008

Ref ID: H/2004/0714/O  
Proposal: Site of two storey dwelling.  
Address: 38m west of 35 Moss Road, Ballymaguigan, Magherafelt.  
Decision:  
Decision Date:

Ref ID: H/2002/0467/F  
Proposal: Site of Dwelling and Garage  
Address: Adjacent to 35 Moss Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 17.10.2002

Ref ID: H/2004/0708/O  
Proposal: Site Of Two Storey Dwelling  
Address: 58 Metres West Of 35 Moss Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date:

Ref ID: LA09/2015/0347/LDE  
Proposal: Portacabin used by CMI Planners for meeting and storage rooms

Address: Lands adjacent to 35 Moss Road, Magherafelt,  
Decision: PR  
Decision Date:

Ref ID: LA09/2015/0598/F

Proposal: Replacement office and storage unit associated with an established business  
(retrospective)

Address: 50m West of 35 Moss Road, Ballymaguigan, Magherafelt,  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

Drawing No. 02  
Type: 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:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0682/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of equestrian arena, including stables, horse walker building, cctv cameras and floodlighting - amended plans and forms received.	<b>Location:</b> Land adjacent to 32 Annaghroe Road Caledon BT68 4UJ
<b>Referral Route:</b>  2no objections received.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Caledon Estates Company 2 Estate Terrace Caledon BT68 4TU	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  The application complies with policy for this type of application in the countryside. It can be absorbed easily at this location given the excellent boundary treatments with no detriment to the rural character of the area. The objector has offered two letters of objection. The concerns which are material planning considerations could not, i feel, be sustained as reasons for refusal, given the physical characteristics of the area.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

The 2no objections from the same person raised issues of floodlighting, privacy, mud on the road outside the site boundaries, their address being used as a reference point for the purposes of giving a site address and the disregard shown by the applicant for the law.

### Characteristics of the Site and Area



The site itself is a square shaped plot located on the south western edge of Caledon estate.

The north eastern boundary of the site is defined by existing estate walls and access road to the estate beyond them.

The south eastern boundary of the site is defined by same stone walls.

The south western boundary of the site is defined by a line of mature native species trees approx 12 -14m in height.

The north western boundary of the site is defined by hedgeline approx 4-5m tall.

The predominant land use in the area is agricultural grazing land.

The characteristic design in the area has obviously been influenced by Caledon Estate, dwellings in the immediate vicinity are constructed from stone and have the appearance of being workers cottages, ancillary to the estate.

The land mass in the immediate area of the application site is quite 'localised' due to the undulating landscape.

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

strategic Planning Policy Statement for Northern Ireland  
PPS 21 - Sustainable Development in the Countryside.  
PPS 8 - Open Space, Sport and Outdoor recreation.  
PPS 3 - Access, movement and parking.

PPS 21 allows for the non residential development in the countryside in a number of cases, one of which is outdoor sport and recreational uses in accordance with PPS 8.

PPS 8 - Open Space, Sport and Outdoor Recreation.

Policy OS3 - Outdoor Recreation in the Countryside.

OS3 allows for permitting of development of proposals for outdoor recreational use in the countryside where a number of criteria can be met;

there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

NIEA were consulted for opinion as the site lies 125m sw of Caledon Estate ASSI. The walls to the estate are also a listed building. NIEA returned comment of no objection subject to conditioning a bollard be in place to protect the walls from vehicular movements.

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

the area of land is approx 0.57ha, images from Google Streetview appear to show the area being used for the grazing of horses and storage of ancillary equipment. The area also has

native species trees throughout and would not in my opinion lend itself to having agricultural machinery farming the land.

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

The walls along the NE and SE of the site are to be retained and protected. The other two boundaries along the NW and SW are to be retained. It is my opinion that the proposal does not have adverse impact from the proposal nor does it unduly affect the rural character of the area. Existing vegetation is to be retained. The topography of the area is low lying, the land rises towards the south west and North east away from the site.

(iv) there is no unacceptable impact on the amenities of people living nearby;

Environmental Health were consulted for opinion and had no comment to make on the proposal. The use by its nature is not likely to generate noise one would not ordinarily expect to find in the countryside. This is for private use only so will not obviously generate the traffic one would witness in a commercial enterprise. The arena is monitored by CCTV which are static pole mounted cameras. I have visited the monitoring station for same and am satisfied that the view from the camera is not obtrusive, capable of being zoomed any further than the view I seen nor could a reason for refusal be sustained as having an adverse effect on the amenities of adjoining neighbours.

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

I do not consider that public safety would in any way be prejudiced by approval of the development if forthcoming, the scale is residential and comfortably absorbed into the landscape at this location. The nature of the activity is not noise generating and would mean only being used for short periods per day, perhaps not even every day. Environmental Health have recommended that the lighting be designed with consideration to the Institute of Lighting Professionals Guidance Notes for the reduction of Obtrusive Light GN01:2011.

(vi) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

the buildings constructed are typical for the nature of the proposal i.e. stable block. The horse walker is not conspicuous in the landscape and is sited sympathetically in the site.

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

The facility can be accessed by those with disability and is flat and easily traversed by wheel chair if need be.

and

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

In terms of PPS 3 - AMP 2 - Access to Public Roads, AMP 2 states permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a public road where :

the access will not prejudice road safety or significantly inconvenience the flow of traffic and the proposal does not comply with AMP 3 - Access to protected routes.

Transport NI had inspected the site and returned comment of no objection to the proposal and the proposal does not comprise any protected route.

The sPPS recognises the value that open space provides to both present and future generations. It also recognises that the NI countryside lends itself to accommodating a wide range of recreational activities. It lays out the policy considerations that future Local Development plans should contain inc. visual and residential amenity , public safety inc road safety; any impact on nature conservation , landscape character archaeology or built heritage and accessibility. Whilst it is not stating these should be taken into account in determining individual applications per se it gives an indication which factors one should consider in coming to recommendation, all of which have been covered in my assessment above.

2no objections were received to the proposal;

Both objections come from 32 Annagharoe Road, Caledon, the property approx 110-170m away from the application site.

The first objection was received 10.09.2015.

The objector begins by stating she finds "no excuse" for people 'ignoring the law' in relation to building the works and seeking retrospective planning permission.

She proceeds to state that regarding cctv and floodlighting they object to any invasion of privacy by these. Again, I have dealt with these considerations above, I am satisfied having inspected the screen for all the camera images that no invasion of privacy would result. The excellent boundary treatment to the south of the site with rising land to no 32 and adjoining farm buildings help screen privacy space to no 32. Although the objector also mentions no 34 Annagharoe Road, no one from no 34 has submitted any letter of objection. Nonetheless, the occupier of 32 advised me that was her daughter's property and I went to the private amenity space which faces towards the application site approx 40m away. I have also as stated, seen the camera feed on the monitoring station and am more than satisfied that no invasion of privacy would result from the existing cameras given the distance and intervening vegetation.

The second objection was received 18 September 2015 also by J. Archer.

This objection refers to the site address being given as relative to their own property. (The objector and her husband also called in to the front desk at Mid Ulster Council offices on 10th March 2015. I happened to be the duty planner that day and told them that this was purely to give a reference point and MUC could not insist it be changed, given it is an accurate site address).

On 10 March they also raised the issue of mud on the road towards the main Caledon Road to the north east of the application site and that people pushing buggies had to stand in to allow farm machinery past. I advised that this was outside the red line of the current application site and I could do nothing about that, Transport NI had approved the application and the issue of large machinery on small country roads is typical of many country roads in the district and could not be sustained as a reason for refusal in this instance.

I recommend the application be approved as it complies with the relevant policy for this type of application in the countryside and the matters raised in the objection letters could not be sustained as reasons for refusal if Mid Ulster Council were minded to refuse the application.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

I recommend approval as the proposal complies with the relevant planning policy for this type of application in the countryside.

**Conditions:**

1. The equestrian arena hereby approved shall be used for domestic purposes only ancillary to Caledon Estate.

Reason: To control the nature and scale of activities at this site and to preserve the amenities of adjoining residents.

2. This permission takes effect from the date of this notice.

Reason: Retrospective application.

**Informatives**

1. It is recommended that any lighting to the proposed is designed having consideration to the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01:2011.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th August 2015
<b>Date First Advertised</b>	31st August 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 26 Annaghroe Road, Derrykintone, Caledon, Tyrone, BT68 4UJ, The Owner/Occupier, 27 Annaghroe Road Derrykintone Caledon The Owner/Occupier, 31 Annaghroe Road Derrykintone Caledon The Owner/Occupier, 32 Annaghroe Road Culligan Caledon Jacinta K H Archer 32, Annaghroe Road, Caledon, Tyrone, Northern Ireland, BT68 4UJ The Owner/Occupier, 34 Annaghroe Road Culligan Caledon J.K.H Archer Culligain House, 32 Annaghroe Road, Caledon, Tyrone, Northern Ireland, BT68 4UJ	
<b>Date of Last Neighbour Notification</b>	7th March 2016
<b>Date of EIA Determination</b>	9th September 2015
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/1991/0608 Proposal: Change of use from barn to private residential nursing home Address: ADJACENT TO NO 32 ANNAGHROE ROAD CALEDON Decision: Decision Date:  Ref ID: M/1980/0458 Proposal: MV O/H LINE Address: CULLIGAN, DUNGANNON Decision: Decision Date:  Ref ID: M/1976/0507	

Proposal: EXTENSION TO EXISTING DWELLING HOUSE

Address: CULLIGAN, CALEDON

Decision:

Decision Date:

Ref ID: LA09/2015/0682/F

Proposal: Retention of equestrian arena, including stables, horse walker building, cctv cameras and floodlighting

Address: Land adjacent to 32 Annaghroe Road, Caledon, BT68 4UJ,

Decision:

Decision Date:

### **Summary of Consultee Responses**

No consultee objections.

### **Drawing Numbers and Title**

Drawing No. 02REV02

Type: Site Layout or Block Plan

Status: Approved

Drawing No. 01

Type: Site Location Plan

Status: Approved

Drawing No. 04

Type: Proposed Plans

Status: Approved

Drawing No. 03REV01

Type: Proposed Plans

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

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0840/F	<b>Target Date:</b> 31.12.2015
<b>Proposal:</b> Erection of dwelling and garage (change of house type to that approved under M/2006/1292/RM)	<b>Location:</b> Approximately 250m South East of 185 Aghafad Road Clogher
<b>Referral Route:</b>  Recommendation of refusal.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> David Mahon Properties Castle Archdale Caravan Park And Camping Site Ltd Co Fermanagh BT94 1PP	<b>Agent Name and Address:</b> ERES Limited Mourne House 41-43 Downshire House Newry BT34 1EE
<b>Executive Summary:</b>  The previous applications on the site have both expired and it can be shown beyond reasonable doubt that work had not commenced in accordance with precommencement conditions. No supporting information or further details were provided so refusal is recommended.	
<b>Signature(s):</b>  <div style="height: 100px;"></div>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NI Transport - 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 received and no consultee objection.

### Characteristics of the Site and Area

The northern eastern boundary of the site is defined by steep banking of earth which was been pushed to the rear of the site.

The north western boundary of the site is defined by banking which grades down to the western side of the site with Aghafad Road.

The roadside (south western) boundary of the site is defined by metre wide verge and mature native species hedge line approx 2m high.

The south eastern boundary of the site is defined by tall native species trees approx 15m high.



The predominant land use in the area is agricultural grazing land.

There is no characteristic design in the area.

The land mass in the immediate area of the application site falls moderately to steeply downwards from the north and north west towards the south and south east. Views are generally restricted to site frontage given the winding nature of the public road and good vegetation on the other side of the road.

The site has the appearance of a parcel of land which has previously been excavated. The site is overgrown and has foundations dug out which have filled with water. The NW and NE boundaries are banking of earth as the site appears to have been cut out of the side of the landscape. These boundaries comprise earth banking approx 2-3m high, with agricultural grazing land rising beyond same.

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

Dungannon and South Tyrone Area Plan 2010  
PPS 21 - Sustainable Development in the Countryside  
PPS 3 - Access, Movement and Parking.

The proposal lies outside any defined settlement limit in the Dungannon and South Tyrone Area Plan 2010.

History:

M/2003/0543/O - Dwelling approved June 2003.  
M/2006/1292/RM - Dwelling approved 19.01.2007.

The applicant has applied for a change of house type to that previously approved in the 2006 application.

The 2003 outline application was approved on 10th June 2003 meaning it expired on 09th June 2008.

The 2006 RM application was approved on 19.01.2007 and expired on 18.01.2009.

The permission on the above site therefore lapsed on the later of the two dates, 18th January 2009.

The applicant has supplied supporting information in the form of an OSNI map clearly showing work had begun on 26.05.2012. This fact is not contested.

However development should have begun over 3 years previously.

I have examined Google Streetview cameras which passed along Aghafad Road in March 2009, two months after the expiry of the application. Travelling southwards down the hill views of the site have been deliberately obscured by Google (presumably on the back of a request as the application site is the only field obscured in such a manner) so it is not entirely clear if work had commenced on that date. However as one passes the site beyond the southern tip of the site on Aghafad Road and pan the camera around to look upwards in a northerly direction, whomever asked Google to obscure site frontage views of the site did not request this view be obscured. It

is clear to see from this vantage point that work had not begun even two months after the expiry of the decision.

Additionally although the request to Google to obscure the site only obscured the main body of the site, they did not obscure the road side verge along the site frontage. There was a pre commencement condition on the 2006 Rm application which required the splays and access be in place before any other work commenced on the site. It is clear to see from the images no access had been created as approved into the field.

I phoned the agent for clarification on these matters and was advised they knew nothing of the obscuring of the images and would seek clarification from the applicant. No further correspondence or supporting material was received.

The site still complies with the other relevant policy namely CTY 8, 13 and CTY 14.

In terms of PPS 3, Access, Movement and Parking, Transport NI requested additional information which was provided and approved by TNI.

No third party representations have been received.

Accordingly I recommend the application be refused as being contrary to CTY 1 of PPS21.

<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
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**Summary of Recommendation:**

I recommend the application be refused as no information has been provided to justify the approval of a dwelling in the countryside where a presumption in favour of development exists in only a limited number of instances.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY 01 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not merit being considered an exception to the policy nor are there any overriding reasons why this development is essential and could not be located within a settlement.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	18th September 2015
<b>Date First Advertised</b>	6th October 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2006/1292/RM Proposal: Two storey dwelling and garage Address: Approx 250m southeast of 185 Aghafad Road, Clogher Decision: Decision Date: 19.01.2007  Ref ID: M/2003/0543/O Proposal: Two storey dwelling and garage Address: Approx 250m south east of 185 Aghafad Road, Clogher Decision: Decision Date: 10.06.2003  Ref ID: LA09/2015/0840/F Proposal: Erection of dwelling and garage (change of house type to that approved under M/2006/1292/RM) Address: Approximately 250m South East of 185 Aghafad Road, Clogher, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  No objections.	

<b>Drawing Numbers and Title</b>
Drawing No. 01REV02 Type: Site Location Plan Status: Approved
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



## Development Management Officer Report

### Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0918/F	<b>Target Date:</b> 18.01.2016
<b>Proposal:</b>  Renewal of Planning Permission for provision of 17 Town houses ,25 Apartments with associated car parking and landscape enhancements	<b>Location:</b>  8 Killyneill Road Dungannon BT71 6LL
<b>Referral Route:</b>  1no representation received.	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b>  Mr and Mrs John Quinn  8 Killyneill Road  Dungannon  BT71 6LL	<b>Agent Name and Address:</b>  J Aidan Kelly Ltd  50 Tullycullion Road  Dungannon  BT70 3LY
<b>Executive Summary:</b>  The proposal is for an 'in time' renewal of application for housing development in Dungannon. The policy context remains the same bar the introduction of the Strategic Planning Policy Statement for Northern Ireland. One objection was received to which neither NI Water nor Rivers Agency had any objection.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Rivers Agency	Add Info Requested
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	NI Transport - Enniskillen Office	Content
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received

### Representations:

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

### Summary of Issues

One representation was received from an adjoining neighbour. They raised concerns regarding sewage output and the ability of the network to absorb further development.

Rivers Agency and NI Water were both consulted for opinion on the representation from the adjoining neighbour and neither body had any objection to the proposal.

Transport NI had no objection as the proposal is for renewal of previous approved scheme.

### Characteristics of the Site and Area

The NW boundary of the site along Laurel View is defined by 8-10m high coniferous hedge line. The SW boundary of the site is on a moderately sloping site with a mix of non native and native species trees 10 - 12m in height.

The NE boundary is also defined by non native species trees approx 10m in height.

The road side boundary of the site is defined by 5ft high wooden fencing and steep bank sloping downwards towards SE.

The area itself is predominantly residential on the SE side of Dungannon town and on the edge of the settlement limit itself.

The area has detached plots on spacious grounds and newer developed plots with a high to medium density scattered throughout.

### Planning Assessment of Policy and Other Material Considerations

Dungannon and South Tyrone Area Plan 2010.

PPS 7 Quality residential homes

PPS 12 - Housing in settlements.

The strategic Planning Policy Statement for NI.

This proposal is located within the settlement limit of Dungannon where there is a general presumption in favour of development. The site has no particular land use designation in the Area Plan.

History: M/2007/1093/F - Approved 29.10.2010 - Provision of 17 No.townhouses, 25 No.apartments with associated car parking and landscape enhancements.

The applicant has applied to renew the 2007 application. PPS 7 introduced in June 2001 remains the applicable policy provision for this type of application in the urban setting. PPS 7 was also applicable in the previous application.

PPS 7 - Quality Residential Environments.

PPS 7 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 plan. I will deal with these as they appear in the plan.

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;

There are a mix of house types throughout the Killyneill Road and Laurel View area. The proposal includes town houses, semi detached and blocks of flats.

The proposal is appropriate to the character and topography of the site in term of layout, scale, proportions and the massing and appearance of the buildings. There are town houses and semi detached dwellings to the immediate north and south of the proposed site.

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. I am satisfied that there are no such designations to protect in the immediate vicinity of either site applied for.

No features of archaeological or built heritage importance are shown as being located in the immediate area.

PPS 7 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;

I have measured the private open space provision for the units, this provision albeit at a lower density than that approved is still well within the ambit of the requirements of PPS 7. The public open space provision remains satisfactory for the proposal, in compliance with the standards as set out in 'Creating Places'.

Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development; footpath provision has been supplied, linking the development to the town centre footpath network.

QD1 also 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;

Transport NI have been consulted for opinion and as per the 2007 approval have no objection subject to condition. The proposal is on a main traffic route to town centre a short distance away, where footpath provision is provided to town centre.

The design of the development must draw upon the best local traditions of form, materials and detailing, in this instance, I consider that the proposal does reflect the surrounding design context for this urban area.

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 - it is critical that these are conditioned to be retained however and protected during construction; and

The design will not create conflict with adjacent land uses which are all residential. Separation distances are considered adequate, these have been also assessed in the 2007 approval.

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

The development is considered to be designed to deter crime and promote personal safety.

PPS 12 - Housing in Settlements.

PCP 1 - Increased Housing Density without Town Cramming

PCP 1 advocates an increase in the density of housing development should be promoted in town and city centres and other locations which benefit from high accessibility to public transport facilities.



When considering an increase in housing density in established residential areas, great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded and that the proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents.

As stated above, I do not consider the local character of Killyneill Road will be affected nor the environmental quality and amenity would be significantly eroded. The adjacent housing context will be respected and adequate boundaries are in place to ensure the privacy of existing residents is safeguarded.

In residential areas of distinctive townscape character an increase in density should only be allowed in exceptional circumstances.

The design is same as before , set in same policy context and therefore acceptable.

The Strategic Planning Policy Statement for NI

The new SPPS points largely towards Regional strategic objectives of the Regional Development Strategy 2035 of trying to achieve sustainable patterns of residential development, supporting urban and rural renaissance and strengthening community cohesion. The SPPS advises in preparation of Area Plans housing policy approach should deliver increased housing density without town cramming; reduce use of greenfield sites for housing, good design should be promoted and also promoting variety of house types and sizes (balanced communities). I consider that the proposal does comply with all of the above and is within the spirit of the new policies of the SPPS.

One letter of representation was received from an adjoining resident (3 killyneill Road)

The objector cites concerns regarding sewage infrastructure in the area and failure by Water Service to maintain a manhole cover on Killyneill Road during heavy rainfall conditions. I consulted NI Water and Rivers Agency for comment on same. NI Water returned comment of no objection to the proposal whilst Rivers Agency returned comment initially seeking additional information in the form of a Drainage Assessment. This was provided and Rivers Agency were reconsulted on 24.02.2016 for comment. They returned comment advising of no overall objection subject to a letter from Rivers Agency local area office for consent to discharge storm water. This was subsequently provided by the applicant.

Taking all of the above and the planning history on the site for similar schemes, case officer recommendation is to approve, subject to Roads Service.

I therefore recommend the application be approved.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

No consultee returned any comment of concern regarding this proposal.

Conditions:

1. Prior to the occupation of 50% of the dwelling units/apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas (including all peripheral planting) as indicated on the approved plans, Drawing No. 06 (REV 2) (Landscape Proposal) date received 29th June 2010 and Drawing No. 31 (Management Company Areas) date received 29th June 2010. The trees indicated within individual plots shall be planted during the first available planting season after the occupation of any dwelling on the plot. These trees shall be retained and maintained by the owner of the plot and the condition referring to such retention and maintenance shall be placed as a condition of the sale of the plot.

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

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely manner and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

2. No dwelling unit/apartment 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 an appropriate management company for all areas of public open space and landscaping as identified in condition No.02 (see informative no.01).

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

3. Areas of designated open space as referred to in Condition No.01 shall be continue to be managed and maintained in accordance with the provisions of the 'Landscape Management & Maintenance Plan' (stamped as drawing No.05) date stamped received 16th February 2010 unless otherwise agreed in writing with the Council.

Reason: To ensure that open space provided, is managed and maintained in accordance with Planning Policy Statement 7 (PPS 7) Quality Residential Environments and Planning Policy Statement 8 (PPS 8) Open Space, Sport and Outdoor Recreation.

4. Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed as detailed on Drawing No's. 06 (REV 2) (Landscape Proposal) date received 29th June 2010 and 13 (REV 3) (Proposed Details) date received 17th May 2010.

Reason: To ensure that boundary treatments are provided in a timely manner to assist in the provision of a quality residential environment in accordance with PPS7 (Quality Residential Environments).

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 as shown on Drawing No. 06 (REV 2) (Landscape Proposal) date received 29th June 2010 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.

6.The existing mature trees and vegetation as identified on Drawing No. 04 (REV-2) received on 29th June 2010 shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

7.Prior to the commencement of any other site works all existing trees to be retained shall be fenced off, as detailed on drawing No.04 (REV-2) received 29th June 2010. These works shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within these areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the prior written consent of the Council.

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

#### 8.The Private Streets (Northern Ireland) Order 1980

The 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 28 (REV-2) bearing the date stamp 16th November 2009.

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.

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

No part of the development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 28 (REV-2) bearing the date stamp 16th November 2009. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

10. The visibility splays of 2.4 metres by 51 metres east and 2.4 metres by 62 metres west at the junction of the proposed housing access road with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any 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.

11. No dwelling(s) shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of each phase of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling.

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

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

#### Informatives

1. In order to comply with condition 3, the arrangements for the future management and maintenance in perpetuity of areas of public open space acceptable to Mid Ulster Council include:

a) a legal agreement transferring ownership of and responsibility for the open space to the local district council; or

b) a legal agreement transferring ownership and responsibility for the open space to a charitable trust registered by the Charity Commission or a management company supported by such a trust; or

c) a legal agreement transferring ownership of and responsibility for the open space to a properly constituted residents' association with associated management arrangements. Evidence should be submitted to MUC to include:

Articles of Association  
Memorandum of understanding, and  
Evidence of registration of the company

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

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

2. NIEA has no objections as long as Northern Ireland Water Limited (NIW) is content that the additional load will not compromise its compliance with the Urban Wastewater Directive Standards and the EHS Registered Standard.

WMU recommends the following measures be incorporated:

In order to decrease the risk of the incorrect diversion of 'foul' sewage to drains carrying rain/surface water each building shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system should also be designed to minimize the risk of wrongly connecting the 'foul' sewage system to the rain-water drainage system, once the buildings are occupied.

The buildings associated with this planning application should not be occupied unless the necessary sewage infrastructure is in place to transfer foul sewage to a Northern Ireland Water (NIW) sewer in an acceptable manner or a private wastewater treatment facility consented by NIEA. It should be noted that NIEA does not favour existing sewerage infrastructure being utilized in such a way as to act as a temporary 'cesspit'. Where a temporary 'cesspit' is be utilised, it should be designed in accordance with current 'best practice' and any transfer or movement of sewage, by tanker or other means, shall be carried out in accordance with The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002.

The storm drainage of the site should be designed to the principles of Sustainable Drainage Systems (SuDS) in order to minimise the polluting effects of storm water on waterways.

Construction of SuDS should comply with the design and construction standards as set out in the CIRIA manual C697.

Any oil tanks serving the houses and apartments should be bunded. Pollution Prevention Guideline (PPG2).

The applicant complies with the attached Pollution Prevention Guidelines (PPG5 and 6) in order to minimise the impact of the construction phase of the project on the environment. It should be noted that several SuDS features may be useful pollution prevention measures during the construction phase.

The attached copy of PPG2, 5 and 6 is forwarded to be read in conjunction with the above comments.

Should a sewage pumping station be required for this development then the applicant must apply to NIEA WMU for a Water Order (1999) consent for an 'emergency overflow'.

The applicant should be connected to the main sewerage system.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	5th October 2015
<b>Date First Advertised</b>	21st October 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)  The Owner/Occupier, 1 Coolhill Mews Coolhill Dungannon  The Owner/Occupier, 1 Laurel View Coolhill Dungannon  The Owner/Occupier, 10 Coolhill Mews Coolhill Dungannon  The Owner/Occupier, 11 Coolhill Mews Coolhill Dungannon  The Owner/Occupier, 11 Killyneill Road Killyneill Dungannon  The Owner/Occupier, 11 Laurel View Killyneill Dungannon  The Owner/Occupier, 12 Killyneill Road Killyneill Dungannon  The Owner/Occupier, 136 Killyman Road Coolhill Dungannon  The Owner/Occupier, 138 Killyman Road Coolhill Dungannon  The Owner/Occupier, 14 Killyneill Road Killyneill Dungannon  The Owner/Occupier, 2 Coolhill Mews Coolhill Dungannon  The Owner/Occupier,	

21 Laurel View Killyneill Dungannon

The Owner/Occupier,

23 Laurel View Killyneill Dungannon

The Owner/Occupier,

25 Laurel View Killyneill Dungannon

The Owner/Occupier,

27 Laurel View Killyneill Dungannon

The Owner/Occupier,

29 Laurel View Killyneill Dungannon

The Owner/Occupier,

3 Coolhill Mews Coolhill Dungannon

The Owner/Occupier,

3 Killyneill Road Coolhill Dungannon

SJ Hamilton

3 Killyneill Road, Dungannon, Tyrone, Northern Ireland, BT71 6LL

The Owner/Occupier,

3 Laurel View Lisnaclin Dungannon

The Owner/Occupier,

4 Coolhill Mews Coolhill Dungannon

The Owner/Occupier,

4 Killyneill Road, Coolhill, Dungannon, Tyrone, BT71 6LL,

The Owner/Occupier,

5 Coolhill Mews Coolhill Dungannon

The Owner/Occupier,

6 Coolhill Mews Coolhill Dungannon

The Owner/Occupier,

7 Coolhill Mews Coolhill Dungannon

The Owner/Occupier,

7 Killyneill Road Coolhill Dungannon

The Owner/Occupier,

7 Laurel View Killyneill Dungannon The Owner/Occupier, 8 Coolhill Mews Coolhill Dungannon The Owner/Occupier, 8 Killyneill Road, Killyneill, Dungannon, Tyrone, BT71 6LL, The Owner/Occupier, 9 Coolhill Mews Coolhill Dungannon The Owner/Occupier, 9 Laurel View Killyneill Dungannon	
<b>Date of Last Neighbour Notification</b>	20th October 2015
<b>Date of EIA Determination</b>	19th October 2015
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: M/2007/1396/F Proposal: Proposed 15 No townhouses, estate roadway and parking areas (amended drawings) Address: 4 Killyneil Road, Dungannon Decision: Decision Date:  Ref ID: M/2007/1093/F Proposal: Provision of 17 No. townhouses, 25 No. apartments with associated car parking and landscape enhancements. Address: 8 Killyneill Road, Dungannon, Bt71 6LL Decision: Decision Date: 11.11.2010	



Ref ID: M/2006/0249/F

Proposal: Proposed change in approved house type to 5No apartments (New Drawings)

Address: Opposite 7 Killyneill Road, Dungannon

Decision:

Decision Date: 13.06.2008

Ref ID: M/2002/0273/F

Proposal: New access to dwelling (amendment to previous approval ref. M/98/0685).

Address: Junction of Killyman/Killyneil Road, Dungannon.

Decision:

Decision Date: 08.05.2003

Ref ID: M/2006/0248/F

Proposal: Proposed change in approved house type to 5 No apartments (AMENDED DRAWINGS)

Address: To rear of 3 & 7 Laurel View, Dungannon

Decision:

Decision Date: 09.08.2006

Ref ID: M/2005/1349/RM

Proposal: 14no. two/three storey townhouses and footpath link (to include alterations/widening of Killyneill Road)

Address: Housing development at site adjacent to No7 Killyneill Road, Dungannon

Decision:

Decision Date: 05.06.2006

Ref ID: M/2004/0999/F

Proposal: Extension to dwelling

Address: 8 Killyneil Road, Dungannon

Decision:

Decision Date: 14.09.2004

Ref ID: M/2004/0290/Q

Proposal: sunroom

Address: 9 Laurelvie, Dungannon

Decision:

Decision Date:

Ref ID: M/2002/0720/F

Proposal: Change of orientation of 2 No.sites

Address: Bush Road, Dungannon

Decision:

Decision Date: 01.05.2003

Ref ID: M/1998/0685

Proposal: Proposed Dwelling

Address: JUNCTION OF KILLYMAN/KILLYNEILL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1998/0464

Proposal: Change of Housing Layout and House Type

Address: KILLYNEIL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1997/0031

Proposal: Housing Development

Address: JUNCTION OF KILLYMAN/KILLYNEIL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1989/0290B

Proposal: Erection of dwelling

Address: ADJACENT TO 14 KILLYNEILL ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1989/0290

Proposal: Dwelling

Address: BESIDE 14 KILLYNEILL ROAD KILLYNEILL DUNGANNON

Decision:

Decision Date:

Ref ID: LA09/2015/0918/F

Proposal: Renewal of Planning Permission for provision of 17 Town houses ,25 Apartments with associated car parking and landscape enhancements

Address: 8 Killyneill Road , Dungannon, BT71 6LL,

Decision:

Decision Date:

Ref ID: M/1999/0673/F

Proposal: Dwelling house

Address: Killyneil Road Dungannon

Decision:

Decision Date: 23.10.1999

**Summary of Consultee Responses**

No objections to the scheme.

**Drawing Numbers and Title**

Drawing No. 01

Type:

Status: Approved

Drawing No. 04rev02

Type:

Status: Approved

Drawing No. 05

Type:

Status: Approved

Drawing No. 06rev02

Type:

Status: Approved

Drawing No. 08rev02

Type:

Status: Approved

Drawing No. 09rev03

Type:

Status: Approved

Drawing No. 10rev01

Type:

Status: Approved

Drawing No.11rev02

Type:

Status: Approved

Drawing No. 12rev03

Type:

Status: Approved

Drawing No. 13rev03

Type:

Status: Approved

Drawing No. 14rev03

Type:

Status: Approved

Drawing Nos. 15rev03, 16 rev 04, 16A, 22 rev 02, 28 rev 02, 29, 30,31.

Type:

Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



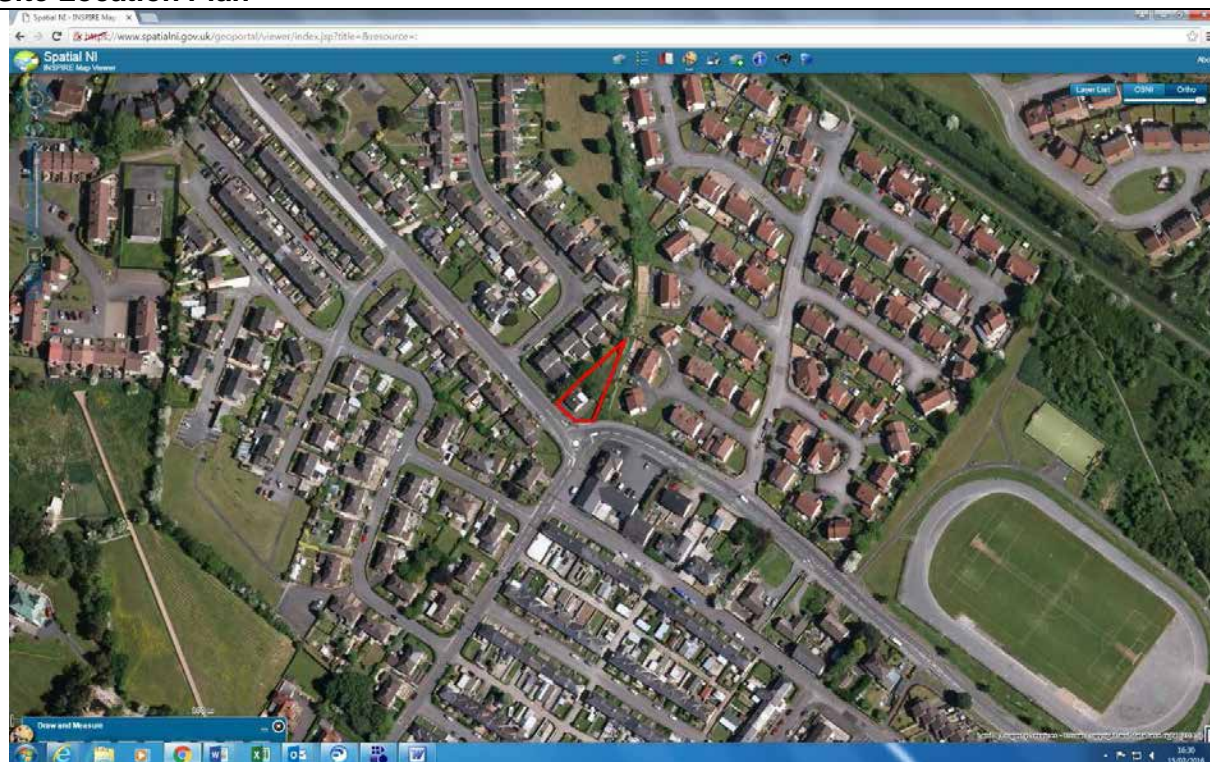
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1031/F	<b>Target Date:</b> 9/2/16
<b>Proposal:</b> Renewal of Planning Approval for Demolition of Existing Dwelling and Erection of 2 no Dwellings and Associated Siteworks	<b>Location:</b> 40 Mourne Avenue Coalisland
<b>Referral Route:</b>  Objection received.	
<b>Recommendation: approval</b>	
<b>Applicant Name and Address:</b> Mr Kevin Hughes Fashglashagh Road Ackinduff Dungannon	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Moneymore BT70 2QP
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	NIEA	Content

### Representations:

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

### Detail of the Proposal:

Renewal of Planning permission for a pair of semidetached dwellings within Coalisland.

### Characteristics of the Site and Area

The site is located within the development limits of Coalisland as defined within the Dungannon Area Plan 2010 (DAP). Located to the south east of the town centre within a mainly residential area. Access to site is from Mourne Avenue which defines the south western boundary of the site. The shape of the plot is triangular with a single storey dwelling located on the southern portion of same, close to Mourne Avenue. To the north west, south east and west of the site are



residential properties, two storey in height. The plot is on or about a similar ground level to those properties to the north west, Mourne Crescent, and the dwellings on the opposite site of Mourne Avenue. Those properties to the south east are on significantly lower ground in Maplebrook Rise. On the opposite side of Loughview Road and south of the application site is a two storey dwelling with single storey convenience shop to side. The wider area is mainly residential with some commercial and recreational land uses.

#### **Relevant Site Histories:**

Previous approval on same site M/2010/0594/F which was granted approval on 16<sup>th</sup> November 2010. This application is for renewal of same.

#### **Representations:**

During the processing of this application comment was received from owner of no 10 Maplebrook Rise, which shares a common boundary with the application site, to the south east (see below).

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

The site is located with the limit of development for the settlement of Coalisland as defined within the Dungannon Area Plan 2010 (DAP). Plan Policy SETT 1 sets out the criteria to be met for a favourable consideration within settlement limits. It is my opinion that the proposal is sensitive for the settlement in terms of design, materials, scale and form and it respects the constraints and opportunities that the site presents and no conservation interest has been identified. In addition the construction of these dwellings would not be detrimental on the amenities of any existing development within the area. Access parking and sewerage disposal arrangement have been declared acceptable by consultees and the proposal would not prejudice the comprehensive development of adjacent lands. This proposal is for a pair of semi-detached two storey dwellings. External materials are acceptable for the location and the design has been previously approved on this site.

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

The subject of the objection was the suggested overlooking by the proposal. In addition the previous removal of boundary hedging and the density were considered to be grounds for objection. Amendments have been made to the proposal which include the erection of a 1.8m high timber board fence along the boundary with the objector's property including new planting to the hedgeline. This in my opinion should alleviate any issues in relation to overlooking. The density of the development proposed is in my opinion not out of keeping with some of the existing development within the area. Additionally it should be noted that this is a within time renewal application of a development previously approved under the same present day policies. In my opinion the dwellings could be accommodated on this site without resulting in a loss to neighbouring amenity or detrimental impact on highway safety, no other issues have been identified.

#### **Neighbour Notification Checked**

**Yes**

#### **Recommendation:**

I recommend that full planning permission be granted subject to conditions.

Conditions:

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

Reason: Time Limit.

2. All landscaping comprised in the approved details of landscaping drawing no 03(rev 1) received 24th December 2015 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved and any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the development provides as suitable degree of boundary treatment as soon as possible after commencement of the development.

3. The proposed 1.8m high timber board fence shall be constructed along the south eastern boundary of the site upon commencement of the development hereby approved.

Reason: to ensure that there is adequate amenity protection of adjoining residential properties.

4. The proposed 1.8m high timber board fence shall be constructed in similar fashion to that of the screen fence detail as indicated on drawing no 03(rev 1) dated received 24/12/15.

Reason: to ensure a suitable and adequate fence is provided in the interests of the amenity of adjoining residential properties.

5. The vehicular access, including visibility splays of 2.0m x 45.0m and any forward sight distance shall be provided in accordance with Drawing No. 03 (Rev.01) bearing the date stamp 24/12/15, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Informatives

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

2. Transportni informatives:

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

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

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

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

3. Northern Ireland Environment Agency comments:

Water Management Unit has considered the potential impacts of the proposed development on the water environment and on the basis of the information provided is content, subject to the following,

Recommended conditions and informatives are set out in the DOE Standing Advice Note No.2 – Multiple Dwellings (April 2015) available at:

[http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice\\_2\\_multiple\\_dwellings.pdf](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice_2_multiple_dwellings.pdf)

Standing Advice Notes are available on the NI Planning Portal under Advice / NIEAGuidance / Standing Advice. The above address can also be copied and pasted to a web browser.

Water Management Unit's comments are on the basis that foul sewage infrastructure from this development connect to the main Northern Ireland Water (NIW) foul sewer which terminates at the Coalisland Down Waste Water Treatment Works.

The applicant is informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th October 2015
<b>Date First Advertised</b>	14th December 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Maplebrook Rise Gortgonis Road Coalisland The Owner/Occupier, 10 Maplebrook Rise, Coalisland, Tyrone, Northern Ireland, BT71 4TB The Owner/Occupier, 10 Mourne Avenue Gortgonis Coalisland The Owner/Occupier, 11 Maplebrook Rise Gortgonis Road Coalisland The Owner/Occupier, 11 Mourne Avenue Gortgonis Coalisland The Owner/Occupier, 49 Loughview Road Coalisland The Owner/Occupier, 51 Loughview Road Coalisland The Owner/Occupier, 8 Maplebrook Rise Gortgonis Road Coalisland The Owner/Occupier, 80 Mourne Crescent Gortgonis Coalisland The Owner/Occupier, 82 Mourne Crescent Gortgonis Coalisland The Owner/Occupier, 84 Mourne Crescent, Gortgonis, Coalisland, Tyrone, BT71 4LD, The Owner/Occupier, 86 Mourne Crescent, Gortgonis, Coalisland, Tyrone, BT7 1 4LD, The Owner/Occupier, 88 Mourne Crescent, Gortgonis, Coalisland, Tyrone, BT7 1 4LD, The Owner/Occupier, 90 Mourne Crescent, Gortgonis, Coalisland, Tyrone, BT7 1 4LD, The Owner/Occupier, 92 Mourne Crescent, Gortgonis, Coalisland, Tyrone, BT7 1 4LD,	
<b>Date of Last Neighbour Notification</b>	19th January 2016
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	No

**Planning History**

Ref ID: M/2010/0594/F

Proposal: Demolition of existing dwelling & erection of 2no. dwellings & associated siteworks

Address: 40 Mourne Avenue, Coalisland, Co. Tyrone

Decision:

Decision Date: 16.11.2010

**Summary of Consultee Responses****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(rev 1)

Type: Proposed Plans

Status: Submitted

Drawing No. 04

Type: Block/Site Survey Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department: N/A

Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1st March 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1098/F	<b>Target Date:</b> 25.02.16
<b>Proposal:</b> Proposed 2 Detached bungalow dwelling houses	<b>Location:</b> Lands 50m to the North West of 8 Brackaville Road Coalisland
<b>Referral Route: Recommendation to Refuse</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> James McGuinness Grianan 8 Brackaville Road Coalisland	<b>Agent Name and Address:</b> Clarman and Co. Unit 1 33 Dungannon Road Coalisland BT71 4HP
<b>Case Officer: Paul McClean</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Site Visit: 11.01.16**

**Neighbour Notification Checked: Yes**

### Representations:

Letters of Objection

None Received

### Description of proposal

This is a full planning application for Proposed 2 Detached bungalow dwelling houses.

### Characteristics of Site and Area

The site is located just outside the limits of development of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010, on land approx. 50m North West of No. 8 Brackaville Road. The land is undeveloped at present and is defined by rushes and rough grazing land. The roadside boundary is defined by an existing foot path, behind which is a 1 m high post and wire fence. Part of the SE boundary is shared with the curtilage of No. 8 Brackaville Road, the remainder of the boundary is not clearly defined. The SW boundary is not defined. The NW boundary follows an existing boundary fence that follows an existing access to lands further to the west and north. The site slopes gently downhill from roadside to the west. There are mature trees located along the SW boundary and within the south western half of the site.

There is mostly residential development surrounding the site to the SE, east, north and north west. There is a linear row of dwellings with individual access points onto Brackville Road located to the SE and NW. Opposite the application site there is more in-depth residential development and all these are located within Coalisland Development Limits. There is agricultural land located to the west and south of the site, these lands are outside the development limits of Coalisland, including the application site.

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

### **Area Plan**

Dungannon and South Tyrone Area Plan 2010: The site is located on land that is zoned as a mineral reserve policy area. The area plan states that surface development within these areas that would prejudice the future exploitation of these reserves will be restricted in accordance with the provisions of prevailing planning policy, which is currently policy MIN 5 of A Planning Strategy for Rural Northern Ireland.

### **Relevant Planning History**

There is no relevant planning history to consider

### **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, as the site falls outside the limits of development of Coalisland. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. The applicant/agent has not made a case as to what policy the proposal should be considered under and in my view the proposal does not meet any of the policy criteria where residential development is considered acceptable in the countryside.

CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. This policy however relates to development in the countryside. Development on either side of the gap site is located within the development limits of Coalisland therefore cannot be considered in assessment of this particular policy. It is my view that these dwellings will create a ribbon of development in the countryside.

CTY2a allows for residential development within existing clusters in certain circumstances. Again this policy cannot be considered as surrounding development is located within the settlement limits of Coalisland.

Development in the countryside is also required to integrate under the provisions of policy CTY13. The site does not have any mature natural boundaries in which to assist with the integration of the proposed 2 dwellings in the landscape and therefore the proposal is contrary to



policy CTY13. The design of both dwellings are identical and are acceptable for this area of countryside however it is my view that these dwellings will not integrate onto this site.

In my view the proposal will also erode the rural character of this area of countryside as these 2 dwellings will create a build up of development in the countryside, and will result in a suburban style build up of development. CTY14 of PPS21 is not met.

Policy CTY 15 aims to protect the distinction between a settlement and the surrounding countryside. If allowed, this may set a precedent of urban sprawl and the distinction between town and countryside would be marred.

#### **Policy MIN5 of PSRNI**

The site is located on land zoned for mineral reserve as defined in the Dungannon and South Tyrone Area Plan. The prevailing planning policy controlling development on this land is contained within A planning Strategy for Rural Northern Ireland policy MIN 5 Mineral Reserves. MIN5 states that surface development which would prejudice future exploitation of valuable mineral reserves will not be permitted. The applicant/agent has provided a statement claiming that mineral reserves in this particular area are exhausted but do not provided any information to demonstrate that this is the case, or that the proposal will not prejudice future exploitation of these mineral reserves. While it may be difficult to determine if there are valuable mineral reserves on this site, the onus should pass to the applicant to demonstrate that the site will not have a negative impact for future exploitation of reserves in this area.

#### **Policy MIN6 of PSRNI**

The site is located in a historic mining area I consulted Geological Survey for Northern Ireland (GSNI) in relation to land stability issues. GSNI advise that the site sits on land undermined by the Gortnaskea/Derry Mine workings and advises the developer to provide further information on the mine workings with a view of potentially conducting a geotechnical site investigation to ascertain ground stability on the site. The agent rebutted this response from GSNI stating that they are confident that their site lies outside any land impacted by mining works and claim to have a detailed map to prove this but have failed to produce any further information. At this stage I recommend that the proposal is contrary to policy MIN6 of PSRNI in that there is insufficient information to demonstrate that these dwellings will be built on stable land, and there is a potential danger to public safety.

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

Transport NI have no objections to this proposal subject to 2.4m by 45m sight plays in both directions.

Environmental Health have no objections to this proposal.

Rivers Agency were consulted and advise that the site is not located within a flood plain. There are no land contamination issues to consider.

Given the separation distance and orientation of the proposed dwellings I am satisfied that it will not have a significant impact on the amenities of adjacent dwellings. Likewise, proposed private amenity space is acceptable for the development and will not be overlooked, overshadowed or negatively impacted by adjacent landuses.

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

That planning permission be refused for the following reasons.

#### **Refusal Reasons**

1. The proposal is contrary to the Single Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no

overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Brackaville Road and would therefore adversely affect the visual amenity and character of the countryside and does not represent a gap site.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

-the buildings would, if permitted result in a suburban style build-up of development;

-the buildings would, if permitted create a ribbon of development;

and would therefore result in a detrimental change to the rural character of the countryside.

5. The proposal is contrary to policy MN2 of Dungannon and South Tyrone Area Plan 2010 and MIN5 of A Planning Strategy for Rural Northern Ireland as insufficient information has been provided to demonstrate that the exploitation of valuable mineral resources would not be prejudiced.

6. The proposal is contrary to policy MIN6 of A Planning Strategy for Rural Northern Ireland as insufficient information has been provided to demonstrate that public safety will not be prejudiced as the area may be affected by land instability.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	12th November 2015
<b>Date First Advertised</b>	23rd November 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Brackaville Road Brackaville Coalisland The Owner/Occupier, 13 Brackaville Road Brackaville Coalisland The Owner/Occupier, 15 Brackaville Road Brackaville Coalisland The Owner/Occupier, 17 Brackaville Road Brackaville Coalisland The Owner/Occupier, 8 Brackaville Road Brackaville Coalisland The Owner/Occupier, 9 Brackaville Road Brackaville Coalisland	
<b>Date of Last Neighbour Notification</b>	7th March 2016
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1117/O	<b>Target Date:</b>
<b>Proposal:</b> Replacement Dwelling	<b>Location:</b> Approximately 57 m North West of 9 Dunamore Road Cookstown BT80 9NR
<b>Referral Route:</b> Proposal contrary to policy – recommendation for refusal	
<b>Recommendation:</b> REFUSAL	
<b>Applicant Name and Address:</b> Dean Wilson 31A Killucan Road Cookstown BT80 9JW	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Statutory	NI Transport - Enniskillen Office	Standing Advice
Statutory	Environmental Health Mid Ulster Council	Standing Advice
<b>Representations:</b>		
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	
<b>Summary of Issues</b>		
none		
<b>Characteristics of the Site and Area</b>		
<p>The site consists of a rectangular plot of land located approx. 50 metres NW of 9 Dunamore Road, Cookstown. The site is situated along the roadside with a good coverage of trees on all sides. The land is slightly elevated from the roadside and is currently laid in overgrown grass and weeds. To the rear of the site there is a small stone building with a tin roof and a timber door. The building is approx. 5 metres long, 4 metres wide and 3.5 metres high and would resemble all the characteristics of an old outbuilding or shed.</p> <p>The building has had recent work carried out with 2 small windows put in place on the front elevation as evident by the fresh cement and a mound of stone and mortar has been placed on top of one of the gables to resemble a chimney, both of these works have been covered in manure and dirt which almost masks the fact they have been carried out recently. The site also contains a small cluster of stones facing the front of the shed as well as a number of items such as car wheels and axels scattered around.</p> <p>The site lies on the Dunamore Road, just off the Main Drum Road to the West of Cookstown and just outside the settlement limit in the open countryside. The surrounding area is predominantly agricultural fields, however, the first stretch of the Dunamore road from the Drum road has come under significant development pressure with a number of dwellings and farm holdings located along the roadside.</p> <p>The proposal seeks planning permission for a replacement dwelling.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
PPS 1 General Principles PPS 3 Access, Movement and Parking PPS 21- Sustainable Development in the Countryside SPPS – Planning for sustainable development. Building on tradition: A sustainable design guide for the Northern Ireland countryside		

## Cookstown Area Plan 2010

### History

There are no previous planning applications on the site.

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

- Policy CTY1- Development in the Countryside;
- Policy CTY3- Replacement Dwellings;
- Policy CTY13- Integration and Design of Buildings in the Countryside; and
- Policy CTY14 - Rural Character.

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance the application is for a replacement dwelling and therefore must be considered against Policy CTY3 of PPS21.

The applicant is applying for a replacement dwelling and therefore Policy CTY 3 of PPS21 is relevant. 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.' It is considered that the proposal does not meet these essential criteria as the building to be replaced does not exhibit the essential characteristics of a dwelling. The building to be replaced is an old shed that has had recent work to add windows to the front elevation and has had a group of stones added to the top of the gable to resemble a chimney. The applicant has been asked to present any documentation or proof that the building has ever been a dwelling and has failed to do so. In addition from checking through our historical maps we can find no evidence of a dwelling at this position.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that in this case were the building to be deemed acceptable for replacement a small dwelling could blend in successfully with its immediate and wider surroundings. Furthermore as the site is well back from the roadside and has a fair degree of vegetative cover, it is considered that the site could absorb a small dwelling. Integration is not a concern.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a small dwelling with a ridge height of no more than 5 metres.

The SPPS also highlights that 'replacement dwellings must exhibit the essential characteristics of a dwelling' which in this proposal is not the case.

Transportni were consulted and have replied stating that they would not approve this application in its present form as the applicant has not demonstrated control of sufficient lands to achieve

the required visibility of 2.4m x 60m in both directions, it has not been deemed necessary to request clarification on this in light of the recommendation to refuse.

The application was advertised on 30th November 2015 and Neighbour Notifications were issued on 1st December 2015 however no representations were received in respect to this application.

Recommend Refusal - contrary to PPS 21 - CTY 3.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

It is considered that the proposal does not meet these essential criteria of PPS 21 – CTY 3 in that the building to be replaced does not exhibit the essential characteristics of a dwelling. The applicant has been asked to present any documentation or proof that the building has ever been a dwelling and has failed to do so. In addition from checking through our historical maps we can find no evidence of a dwelling at this position.

**Refusal Reason**

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the structure to be replaced does not exhibit the essential characteristics of a dwelling.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	16th November 2015
<b>Date First Advertised</b>	30th November 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Dunnamore Road,Dunnamore,Cookstown,Tyrone,BT80 9NR, The Owner/Occupier, 110 Tulnacross Road,Dunnamore,Cookstown,Tyrone,BT80 9NP, The Owner/Occupier, 112 Tulnacross Road,Dunnamore,Cookstown,Tyrone,BT80 9NP, The Owner/Occupier, 9 Dunnamore Road,Dunnamore,Cookstown,Tyrone,BT80 9NR,	
<b>Date of Last Neighbour Notification</b>	1st December 2015
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: I/1978/0153 Proposal: EXTENSION TO DWELLING Address: 9 DUNNAMORE ROAD, COOKSTOWN Decision: Decision Date:  Ref ID: LA09/2015/1117/O Proposal: Replacement Dwelling Address: Approximately 57 m North West of 9 Dunamore Road, Cookstown, BT80 9NR, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  Transportni were consulted and have replied stating that they would not approve this application in its present form as the applicant has not demonstrated control of sufficient lands to achieve the required visibility of 2.4m x 60m in both directions, it has not been deemed necessary to request clarification on this in light of the recommendation to refuse.	

Environmental Health had no objections subject to conditions.

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



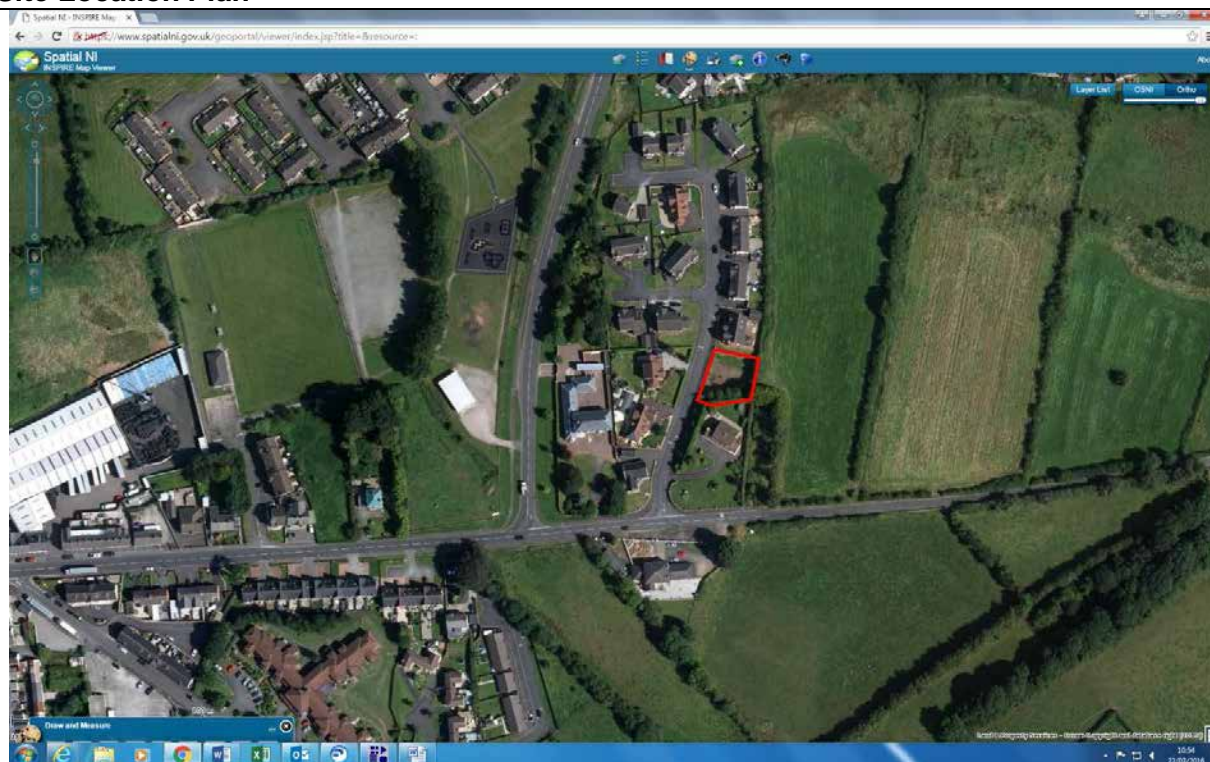
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1121/F	<b>Target Date:</b> 01/3/16
<b>Proposal:</b> Proposed 2 no.semi detached dwellings.	<b>Location:</b> Between 9 Old Coagh Mill and 42 Old Coagh Road Cookstown BT80 0NE
<b>Referral Route:</b>  Objections received.	
<b>Recommendation:</b> Refusal	
<b>Applicant Name and Address:</b> J and M Developments Ltd 1 St Malachy's Park Moortown Cookstown BT80 0ST	<b>Agent Name and Address:</b> Ross Planning 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
Letters of Objection	11
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Detail of the proposal:

Pair of semi-detached dwellings within the limit of development for Cookstown. Application has been amended from initial submission of 3no terraced town houses.

### Characteristics of the Site and Area

The site is located within the housing development known as Old Coagh Mill which is a housing development of some 23no dwellings. The ground level of the site is on or about that of the adjoining estate road which defines the western site boundary and from which access is proposed. The site level is significantly lower than that of the site to the south, which is a dwelling with good boundary definition and a bank exists on the site side of the boundary. To the north is a detached dwelling and to the west on the opposite side of the estate road is another detached dwelling. Further into the site are detached and semi-detached dwellings. The dwellings are a

mixture of designs with two storey and one and a half type dwellings with differing finishes including full brick and a mixture of brick and smooth plaster.

### **Relevant Site Histories:**

Within the estate are a number of previous planning applications which relate to the development currently built. This history includes the following:

I/1998/0383 2no dwellings and estate road for future development. Approved 17/5/00.

I/2001/0741/F: change of house type on site 2, new house on site 3 and minor road amendments. Approved 7/5/03.

I/2004/0296/F: 6 no semidetached dwellings and garages. Approved 22/6/04.

I/2004/0350/F: 4no semidetached dwellings and garages. Approved 14/7/04

I/2002/0464/F: change of house type on sites 4 & 5. Approved 15/5/03.

I/2005/0481/F: Proposed dwelling for site 1 and minor amendments to approved entrance road. Approved 21/12/05.

### **Representations:**

During the course of processing this application a number of representation have been received. These relate to both the original submission of 3no terraced town houses and to the amended application for a pair of semi-detached dwellings.

Objections from;

No 4 Old Coagh Mill,  
No 16 Old Coagh Mill  
No 6 Old Coagh Mill  
No 9 Old Coagh Mill  
Millar, Shearer & Black Solicitors.

The issues raised in respect of both proposals are;

Out of keeping with existing character of the estate  
Devalue of existing properties.  
Designated area of open space.  
Overdevelopment of the site.  
Lack of site details  
Lack of car parking.  
Original developer commitments.  
Overbearing design, privacy and lighting

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

The site is located with the limit of development for the settlement of Cookstown as defined within the Cookstown Area Plan 2010 (CAP). Plan Policy SETT 1 sets out the criteria to be met for a favourable consideration within settlement limits. In my opinion the proposal is not sensitive for the settlement in terms of scale and form and it does not respect the constraints and opportunities that the site presents, no conservation interest has been identified. Access and parking arrangement have been declared acceptable by consultee in terms of the original

submission, to date no reply has been received in respect of the amended proposal. However the acceptability of the proposal in terms of Roads requirements should be guaranteed as the proposal for the three dwelling was deemed acceptable. This matter would not change the opinion hereby presented. The proposal would not prejudice the comprehensive development of adjacent lands. This proposal is for a pair of two storey dwellings with a brick external finish and grey concrete roofing tiles. In my opinion a pair of semidetached dwellings would not be acceptable on this site as it would result in a loss to the existing character of this part of the estate. Old Coagh Mill is defined from the estate entrance and for some 110 metres by detached dwellings on suitably sized plots. The imposition of a pair of semidetached units within the existing pattern of development would in my opinion be unacceptable. In addition the proposal is contrary to Planning Policy Statement 7 (PPS7): Quality Residential Environments in that the development does not respect the surrounding context and in my opinion is not appropriate to the character of the immediate area.

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

In respect to the comments received I would comment as follows.

The estate has a mixture of dwelling designs and forms ranging from detached in the southern portion through semidetached mainly within the central portion and reverting to detached within the northern portion. Of these the southern portion is best defined by detached units and to introduce semidetached units with this portion would alter the character of that part of the estate. The value of the properties within this development is not a major material consideration.

As one can determine from the site histories this development has been created in general terms as previously approved. The existing development has evolved from the initial approval, which included detached and semidetached plots to its present form of detached and semidetached units where dwelling designs and plots have altered. Within the histories there is the notion of an open space area designated for this plot. However on examination of the available site histories there is no evidence to indicate that the open space area was ever approved or even a requirement. In fact the initial approval for the estate would have been prior to the introduction of Planning Policy Statement 8: Open Space, Sport and Outdoor Recreation which was published in February 2004. In addition the requirement for open space provision relates primarily to developments of 25 units or more.

The overdevelopment of this site is in my opinion not an issue with the amended proposal presented. The external space areas are compliant with recommended standards. The dwelling heights, separation distances and parking are suitable for such dwellings. Certain detail has not been provided as part of this submission e.g. site levels, finished floor levels, boundary treatments however in light of the opinion hereby presented it is not considered appropriate to request any further information from the developer.

Commitments or advertising promotions provided by the developer is not a matter for consideration in this application.

The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area. No other issues have been identified.

**Neighbour Notification Checked**

**Yes**

**Recommendation:**

I recommend that planning permission is refused for the reasons below.

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 7: Quality Residential Environments in that the proposal does not respect the surrounding context and introduces a design which is inappropriate for the site.
2. The proposal is contrary to Policy SETT 1 of the Cookstown Area Plan 2010 in that the development would, if permitted, be detrimental to the character of the surrounding area by reason of its scale and layout which are out of character of the immediate area.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th November 2015
<b>Date First Advertised</b>	30th November 2015
<b>Date Last Advertised</b>	21st December 2015
<b>Details of Neighbour Notification</b> (all addresses) Stephen and Roisin McFarland 16 Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Stephen & Roisin McFarland 16, Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Bruce Johnston 4 Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Bruce Johnston 4 Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Bruce Johnston 4, Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Millar, Shearer and Black Solicitors 40 Molesworth Street, Cookstown, Tyrone, Northern Ireland, BT80 8PH The Owner/Occupier, 42 Old Coagh Road Cookstown Tyrone Nigel and Helen Black 6 Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE The Owner/Occupier, 6 Old Coagh Mill, Cookstown, Tyrone, BT80 0NE, Nigel & Helen Black 6, Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE The Owner/Occupier, 8 Old Coagh Mill, Cookstown, Tyrone, BT80 0NE, The Owner/Occupier, 9 Old Coagh Mill Cookstown Tyrone Eugene Donaghy 9 Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Eugene Donaghy 9 Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE Eugene Donaghy 9, Old Coagh Mill, Cookstown, Tyrone, Northern Ireland, BT80 0NE	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No



**Planning History**

Ref ID: I/2001/0760  
Proposal: Housing Development  
Address: Old Coagh Road Cookstown  
Decision:  
Decision Date: 14.04.2003

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

Drawing No. 02  
Type:  
Status: Submitted

Drawing No. 01(rev 1)  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department: N/A  
Response of Department:

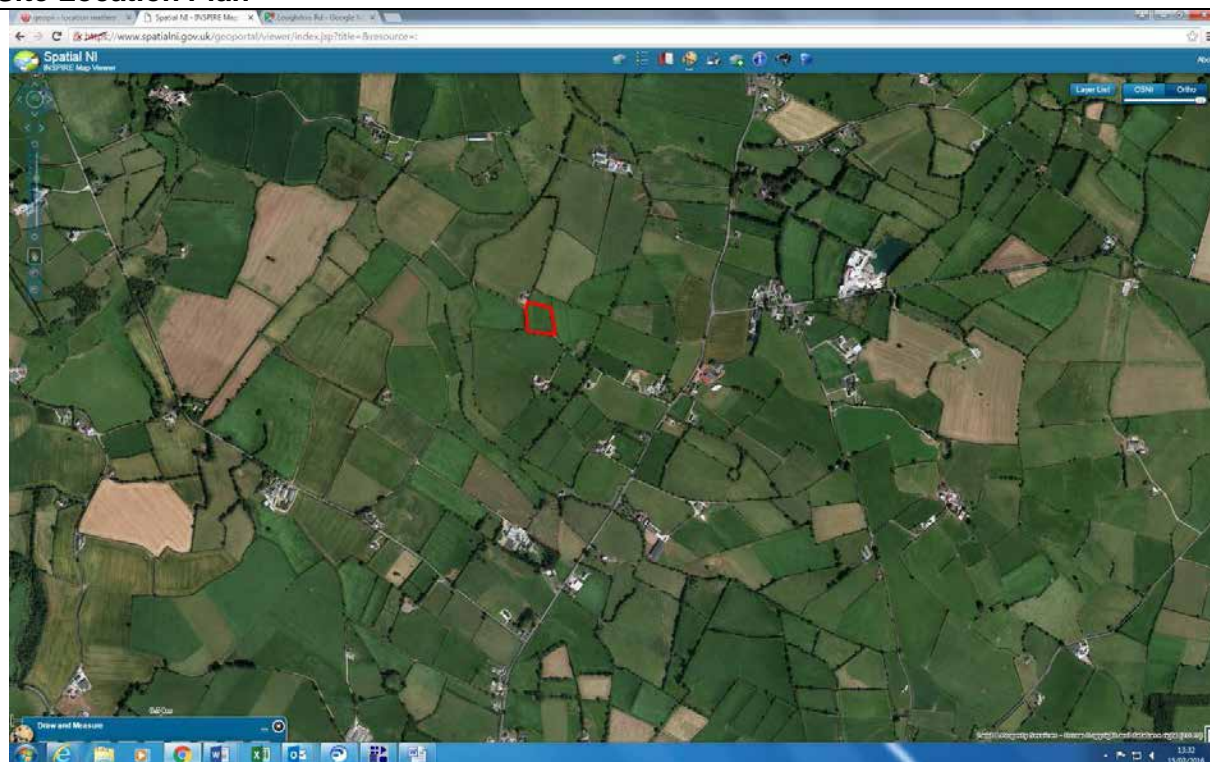


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1164/O	<b>Target Date:</b> 8/3/16
<b>Proposal:</b> Site for a Dwelling	<b>Location:</b> 214m N of 78 Coagh Road Ballywholan Stewartstown
<b>Referral Route:</b>  Refusal recommended.	
<b>Recommendation:</b> Refusal	
<b>Applicant Name and Address:</b> John and Ann McCann 21 The Brambles Coalisland BT71 4SN	<b>Agent Name and Address:</b> Mr Kieran Curry 5 The Shanoch Brackaville Coalisland BT71 4XA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Content
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	Environmental Health Mid Ulster Council	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

### Detail of the Proposal:

Site for dwelling in rural area in compliance with Policy CTY 6 of Planning Policy Statement 21: Sustainable Development in the Countryside.

### Characteristics of the Site and Area

The site is located approximately one mile north of Stewartstown. Access is provided from a minor road which connects to Coagh Road. The road is a one car track and becomes a rough laneway which defines southern and western boundaries of the site. The eastern boundary is defined by hedging with some trees and the northern boundary is undefined within the larger field. The topography of the site is such that the most elevated part is to the eastern boundary with the ground sloping down to the north western boundary. Beyond the north western corner of the site

is a detached dwelling and garage. The minor road also provides access to detached dwellings and farm groups. The wider area is rural with detached dwelling and farm groups dotted throughout.

#### **Relevant site Histories:**

No evidence of previous planning history on this site. Other applications within the area relate to dwellings constructed or under construction.

#### **Representations:**

No representations received from press notice or neighbourhood notification. Consultation with Transportni, Northern Ireland Water and Environmental Health has raised no concerns.

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

The site is located within the open countryside as defined by the Cookstown Area Plan 2010 (CAP) where Planning Policy Statement 21 (PPS 21): Sustainable development in the Countryside applies. Policy CTY 6 – Personal and Domestic Circumstances allows for residential development for the long term needs of the applicant where there are compelling and site specific reasons, related to the applicant's personal or domestic circumstances. This policy provides criteria for the proposal to be judged against. The case submitted by the applicant relates to personal circumstances where the applicant is the carer for her sister who has a range of medical conditions. These have been set out by local General Practitioner as well as social worker. In addition the applicant has provided as comprehensive statement within which the caring duties and responsibilities attached to being a carer for her sister have been outlined. The applicant's sister lives in a terraced bungalow within a housing estate in Stewartstown and the applicant provides both day and night time care during the week and at weekends takes her sister to her own home in Coalisland, as it is claimed that constant care and supervision is required. The applicant claims that this weekend situation is putting pressure on her family and the health needs of her husband are taking up more time making it increasingly difficult to adequately look after her sister in the current situation. The applicant lives within Coalisland and claims that neither her current building plot nor her sisters rented accommodation plot would be suitable for a "granny flat" extension, which is claimed to be a solution to the present issues. In addition to relocate her sister out of the Cookstown area to Coalisland would remove her sister from the Northern Health and Social Care Trust area thus her sister would not be permitted to attend her current day care location, which in itself would cause additional problems for her sister. The applicant advises that the site is within 480metres of the applicant's brother who resides at 62 Coagh Road and he would be available to provide additional care. The main consideration here is as to whether or not the applicant's circumstances justify the erection of a new dwelling in the countryside.

It is my opinion that the address at which the applicant's sister lives, apart from being rented accommodation, would from viewing aerial photography and maps not provide sufficient space within its curtilage to allow for a suitable solution. However the applicants stated address is a two storey dwelling set on a generous plot with garage and a suitable extension may be possible. However it has been claimed that to relocate to Coalisland would remove the eligibility to attend Cookstown Day Care Centre which would impact negatively on the applicant's sister condition.

It would seem from the applicant's submission that the main reasons for seeking permission on this site is that of ownership. The applicant has claimed that the site is one of several fields left to her by her parents, however when further information was sought as to the location of the other fields Planning was advised that only the application site is within her ownership. In order to comply with policy the circumstances have to be compelling and site specific. I have no doubt

from the evidence submitted that the reasons for the dwelling and annex are compelling however even though I sympathise with the situation that the applicants find themselves in I cannot agree that the site specific test has been proved. A dwelling with annex could be located within any part of the district however the financial cost of not buying the site would seem to be the main justification for the selection of this site.

During the processing of the application correspondence, on behalf of the applicant has been submitted which the authors have requested that it does not appear in the public domain. The evidence supplied with the application is considered to be of a personal and sensitive nature and therefore not available for public viewing under Regulation 13 of The Data Protection Act 1998. Should the committee wish to examine the case submitted by the applicant I would suggest that same be done in closed session.

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

In my opinion a dwelling could be accommodated on this site should policy allow without resulting in a loss to neighbouring amenity or producing a detrimental impact on highway safety. The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area.

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

I recommend that planning permission is refused for the reason below.

#### **Reason for Refusal:**

1. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory evidence that a new dwelling on this site is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been fully demonstrated that there are no alternative solutions.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th November 2015
<b>Date First Advertised</b>	7th December 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 80 Coagh Road Ballywholan Stewartstown	
<b>Date of Last Neighbour Notification</b>	3rd December 2015
<b>Date of EIA Determination</b>	<b>N/A</b>
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: I/2001/0531/F Proposal: Erection of Two Storey Dwelling Address: 180 M North East of 78 Coagh Road, Stewartstown Decision: Decision Date: 31.12.2001  Ref ID: I/2005/0722/O Proposal: Proposed two storey dwelling & garage. Address: 280m North North West of 78 Coagh Road, Ballywholan, Stewartstown. Decision: Decision Date: 14.07.2005  Ref ID: I/2006/0977/RM Proposal: Proposed Dwelling and Garage Address: 280m North West of 78 Coagh Road, Ballywholan, Stewartstown Decision: Decision Date: 17.04.2007	

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: N/A Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1185/O	<b>Target Date:</b> 11.03.16
<b>Proposal:</b> Proposed replacement dwelling	<b>Location:</b> 340 m SW of no. 6 Drapersfield Road Cookstown
<b>Referral Route:</b> Refusal	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> David McGlaughlin 10 Drapersfield Road Cookstown	<b>Agent Name and Address:</b> APS Architects llp No 4 6 Derryloran Industrial Estate Cookstown BT80 9LU
<b>Case Officer:</b> Paul McClean	
<b>Signature(s):</b>	



## Case Officer Report

**Date of Site Visit: 21.01.16**

**Site Location Plan:**



**Neighbour Notification Checked: Yes**

Letters of Objection

None Received

### **Description of proposal**

This is an outline planning application for a replacement dwelling in the countryside.

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

The site is located 340m SW of No. 6 Drapersfield Road, and approx. 2 km east of Cookstown as defined in the Cookstown Area Plan 2010. The site comprises a small area of land to the north of Drapersfield Road and a larger triangular plot to the south.

The area to the north contains the ruins of a previous stone building. Both gable walls are ivy covered and are largely intact, the rear wall has partially collapsed with about 2/3 remaining, the front elevation has also partially collapsed with about half or 2/3 of the wall remaining. There is evidence of doorway and window openings along the front elevation. The site is elevated from Drapesfield Road and some removal and stripping back of earth has occurred on site to expose the rear wall of the structure. The site is very restricted and backs onto an open agricultural field where land rises.

The triangular plot of land to the south is an existing agricultural field with hawthorn hedge lined boundaries of approx. 1.5 metres in height. The roadside boundary has a metre wide grass verge behind which is a hawthorn hedge and agricultural field gate located to the east. The site slopes downhill to the low point located in the southern corner of the site. There are mature trees located centrally along the SW boundary.

The area is rural in character and is defined mostly by rolling agricultural land, dispersed single dwellings and farm holdings.

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

### **Area Plan**

Cookstown Area Plan 2010: The site is located in the countryside on un-zoned land

### **Planning History**

I/2009/0533/F- Planning permission was refused for an 8.5m ridge replacement dwelling on 17th November 2010 for the following reasons;

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed off site location lacks long established natural boundaries is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.

### **Appeal**

The Departments decision to refuse I/2009/0533/F was appealed by the applicant and on 6th December 2011 the Planning Appeals Commission dismissed the appeal and full planning permission was refused (Appeal ref: 2011/A0012). In summary the Commissioner ruled that the structure to the north, while accepting that it displayed the essential characteristics of a dwelling, did not have all external walls substantially intact and therefore did not meet this policy test of CTY3 of PPS21. The Commissioner ruled 'The upper portion of the front wall, including part of the door and window apertures, was missing. The rear wall had partially collapsed during recent clearance of tree overgrowth and I estimated approximately half of it to remain. In this context I conclude that all the external walls of the appeal structure are not intact and this requirement of Policy CTY3 is not met'.

In relation to the second reason for refusal, during the appeal the applicant amended the siting, design and access of the proposal. The dwelling was amended to single storey, was sited in a lower point of the site, and the access was amended so that it mostly followed an existing hedge line along the SW boundary of the site. The Commissioner ruled that these amendments were satisfactory to overcome refusal reason 2 and this reason was not sustained.

### **Key Planning Policy and Consideration**

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 Policy CTY3 Replacement Dwellings. There is no conflict between Policy CTY3 of PPS21 and SPPS.

I/2009/0533/F was assessed and refused under PPS21 by the Department as outlined above. The PAC upheld the Departments reason of refusal 1 and policy consideration has not changed.

The structure on site is also the same structure that has been considered for replacement by PAC. Therefore, I am of the opinion that permission be refused as all external walls are not substantially intact.

It is my view that the site with the replacement structure is very restrictive and that a dwelling of modern day standards would not satisfactorily fit on this site and provide enough external amenity space for modern day living. In this case I find an off-site replacement to be acceptable should permission be granted.

As per the PAC decision, I am satisfied that a single storey dwelling of 5.5m ridge located in the southern portion of the site with vehicular access following the south western boundary (see drawing agreed by Commissioner) would integrate into the landscape and would not have a visual impact greater than the existing structure to be replaced. Should permission be granted a condition to restrict curtilage and removal of permitted development rights be applied to ensure that ancillary buildings and formal garden areas do not have a negative impact on the rural character of this area of countryside.

#### Other Considerations

The site is not subject to flooding. There are no nearby residential developments, therefore there will be no negative impacts on residential amenity should permission be granted. There are no land contamination or human health issues to consider. No planning objections have been received.

#### Summary of Recommendation:

That planning permission is refused for the following reason.

#### Refusal Reason

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that all external structural walls are not substantially intact and therefore it cannot be considered a suitable structure to justify a replacement dwelling.

#### Signature(s)

Date:

ANNEX	
<b>Date Valid</b>	27th November 2015
<b>Date First Advertised</b>	7th December 2015
<b>Details of Neighbour Notification</b> (all addresses) None within legislative requirements	
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No

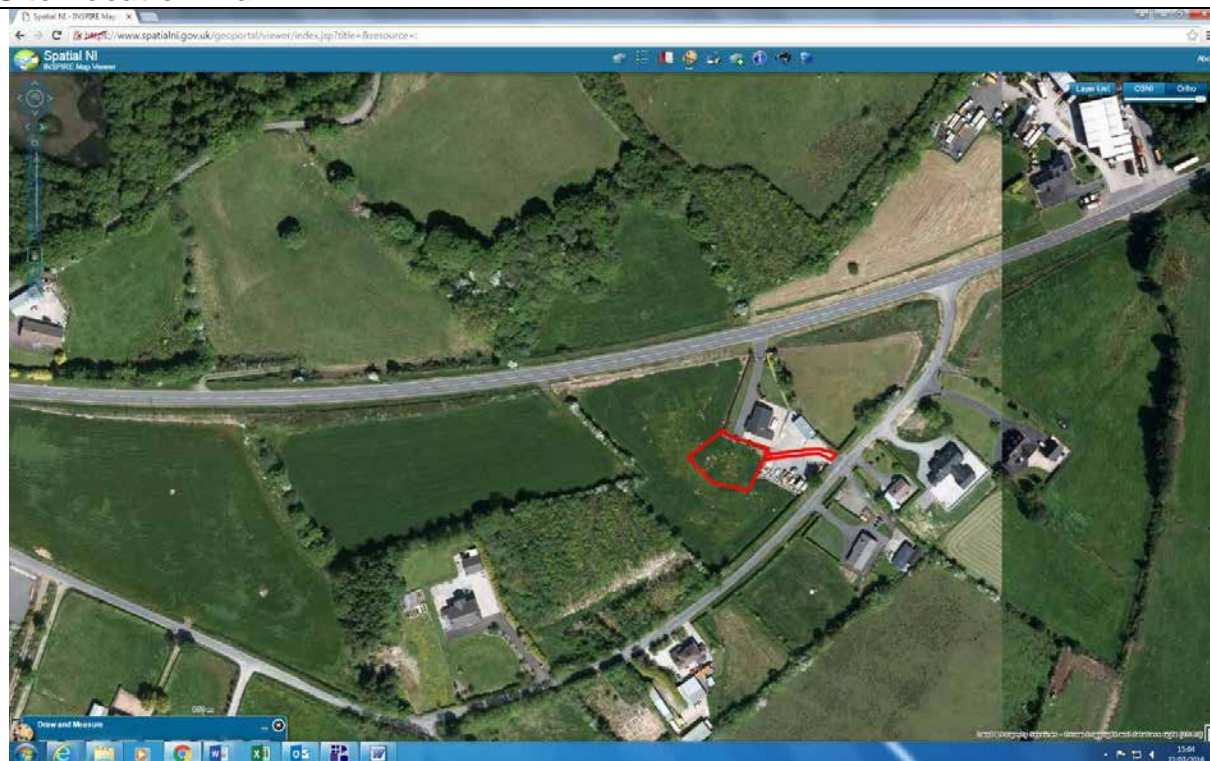


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1235/O	<b>Target Date:</b> 24/3/16
<b>Proposal:</b> Proposed new dwelling and garage on the farm adjacent principle farm	<b>Location:</b> Adjacent to 220 Drum Road Cookstown Bt80 9HP
<b>Referral Route:</b>  Refusal recommended.	
<b>Recommendation:</b> Refusal	
<b>Applicant Name and Address:</b> Mr Eric Lyttle 220 Drum Road Cookstown BT80 9HP	<b>Agent Name and Address:</b> W M McNeill 30 Knowehead Road Broughshane Ballymena BT43 7LF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DARDNI - Omagh	Advice
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	Environmental Health Mid Ulster Council	Advice
Advice and Guidance	Shared Environmental Services	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

### Detail of the Proposal:

Dwelling and Garage on a farm in compliance with Policy CTY 10 of Planning Policy Statement 21: Sustainable Development in the Countryside.

## Characteristics of the Site and Area

The site is located approximately 4 miles west of Cookstown Town Centre and is currently agricultural land which is located adjacent to no 220 Drum Road. Access to the site is proposed over the yard of no 220. The access connects onto Corchoney Lane, a minor road to the rear of the existing dwelling. No 220 has an additional access onto Drum Road, the major road within the area. The proposed site utilises boundaries on the south western and part of the south eastern plot of no 220, the remaining boundaries are undefined within the larger field. No 220 Drum Road is a single storey dwelling with shed to rear and some containers situated within the yard. Other development within the immediate area are 4no detached dwellings on the opposite side of Corchoney Lane. Other development in the wider area consists of detached and semi-detached dwellings as well as farm groups and commercial enterprises.

### Relevant site Histories:

No relevant site history.

### Representations:

No representations received from press notice or neighbourhood notification. Consultation with Transportni, Environmental Health or Shared Environmental Services has raised no concerns subject to conditions and informatives.

## Planning Assessment of Policy and Other Material Considerations

The site is located within the open countryside as defined by the Cookstown Area Plan 2010 (CAP) where Planning Policy Statement 21 (PPS 21): Sustainable Development in the countryside applies. A case under CTY 1 has been presented on the basis of farming activity and the application is to be considered under the provisions of CTY 10 – Dwellings on Farms.

The information provided with the application has been assessed and as no farm business id number has been identified the Department of Agriculture and Rural Development (DARD) has made no comment as to whether the farm business is currently active or has been established for at least 6 years. They do advise that the applicant does not have a farm business registered with DARD. A check on the applicants claimed land ownership has not identified any dwellings or development opportunities that have been sold off since 25th November 2008. In my opinion the site proposed does provide a suitable visual link with the existing building on no 220. In addition to the separation distance from the group the proposed location has to be examined in relation to policies CTY 13 and CTY 14 of Planning Policy Statement 21. It is my opinion that a dwelling on the identified location would be a prominent feature in the landscape and lacks sufficient natural boundaries to provide a suitable degree of enclosure.

The case presented is that the site is under the applicant's ownership along with other identified lands. That land along with other lands are within the farm business of Mr Robert Lyttle, a farm business in which the applicant claims to help out. The applicant advises correctly that policy does not state the requirement for a DARD Business number and has not provided one for assessment. However the justification and amplification of the policy does state that the applicant will be required to provide the farm's DARD business ID number along with evidence to prove active farming over the required period, no such information has been submitted. With the lack of a farm business identification number there is no independent confirmation (DARD) that the application fulfils the criteria of Policy CTY 10. It is my opinion that the applicant has not

proved that the farm business is currently active and has been established for at least 6 years. Indeed DARD has advised that the applicant does not have a farm business registered with DARD. It is noted that the applicant's brother farms the lands and is in possession of a farm business id number however it would seem that the applicant does not wish to avail of this number. It is also noted that the identified farm lands of Mr R Lyttle has the benefit of outline planning permission under I/2010/0457/O and subsequent reserved matters permission under I/2011/0461/RM. These permissions were granted on 28<sup>th</sup> June 2011 and 5<sup>th</sup> January 2012 respectively.

The site would be quite evident from the main Drum Road, with no intervening vegetation between same and the site, to aid integration and would in my opinion be prominent in the landscape. Thus the proposal would not meet the policy tests in CTY 13 on integration. Due to the existing development to the side and rear of the site a suburban style would in my opinion be present. The development would therefore adversely impact on the rural character of the area, thus not meeting policy CTY 14 requirements.

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

In my opinion a dwelling on this site could be allowed, subject to compliance with policy without resulting in a loss of neighbouring amenity or a negative impact on highway safety. Access is proposed at the same point where an existing access connects to the Corchoney Lane. 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). The proposal would not be likely to have a significant effect on the features of any European site. The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area.

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

I recommend that planning permission is refused for the reasons below.

#### **Reasons for Refusal:**

- The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21 Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.
- The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21 Sustainable Development in the Countryside in that the siting of the proposed dwelling would be prominent in the landscape.
- The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.



- The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings which would result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th December 2015
<b>Date First Advertised</b>	21st December 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2a Corchoney Lane Cookstown The Owner/Occupier, 2b Corchoney Lane Cookstown	
<b>Date of Last Neighbour Notification</b>	24th December 2015
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Approved	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: N/A Response of Department:	



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th April 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1272/F	<b>Target Date:</b>
<b>Proposal:</b> Renewal of Previous approval I/2010/0462 Replacement of existing vacant residential dwelling	<b>Location:</b> 120 Metres North West of 36a Bardahessiagh Road Pomeroy Dungannon
<b>Referral Route:</b> Applicant is a council employee.	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Niall and Aine Hasson (nee McElhatton) 36a Bardahessiagh Road Pomeroy Dungannon BT70 2RL	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report****Site Location Plan****Consultations:**

Consultation Type	Consultee	Response
Statutory	NI Transport - 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**

none

**Characteristics of the Site and Area**

The site is located on the Bardahessiagh Road, Pomeroy. Currently contained within the site is the remains of an old stone dwelling. The stone and rubble of the dwelling walls are evident, alongside the remains of the corrugated tin metal roof which appears to have fallen off but still lies somewhat intact to the rear of the dwelling. The dwelling is served by a rough agricultural laneway driveway approx 800m in length. The site is fairly elevated in an upland area however the remains of the dwelling is located in a hollow. The boundary to the front of the site is defined by a post/wire fence and some native hedgerows and trees. The land to the rear of the dwelling rises sharply- the rear boundary is undefined. The majority of the site is over grown with weeds and rushes with a number of mounds of soil and rubble at various points throughout the site.

The surrounding area is rural upland in character. There is limited development pressure along this laneway- the area is fairly remote, however, existing development in the area is typified by single dwellings and associated outbuildings (especially in lands immediately to the SE of the site).

The proposal is a full application for the renewal of planning application I/2010/1272/F for the erection of a 2 storey replacement dwelling.

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

The proposal is for the renewal of previous planning permission I/2010/0462/F. I/2010/0462/F related to a replacement dwelling which was approved on 22nd December 2010. This decision expires on 22nd December 2015.

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

This application for renewal is made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

Under the provisions of Article 3 (5) this planning permission (which is extant until 22nd December 2015) can be renewed and the time limit for implementation extended for a further 5

years provided that the policy context under which this planning permission was granted has not changed and the proposal would still meet the requisite policy tests.

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development in the countryside is controlled under the provisions of the SPPS and PPS 21 Sustainable Development in the countryside.

Under the provisions of PPS 21 Sustainable Development in the countryside. There are a range of types of development which in principle are considered to be acceptable in the countryside. In this case the application was for a replacement dwelling.

This principle of development in this location was previously approved under I/2010/0462/F with a condition of development being that the development should be begun 5 years from the date of the approval. This planning application for renewal was received on 17th December 2015; before the original application expired. This current application for renewal was made within 5 years of the date of approval, therefore this previous approval should be given determining weight in assessing this application.

I recommend approval of this planning application.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

This principle of development in this location was previously approved under I/2010/0462/F with a condition of development being that the development should be begun 5 years from the date of the approval. This planning application for renewal was received on 17th December 2015; before the original application expired. This current application for renewal was made within 5 years of the date of approval, therefore this previous approval should be given determining weight in assessing this application.

#### Conditions

1. As required by Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on the approved plan 01 date stamped 17-Dec-2015 is demolished, all rubble and foundations removed and the site restored in accordance with the details on the approved plans.

REASON: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

3. All landscaping comprised in the approved details of landscaping shall be carried out in the first planting season following the commencement of the construction of the development hereby

approved and any trees or shrubs which, within a period of five years from the completion of the development, die are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of visual amenity.

4.The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place, in accordance with Drawing No. 01 bearing the date stamp 17th 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.

5.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.

### **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. NI Water advise:

i. The onus is on the householder/developer to find out if there is existing water and sewer infrastructure within their property.

ii. It is an offence under Article 236 of the Water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water.

iii. House owners and developers should obtain details of existing infrastructure from NI Water by requesting a copy of the water and sewer records. Copies of our records are supplied under Articles 257 and 258 of the 2006 Order. There is a nominal charge for this service.

iv. Where existing water and sewer infrastructure is located within a property and proposed development of the site interferes with the public water mains, sewers and associated works, the householder/developer may make a Notice under Article 247 of the 2006 Order to have the public infrastructure diverted, realigned. Each diversion and realignment request is considered on its own merits and approval is at the discretion of NI Water. The applicant is required to meet any financial conditions for realignment or diversion of the water and sewer infrastructure, including full costs, company overheads, etc.

v. It is the responsibility of the developer/house builder to find out about the nearest public water main, foul sewer and storm sewer/watercourse that has the capacity to service the proposed development. Copies of existing water and sewer records can be obtained from NI Water. There is a nominal charge for this service.

vi. Guidance can be given to developers/house builders about how the proposed development can be served by a public watermain or sewers. To find out how proposed development can be serviced with water and sewer infrastructure, developers and house builders can submit a Pre-Development Enquiry.

vii. If your proposed development is not near a public watermain, foul sewer or surface water sewer and you cannot discharge your surface water to a natural watercourse you may wish to consider making a requisition Notice asking NI Water to extend the public watermain or foul/storm sewer system to service your development.

viii. If you wish to find out more about what you can or cannot do if there is existing water or sewer infrastructure in, over or under your property, or you want to find out how your proposed development can be serviced contact NI Water staff on the Developers Services Business Line 08458770002 and ask for the Developers Services Co-Ordination Team.

#### 4. Transport NI Informatives

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 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 Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for 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

<b>Date Valid</b>	17th December 2015
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<b>Date First Advertised</b>	28th December 2015
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<b>Date Last Advertised</b>	
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**Details of Neighbour Notification** (all addresses)

The Owner/Occupier,  
28 Bardahessiagh Road,Edendoit,Pomeroy,Tyrone,BT70 2RL,  
The Owner/Occupier,  
34 Bardahessiagh Road Edendoit Pomeroy  
The Owner/Occupier,  
34A Bardahessiagh Road,Edendoit,Pomeroy,Tyrone,BT70 2RL,  
The Owner/Occupier,  
34B Bardahessiagh Road,Edendoit,Pomeroy,Tyrone,BT70 2RL,  
The Owner/Occupier,  
34C Bardahessiagh Road,Edendoit,Pomeroy,Tyrone,BT70 2RL,  
The Owner/Occupier,  
36 Bardahessiagh Road Edendoit Pomeroy  
The Owner/Occupier,  
36A Bardahessiagh Road Edendoit Pomeroy  
The Owner/Occupier,  
9 Bardahessiagh Road,Edendoit,Pomeroy,Tyrone,BT70 2RL,

<b>Date of Last Neighbour Notification</b>	12th January 2016
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	No
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**Planning History**

Ref ID: I/1984/0130  
Proposal: ERECTION OF BUNGALOW  
Address: EDENDOIT, POMEROY  
Decision:  
Decision Date:

Ref ID: I/1984/013001  
Proposal: ERECTION OF BUNGALOW  
Address: EDENDOIT, POMEROY  
Decision:  
Decision Date:

Ref ID: I/2010/0143/Q  
Proposal: Replacment Dwelling  
Address: 140 M North of 36A Bardahessiagh Road, Pomeroy  
Decision:  
Decision Date:

Ref ID: I/1974/0180  
Proposal: 11KV O/H LINE  
Address: MOYMORE, EDENDOIT AND BARDHESSIAGH, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1979/0197  
Proposal: 11KV O/H LINE AND MV U/G SERVICE  
Address: EDENDOIT, POMEROY  
Decision:  
Decision Date:

Ref ID: I/1996/0153  
Proposal: Dwelling  
Address: 70M SOUTH EAST OF 36 BARDAHESSIAH ROAD POMEROY  
Decision:  
Decision Date:

Ref ID: I/2006/0823/RM  
Proposal: Proposed Dwelling  
Address: 110m South East of 36 Bardahessiagh Road, Pomeroy  
Decision:  
Decision Date: 12.01.2007

Ref ID: I/2005/0361/F  
Proposal: Proposed replacement dwelling  
Address: 36 Bardahessia Road, Pomeroy, Dungannon  
Decision:  
Decision Date: 15.06.2005

Ref ID: I/1995/0294  
Proposal: Site for dwelling

Address: 70M SE OF 36 BARDAHESSIAN ROAD POMEROY

Decision:

Decision Date:

Ref ID: I/2010/0462/F

Proposal: Replacement of existing vacant residential dwelling

Address: 120 Metres North West of 36A Bardahessiagh Road, Pomeroy, Dungannon

Decision:

Decision Date: 26.01.2011

Ref ID: I/2004/1158/O

Proposal: Proposed dwelling

Address: 110m South East of 36 Bardahessiagh Road, Pomeroy

Decision:

Decision Date: 15.02.2005

Ref ID: LA09/2015/1272/F

Proposal: Renewal of Previous approval I/2010/0462 Replacement of existing vacant residential dwelling

Address: 120 Metres North West of 36a Bardahessiagh Road, Pomeroy, Dungannon,

Decision:

Decision Date:

### **Summary of Consultee Responses**

Transport NI were consulted and responded with no objections.

### **Drawing Numbers and Title**

Drawing No. 05  
Type: Floor Plans  
Status: Submitted

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

Drawing No. 03  
Type: Elevations and Floor Plans  
Status: Submitted

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

Drawing No. 04  
Type: Elevations and 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	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1275/O	<b>Target Date:</b>
<b>Proposal:</b> Infill dwelling and garage between 32 and 32a Mayogall Road, Gulladuff	<b>Location:</b> Lands Between 32 and 32a Mayogall Road Gulladuff
<b>Referral Route:</b> Refusal – contrary to CTY 1, CTY 8, CTY 14 of PPS21	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Noel Convery 31 Station Road Castledawson BT45 8AZ	<b>Agent Name and Address:</b> Carol McIlvar 89 Main Street GARvagh Coleraine BT51 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NIEA	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
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The proposal site is within the corner of a larger agricultural field, the site is undefined on the western side and bounded on the eastern by a post and wire fence and a scattering of trees and scrub vegetation, the northern boundary consists of mature hedging and trees and a post and wire fence while the southern boundary consists of only a post and wire fence. The site is relatively flat and flanked on the west by further agricultural land. Immediately to the north of the proposal site is a detached 2 storey dwelling, to the south is a detached single storey dwelling and approvals for 2 detached dwellings with the development commenced on site. There are no critical view points of the site and the access road ends at No 32A Mayogall Road. The proposal site is located within the rural remainder just outside the settlement development of Gulladuff.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>I have assessed this proposal under the following:</p> <p>SPSS Magherafelt Area Plan 2015 Planning Policy Statement 21 - Sustainable Development in the countryside</p> <p>Site history - None site specific or relevant. Neighbours - Owners/Occupiers of Nos 30, 32, 32a Mayogall Road were notified of this proposal on 20.01.2016 and no representations have been received to date.</p> <p>In line with current legislation this proposal was advertised in several local press publications during December 2015 and January 2016 - no objections have been received following this.</p> <p>Consultees: - Transportni were asked to comment on this proposal and responded on 04.02.2016 with no objections subject to conditions. Environmental Health were asked to comment and responded on 26.01.2016 with objections NI Water were asked to comment on the proposal and responded on 21.01.2016 with no objections</p> <p>The proposal site is within an area of Archaeological potential as per the Magherafelt Area Plan 2015, as such NIEA were consulted and responded on 18.02.2016 with no objections to the proposal.</p> <p>This proposal site is just outside the settlement limits of Gulladuff according to Magherafelt Area Plan and classed as rural remainder.</p>	

This proposal has been submitted as an infill dwelling and garage and as such the policy it should be considered under is CTY 8 of PPS21 - Ribbon development. This policy states that planning permission will be refused for a building which creates or adds to a ribbon of development, however an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a max of 2 houses within an otherwise substantial and continuously built up frontage ( a line of 3 or more buildings along a road 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.

When travelling along Priestown Lane in a northerly direction there is a continuous line of development stretching from the Mayogall Road, this development consists of in excess of 6 buildings with a mix of both residential buildings and agricultural sheds and outbuildings. The proposal site is within the corner of a larger agricultural field and immediately adjacent on the northern side is a detached 2 storey dwelling, while immediately adjacent to the southern boundary is a detached bungalow with associated outbuildings. The northern boundary of the proposal site consists of a post and wire fence and a few mature trees, the southern and eastern consist of a post and wire fence and the western is undefined. The dwelling immediately adjacent on the southern side is a single storey detached dwelling and the dwelling located to the north is a detached 2 storey dwelling, the general pattern of development appears to be that of single storey detached roadside dwellings.

The public interest in this site would be minimal as the access road ends at No 32a. The land to the rear of the site is agricultural in nature and there are no other views of the site from any surrounding public view points.

It is my opinion that this proposal would mar the distinction between the settlement development limit of Gulladuff and the rural remainder and would be considered as urban sprawl into the surrounding countryside.

A statement has been submitted and considered with this proposal. The statement claims that the proposal site is located within an identifiable cluster, this point is considered incorrect as the surrounding development does not appear as a visual entity in the local landscape, nor is it associated with a focal point, the site does not provide a minimum of two suitable degree of enclosure on two sides, the approval of a dwelling at this location would actually significantly alter the existing character as it provides a clear distinction between the settlement limits and the rural remainder.

Within the submitted statement it has been claimed that this proposal should be considered an exception to policy CTY 8 of PPS21 as in the agents view the development pattern is being respected, however I disagree with this point and would state that the proposal fails to comply with the requirements of CTY 8 of PPS21 in that the distinction between the rural remainder and Gulladuff settlement would be marred.

In addition, in contradiction to the submitted settlement it is my opinion that a new building at the proposed location would create a ribbon of development, a built up appearance and mar the distinction between the countryside and settlement.

Recommendation: Refusal - Contrary to CTY 1 of PPS21  
CTY 8 of PPS21  
CTY 14 of PPS21



<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> Refusal	
<b>Conditions/Reasons for Refusal:</b>  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 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 Mayogall Road and would mar the distinction between the settlement limit of Gulladuff.  3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and the building would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.	
<b>Signature(s)</b>  <b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	18th December 2015
<b>Date First Advertised</b>	28th December 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 30 Mayogall Road Moyagall Gulladuff The Owner/Occupier, 32 Mayogall Road Moyagall Gulladuff The Owner/Occupier, 32A Mayogall Road Moyagall Gulladuff	
<b>Date of Last Neighbour Notification</b>	20th January 2016
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/1998/0570 Proposal: ALTERATIONS AND ADDITIONS TO DWELLING Address: 24 MAYOGALL ROAD MAGHERAFELT Decision: Decision Date:  Ref ID: H/1980/0195 Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW Address: 26 MAYOGALL ROAD, KNOCKLOUGHRIM Decision: Decision Date:  Ref ID: H/1997/0026 Proposal: DWELLING AND GARAGE Address: ADJ TO 32 MAYOGALL ROAD GULLADUFF MAGHERAFELT Decision: Decision Date:  Ref ID: H/1997/0642 Proposal: SITE OF DWELLING Address: BESIDE 24 MAYOGALL ROAD GULLADUFF Decision:	

Decision Date:

Ref ID: H/1998/0224

Proposal: DWELLING

Address: BESIDE 24 MAYOGALL ROAD GULLADUFF

Decision:

Decision Date:

Ref ID: H/2000/0532/O

Proposal: Site of 5 no dwellings

Address: 20 Moyagall Road, Gulladuff

Decision:

Decision Date: 21.05.2001

Ref ID: H/2002/1130/F

Proposal: Change of house type (site 1)

Address: 20 Moyagall Road, Gulladuff.

Decision:

Decision Date: 20.07.2004

Ref ID: H/2001/0982/RM

Proposal: 5 No. Dwellings

Address: 20 Moyagall Road, Gulladuff

Decision:

Decision Date: 18.02.2002

Ref ID: H/2008/0206/O

Proposal: Proposed residential development

Address: Lands adjacent to 16 Moyagall Road, Gulladuff, Maghera

Decision:

Decision Date: 20.08.2008

Ref ID: H/2010/0442/RM

Proposal: Residential development of 5 No Dwellings

Address: Lands adjacent to 16 Moyagall Road, Gulladuff, Maghera

Decision:

Decision Date: 02.02.2011

Ref ID: H/1996/0430

Proposal: SITE OF DWELLING

Address: ADJACENT TO 32 MAYOGALL ROAD KNOCKLOUGHRIM MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2005/1025/F

Proposal: Two Storey Dwelling and Garage

Address: 700m NW of 32 Mayogall Road, Priest Town Lane, Gulladuff

Decision:

Decision Date: 21.12.2005

Ref ID: H/2014/0369/F

Proposal: 2 Storey rear extension to existing dwelling.

Address: 8 Priesttown Lane, Gulladuff, Magherafelt, BT45 8SA,

Decision: PG

Decision Date: 08.07.2015

Ref ID: H/2013/0038/F

Proposal: Proposed residential development of 2no. dwellings

Address: Lands adjacent to 16 Mayogall Road, Gulladuff, Maghera,

Decision: PG

Decision Date: 13.05.2013

Ref ID: LA09/2015/1275/O

Proposal: Infill dwelling and garage between 32 and 32a Mayogall Road, Gulladuff

Address: Lands Between 32 and 32a Mayogall Road, Gulladuff,

Decision:

Decision Date:

Ref ID: H/1987/0023

Proposal: ALTS AND ADDS TO BUNGALOW

Address: 26 MOYAGALL RD GULLADUFF KNOCKLOUGHRIM MAGHERA

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



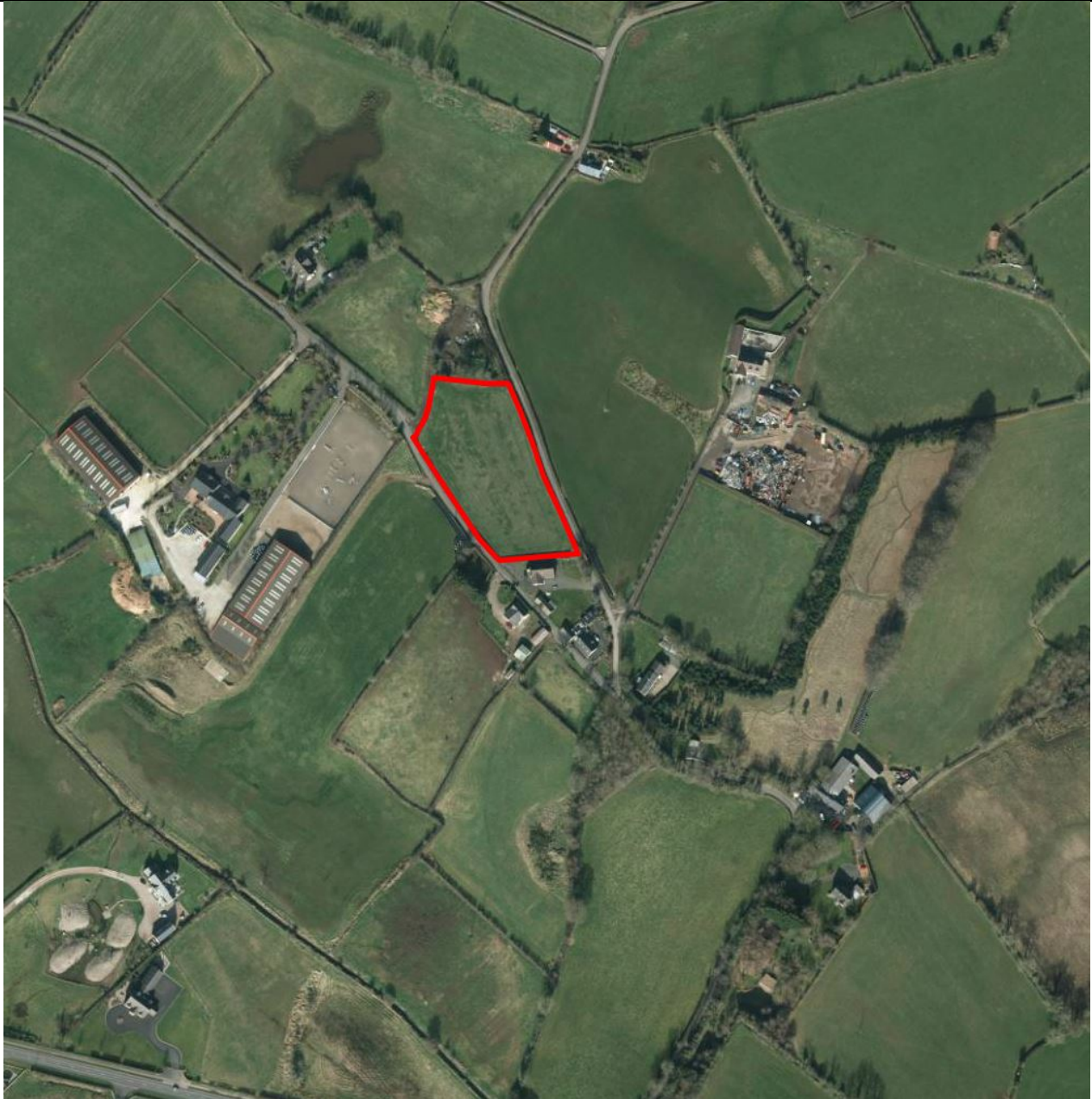
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1277/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> 40m N.W. of 2 Motalee Lane Magherafelt with access from Luney Lane
<b>Referral Route:</b> Refusal recommended – contrary to CTY 2a & 13 of PPS21	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Michael Gribbin 4 Draperstown Road Desertmartin	<b>Agent Name and Address:</b> CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NI Transport - Enniskillen Office	Advice

Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
<b>Representations:</b>		
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	
<b>Summary of Issues</b> Contrary to CTY 2a & CTY 13 of PPS21		
<b>Characteristics of the Site and Area</b>  The proposal site is currently an agricultural field which is bounded on all sides by a post and wire fence and modest agricultural hedge. The site sits at a higher level than the road and rises in level from a northerly to southerly direction. The site is sandwiched between Motalee Lane and Luney Road. Located to the south of the proposal site are three detached single storey dwellings and associated outbuildings, while to the north is further agricultural land (previous approval for replacement dwelling however original dwelling has been demolished and no commencement on the replacement), directly opposite the proposal site a detached dwelling has been approved (under infill category) and NW of the proposal site is Meadowvale equestrian centre.		
<b>Planning Assessment of Policy and Other Material Considerations</b>  I have assessed this proposal under the following:  SPSS Magherafelt Area Plan 2015 Planning Policy Statement 21 - Sustainable development in the countryside (CTY 2a New dwellings in existing clusters)  In line with legislation this proposal was advertised in several local press publications during December 2015 and January 2016 with no representatoin having been received to date. Neighbours: - owners/occupiers of Nos. 18 Luney Road, 2 Motalee Lane ad 6 Motalee Lane were notified of this proposal on 20.01.2016 and no objections have been received to date.  Consultees: Transportni were asked to comment on this proposal and responded on 05.01.2016 with no objections Environmental Health were asked to comment and responded 28.01.2016 with no objections NI water were asked to comment and responded on 21.01.2016 with no objections As the proposal site is half in area of LDY 041:022 (an archaeological site and monument) NIEA were asked to comment on this proposal and responded on 18.02.2016 with no objections to the proposal.  Site History - There is no site specific history on site.		



Immediately adjacent the proposal site on the Northern side there is history of an approval for replacement dwelling and garage (H/2007/0347/F), however when the site visit was carried out it was apparent that this approval has been lost as the original building has been demolished and the replacement never commenced. Located immediately adjacent on the SE boundary is a detached single storey dwelling. Immediately opposite this proposal site is a large agricultural field that has an approval for a detached dwelling recently approved as an infill opportunity.

Vegetation - the proposal site is currently a large agricultural field used for grazing. The site sits at a higher level than the road level and rises from the northern to southern side gently. The site is surrounded by a post and wire fence and a modest agricultural hedge, none of which provides any degree of integration, or sense of enclosure required by policy CTY 13.

This proposal has been submitted to be considered under Policy CTY 2a of PPS21 - New dwellings in existing clusters

In order for a new dwelling to approved under this policy all the following criteria has to be met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings; - in this case the proposal site does lie outside of a farm, and there are more than 4 buildings adjacent.
- the cluster appears as a visual entity in the local landscape; - it is not my opinion that the development in this locality creates a cluster and is not read together.
- the cluster is associated with a focal point such as a social/community building/ facility, or is located at a cross-roads; - there is no focal point at this proposal site, the building identified as a community facility on the site location map is 'Meadowvale Equestrian Centre', a riding centre which is not a community facility but rather an operating business.
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster; - there is identifiable development on the SE boundary of the proposal site only and the post and wire fence and agricultural hedge do not provide a suitable degree of integration thus the proposal fails under this point.
- 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 opinion that this is not an identifiable cluster of development and if an approval for a dwelling was approved on the site it would significantly alter the existing character and visually intrude into the open countryside.
- development would not adversely impact on residential amenity. - this proposal would not adversely impact on residential amenity if approval were granted.

According to the above policy all of the above criteria has to be met, in the case of this proposal it only adheres to two out of the 6 criteria and so fails to meet this policy and planning permission should be refused.

Recommendation: Refusal - contrary to CTY 2a of PPS21

**Neighbour Notification Checked**

**Yes**

<b>Summary of Recommendation:</b>
Refusal
<b>Reasons for Refusal:</b>
<p>1.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:</p> <p>the cluster is not (associated with a focal point, the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside</p> <p>2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.</p>
<b>Signature(s)</b>
<b>Date:</b>

<b>ANNEX</b>	
<b>Date Valid</b>	18th December 2015
<b>Date First Advertised</b>	28th December 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 18 Luney Road, Luney, Desertmartin, Londonderry, BT45 5JR, The Owner/Occupier, 2 Motalee Lane, Magherafelt The Owner/Occupier, 6 Motalee Lane, Magherafelt	
<b>Date of Last Neighbour Notification</b>	20th January 2016
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/2007/0347/F Proposal: Replacement Dwelling and Garage Address: 6 Motalee Lane, accessing from Luney Road, Magherafelt Decision: Decision Date: 15.02.2008  Ref ID: LA09/2015/1277/O Proposal: Proposed dwelling and garage Address: 40m N.W. of 2 Motalee Lane, Magherafelt, with access from Luney Lane, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Approved	

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:

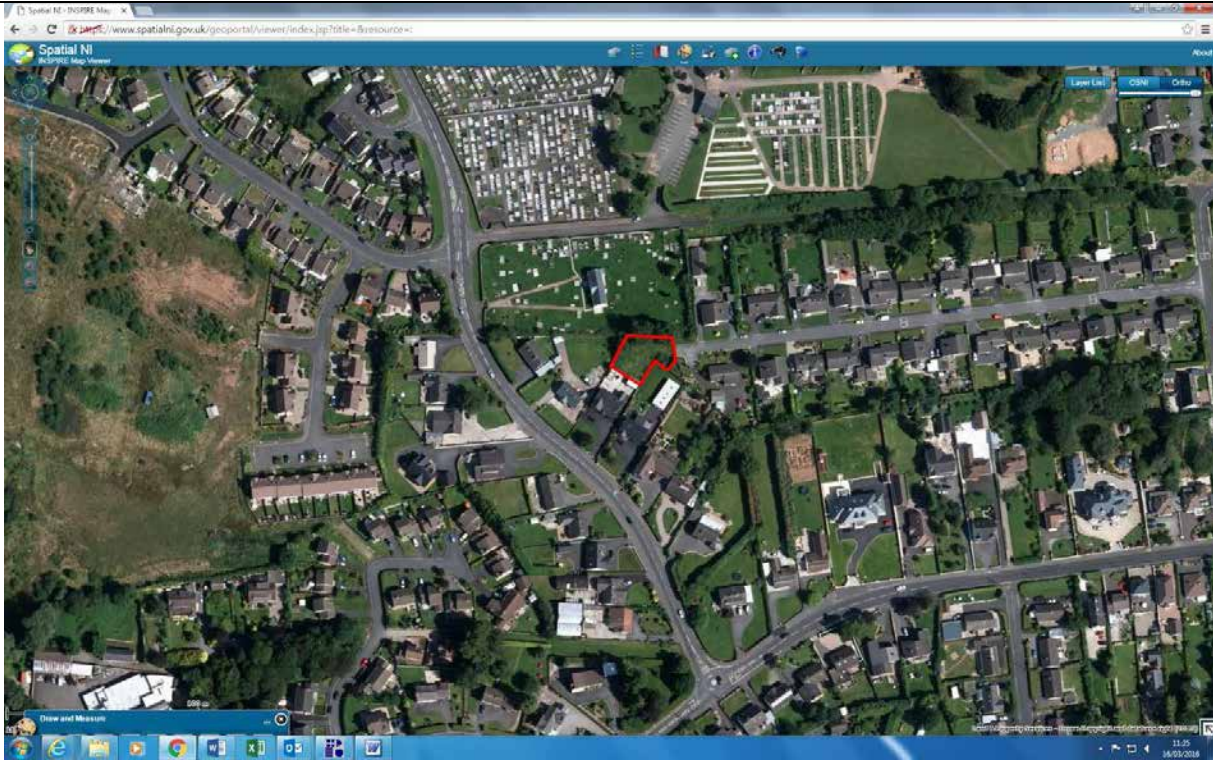


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/1291/F	<b>Target Date:</b> 5/4/16
<b>Proposal:</b> Proposed dwelling and detached garage	<b>Location:</b> To rear of 118 Westland Road South Cookstown with access from Drumcree Cookstown
<b>Referral Route:</b>  Objections received.	
<b>Recommendation: APPROVE</b>	
<b>Applicant Name and Address:</b> ARC Developments Ltd 8 Killycolp Road Cookstown BT80 9AD	<b>Agent Name and Address:</b> Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Transport - Enniskillen Office	Advice
Statutory	NIEA	Standing Advice

### Representations:

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

### Detail of the Proposal:

Dwelling and garage within the settlement limits for Cookstown.

### Characteristics of the Site and Area

The site is located within the settlement limits for Cookstown as defined within the Cookstown Area Plan 2010. Access to the site is provided from Drumcree, an estate of detached dwellings which are mainly single storey with some having roof space conversion. The site ground level is similar to that of the adjoining lands with timber fencing around same. The site is located at the end of a cul de sac and sits adjacent to 3no dwellings which access onto Westland Road South and one other dwelling which is accessed from Drumcree. These dwellings are on the opposite sides of the eastern, western and southern boundaries. On the opposite side of the northern boundary is a grave yard and chapel. The existing dwellings are single storey with no high level windows facing the site. The immediate and wider general area is mainly residential in form.

**Relevant Site Histories:**

The site has been subject to a previous planning application which is I/2005/1251/F: Proposed dwelling and garage (amended plans) which was granted permission on 16.02.2006. That permission allowed for a dwelling in bungalow form with roof space accommodation.

**Representations:**

During the processing of the application two representations have been made which object to the original plans submitted. The objections have been received from the occupiers of no 116 and no 120 Westland Road South. The objection from no 116 relates to the provision of windows in the side elevation facing no 116, claiming invasion of privacy and devaluation of property. The objection from no 120 relates to the size and location of windows in the side elevation facing no 120, claiming invasion of privacy and devaluation of property. Amended plans having been received a second objection from the occupier of no 120 was submitted which objected to the height of the ground floor window to the side of the proposed dwelling. In addition the occupier of no 116 has raised concerns in relation to the dormer window to the rear of the amended proposal, which would cause overlooking of no 116.

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

The site is located with the limit of development for the settlement of Cookstown as defined within the Cookstown Area Plan 2010 (CAP). Plan Policy SETT 1 sets out the criteria to be met for a favourable consideration within settlement limits. The proposal is sensitive for the settlement in terms of design, materials, scale and form and it respects the constraints and opportunities that the site presents and no conservation interest has been identified. In addition it is my opinion that the construction of this dwelling would not be detrimental on the amenities of any existing development within the area. Access and parking have been declared acceptable by consultee and the proposal would not prejudice the comprehensive development of adjacent lands. This proposal is for a one and a half story dwelling with a single story outshot from the left hand gable. To the front two no flat roofed type dormers are proposed within the roof and one similar dormer is proposed to the rear. External materials are acceptable for the location.

**Other Policy and Material Considerations:**

In my opinion a dwelling could be accommodated on this site without resulting in a loss to neighbouring amenity or detrimental impact on highway safety. The matter raised in respect of devaluation of property is not a major material consideration and no evidence has been produced to substantiate this assertion. As far as the height of the window is concerned I would comment that the height is similar to that of the windows in the remainder of the proposed dwelling, which are standard height of 2.1metres from finished floor level. That in association with the retention of a 1.8 metre high fence on the common boundary should not result in a negative amenity situation. The overlooking issue raised by the occupier of no 116 in respect of the rear dormer window is in my opinion not a significant issue as the window services a bedroom and is directly located some 16 metres from the fence line of no 116. I would have more concern in respect of the impact of the dormer on no 118, where the occupier has made no comment to neighbourhood notification. The agent has advised that in order to comply with fire regulations a window of the size and form proposed is required especially as the window in the gable has been removed. I would therefore recommend that a condition requiring obscure glass in the rear dormer window be attached. No other issues have been identified.

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

**Recommendation:**

I recommend that planning permission be granted subject to conditions.

**Conditions:**

1. As required by Section 61 of the Planning Act (Northern Ireland) Order 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 proposed rear dormer window associated with bedroom no 4 shall be fitted with obscure glass which shall be permanently retained.

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

3. All landscaping comprised in the approved details of landscaping drawing no 01(rev 1) received 5th February 2016 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved and any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure the development integrates into the countryside.

4. The vehicular access, including visibility splays of 2.4m x 33m in both directions, shall be in place, in accordance with Drawing No. 01 bearing the date stamp 22nd 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.

5. 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.

**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. Transportni informatives:

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 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.

3. Northern Ireland environment Agency comments:

NIEA have no specific comment on this development other than to advise that the conditions and informatives set out in DOE Standing Advice Note No. 1 – Single dwellings, are applicable.

The advice and guidance contained in Standing Advice Note. 4 – Pollution Prevention Guidance and Standing Advice Note No. 5 – Sustainable Drainage Systems, is also applicable.

Standing Advice Notes are available on the NI Planning Portal under Advice / NIEA Guidance / Standing Advice. Alternately the following address can be copied and pasted to a web browser.  
[http://www.planningni.gov.uk/index/advice/northern\\_ireland\\_environment\\_agency\\_guidance/standing\\_advice.htm](http://www.planningni.gov.uk/index/advice/northern_ireland_environment_agency_guidance/standing_advice.htm)

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	22nd December 2015
<b>Date First Advertised</b>	11th January 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 116 Westland Road South Gortalowry Cookstown J McCullagh 116, Westland Road South, Cookstown, Tyrone, Northern Ireland, BT80 8JN The Owner/Occupier, 118 Westland Road South Gortalowry Cookstown The Owner/Occupier, 120 Westland Road South Gortalowry Cookstown Pat O'Hagan 120, Westland Road South, Cookstown, Tyrone, Northern Ireland, BT80 8JN Pat O'Hagan 120, Westland Road South, Cookstown, Tyrone, Northern Ireland, BT80 8JN The Owner/Occupier, 26 Drumcree Gortalowry Cookstown The Owner/Occupier, 43 Drumcree Gortalowry Cookstown	
<b>Date of Last Neighbour Notification</b>	19th February 2016
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No. 02(rev 1)  
Type: Elevations and Floor Plans  
Status: Submitted

Drawing No. 01(rev 1)  
Type: Site Location Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department: N/A  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/0037/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site of infill dwelling and domestic garage for residential purposes (height of dwellings restricted to single storey or storey and a half)	<b>Location:</b> 80m North West of 4 Dunmurry Road Moneyneany
<b>Referral Route:</b> Refusal recommended – contrary to CTY 1, CTY 8, CTY 14 of PPS21	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Joe Morgan 4 Dunmurry Road Moneyneany Draperstown BT45 7ED	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues</b> Refusal – contrary to CTY 1, CTY 8 & CTY 14 of PPS21	
<b>Characteristics of the Site and Area</b> <p>The proposal site is currently a roadside agricultural field. The land is relatively flat in nature and surrounded by further agricultural land. The site is bounded on the western by a post and wire fence and undefined on the southern. The northern is defined by a post and wire fence and mature trees creating a strong boundary. The roadside boundary or eastern boundary is defined by post and wire fencing and mature trees. Immediately adjacent on the northern side is a detached single storey dwelling and although this is set back from the roadside it is clearly visible when travelling along Dunmurry Road. Directly adjacent to this is No 12 a detached 2 storey farm dwelling directly on the roadside and several detached associated farm buildings. Located to the SE of the proposal site immediately adjacent is the opportunity for a further infill dwelling then a detached 2 storey farm dwelling (No 4) and associated farm buildings on the roadside and a detached 2 storey dwelling (No 4a) set back to the rear of No 4, although this is still clearly visible from the public road.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b> <p>I have assessed this proposal under the following policies:</p> <p>SPSS          Magherafelt Area Plan 2015          Planning Policy Statement 21 - CTY 8, CTY 13, CTY 14</p> <p>Site history - none relevant          Neighbours - Owners/occupiers of Nos 4, No 4A, Nos 6A _ No 12 Dunmurry Road were notified of this proposal on 27.01.2016, no representations have been received to date.</p> <p>Consultees:          Transportni were asked to comment and responded on 15.02.2016 with no objections. A new access is proposed onto Dunmurry Road. Transportni have attached a condition.          Environmental Health were asked to comment and responded on 24.02.2016          NI Water were also asked to comment and responded on 27.01.2016 with no objections.</p> <p>In line with legislation the proposal was advertised in several local press publications during January 2016 and no objections have been received to date.</p> <p>This proposal is for a single storey or storey and half infill dwelling and domestic garage. According to CTY 8 of PPS21 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 accomodate up to a max of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purposes of this policy and the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage.</p>	

The dwelling located at No 6a Dunmurry Road is set back approx 30metres from the roadside and between this property and the roadside No 6a's curtilage is fenced off and the land to the front is agricultural in land thus creating a further 'gap' between the proposal site and No 12 Dunmurry Road.

As stated above the relevant policy requires a small gap sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and this proposal site is unable to achieve this.

The site provides integration on the northern and eastern boundary while the western and southern boundary is bounded by a post and wire fence only. The site is relatively flat and currently has an agricultural use.

Recommendation: Refusal - contrary to CTY 8 of PPS21

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

1. 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 Dunmurry Road.

2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	12th January 2016
<b>Date First Advertised</b>	25th January 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 12 Dunmurry Road Moydamlaght Draperstown The Owner/Occupier, 4 Dunmurry Road Moydamlaght Draperstown The Owner/Occupier, 4A Dunmurry Road Moydamlaght Draperstown The Owner/Occupier, 6A Dunmurry Road Moydamlaght Draperstown	
<b>Date of Last Neighbour Notification</b>	27th January 2016
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/2002/0226/Q Proposal: Site of Dwelling Address: Dunmurray Road, Moneyneena, Draperstown. Decision: Decision Date:  Ref ID: H/2002/0417/O Proposal: Site for Dwelling & Garage. Address: South of 12 Dunmurry Road, Moneyneena, Draperstown. Decision: Decision Date: 01.08.2002  Ref ID: LA09/2016/0037/O Proposal: Proposed site of infill dwelling and domestic garage for residential purposes (height of dwellings restricted to single storey or storey and a half) Address: 80m North West of 4 Dunmurry Road, Moneyneany, Decision: Decision Date:	



<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 02 Type: Details of Access to the Public Road Status: Approved  Drawing No. 01 Type: Site Location Plan Status: Approved
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:

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## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> I/2011/0388/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of extension to existing engineering units and minor alterations to door openings and provision of new boundary wall	<b>Location:</b> 313 Drum Road, Cookstown Co Tyrone.
<b>Applicant Name and Address:</b> Noel Corey 76 Main Street Pomeroy BT70 2QP	<b>Agent name and Address:</b> Building Design Solutions 76 Main Street Pomeroy BT70 2QP
<b>Summary of Issues:</b> The application is for the extension to an existing workshop. Objections have been received in relation to existing noise and odour & traffic issues and concerns have been raised how this will exacerbate those problems.	
<b>Summary of Consultee Responses:</b>  EHO have provided conditions.	
<b><u>Characteristics of the Site and Area:</u></b>  The proposed site is located within a rural area, outside any designated settlement limit, as defined under Cookstown Area Plan 2010. The proposed site is located just off the main Drum Road - Protected Route between Omagh and Cookstown. The site is accessed via a short private laneway, which also serves two dwellings. Located on site are two large sheds, an older barn shape shed with wagan wheel metal roof with two large metal sliding doors. The newer shed is a large pre-fabricated metal clad shed. The site is defined by mature coniferous trees along the SW and SE boundaries.	

**Site Location Map :**



**History of the site:**

The existing engineering works on the site, except for the extension relating to the current application, has been approved under I/2012/0301/LDE for 'retention of existing engineering workshop and general industrial use'.

**Deferred Consideration:**

The proposal is being presented as 'retention of extension to engineering works'. It involves the extension to the existing works and addition of a double door to the front elevation.

This application for the proposed extension to the existing unit had been presented as a refusal to Cookstown District Council in March 2012 for the following reasons;

1. The proposal is contrary to CTY1 of PPS21 and PPS4 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 PPS1: General Principles in that the proposal would unduly affect the amenity of the existing adjacent and nearby residents to the site by reason of noise, odour and general disturbance.

3. The proposal is contrary to PPS3 in that it would if permitted result in the intensification of use on an existing access onto a protected route (A29) thereby prejudicing the free flow of traffic and conditions of general safety.

The application was then deferred to discuss the main issues relating to the refusal. Following ongoing enforcement action relating to authorised works at the site relating to the use, a Certificate of Lawfulness was submitted and approved under I/2012/0301/LDE for 'the retention of existing engineering workshop and general industrial use' in October 2012.

The application for the extension was then presented as an Approval to Cookstown Council in September 2014 but subsequently got deferred due to objectors concerns regarding noise and odour.

In order to address the issues an Odour Management Plan and Noise Impact Assessment were submitted by the agent and Environmental Health commented on both as detailed below;

### **Noise**

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EHO makes a number of recommendations with regard to mitigation measures that should be incorporated into any planning approval;

1. All fabrication / metal working / spraying activities to be undertaken inside the purpose design workshops, with abatement measures in place.
2. The proposed unit shall only operate during normal business hours 08:00- 18:00hrs.
3. A barrier should be constructed along the eastern and southern yard area boundaries as shown on figure 1. The barrier should be 2.5m in height and be constructed of timber/ masonry or a composite material and have no gaps either across the surface of the barrier or at ground level.
4. The extract fans should be attenuated using the methods detailed on Page 11 of the acoustic report dated 17th March 2014 to achieve a level of 47.7dB Laeq when measured at a distance of 4.5m.

### **Odour**

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The Odour Management Plan was submitted and EHO commented on 17/11/15 that in summary the report identified a suitable ground level concentration threshold in accordance with Environment Agency and Environmental Protection agency. All sensitive locations such as nearby residents should be located outside of this odour contour in order to ensure that local residents did not have their amenities by this development. The report indicated that this could be achieved by implementing a number of measures, which EHO felt were not covered in the report. The agent then forwarded details to address the points raised by EHO who subsequently replied stating they would have no objection to the proposal subject to a number of conditions;

1. The height of the 6 extraction stacks for the paint booths would have to be increased by 5m from 9m above ground level to 14m above ground level as per drawing 04/03 received by planners on 14th August 2015.

2. Only one paint booth should be operational during each painting process with the other paint booths remaining inactive. When priming/top coat painting is finished at a single booth, priming/top coating can then commence at another.
3. The spray booth operations should only occur between the hours of 11:00-17:00hrs Monday to Saturday.
4. No wet products should be stored outside the booths following painting until full curing has occurred.
5. The entrance/exit doors are shut throughout the priming/top coating sequence.

As the proposal is for an extension for use as storage to existing Engineering Units which currently use the same access, the Council are satisfied there will not be significant intensification of use on an existing access onto a protected route (A29).

Neighbours were re-notified on 14/02/2016 and further objections were received in relation to existing noise and odour and impact on the residents. They state the situation is bad enough now it would only be exacerbated further with this extension and their position has not changed after reading the noise and odour information which has been submitted since the application was deferred. They state the spray painting is no less an issue that when they objected previously and is causing environmental problems and due to the speed of vehicles on the shared entrance there is increased noise and danger.

The neighbours have lodged a number of complaints with EHO regarding the current building on site and the noise and in particular odour associated with it. These are a separate matter from Planning and will be dealt with separately by EHO. All issues have been considered by EHO and they have made their position clear in their response on 13/01/2016. The conditions to be attached will offer protection for the residents nearby from noise and odour and if these are not met it will become a matter for enforcement.

Following a site visit on 29 January 2016 and confirmation from the agent work has commenced on site, the P1 was amended to retention of extension and the proposal was re-advertised and neighbours re-notified on 04/02/16. Additional to the original description was minor alterations to door openings and a new boundary wall. Neither of these changes cause any further issues and neighbours were notified of the amended plans.

Approval is recommended with conditions.

### **Conditions**

1. This is a retrospective planning application and so is effective from the date of the decision notice.
2. The height of the 6 extraction stacks for the paint booths should be increased by 5m from 9m above ground level to 14m above ground level as per drawing 04/03 received on 14th August 2015, within 3 months of the date of this approval.
3. Only one paint booth should be operational during each painting process with the other paint booths remaining inactive. When priming/top coat painting is finished at a single booth, priming/top coating can then commence at another.
4. The spray booth operations should only occur between the hours of 11:00-17:00hrs Monday to Saturday.
5. No wet products should be stored outside the booths following painting until full curing has occurred.

6. The entrance/exit doors should remain shut throughout the priming/top coating sequence.

7. All fabrication / metal working / spraying activities to be undertaken inside the purpose design workshops, with abatement measures in place.

8. The proposed unit shall only operate during normal business hours 08:00- 18:00hrs.

9. A barrier shall be constructed and permanently retained along the eastern and southern yard area boundaries as shown on figure 1. The barrier should be 2.5m in height and be constructed of timber/ masonry or a composite material and have no gaps either across the surface of the barrier or at ground level, within 8 weeks of the date of this approval.

Reasons for 2- 9 – To protect the amenity of nearby residents.

**Signature(s):**

**Date**



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**Mid Ulster**  
 District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> I/2014/0178/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 100kw wind turbine with a 50m hub height and a 15m radius blade, for own use and connection to the grid	<b>Location:</b> 490m East of 35 Legmurn Road Stewartstown
<b>Applicant Name and Address:</b> Mr Steven Ferguson 30 Ballyblagh Road Stewartstown BT71 5PA	<b>Agent name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Summary of Consultee Responses:</b> NIEA & EHO have no objections to the proposal.	
<b>SITE LOCATION MAP</b>	





**Characteristics of the Site and Area:**

The site is located 490m east of 35 Legmurn Road. The site is at a higher level than the Road.

There are limited views of the site from the Legmurn Road due to the set back of the turbine from the road and undulating topography of the area. The field in which the turbine is located rises up from the roadside and then plateaus. The turbine is set back on the plateau as a result there will be no limited views of the turbine.

**Deferred Consideration:**

This application was recommended for refused in January 2015 to Cookstown Council, as no noise data had been provided to allow Environmental health to make an informed decision on the potential impact on neighbouring properties and was refused on the following basis;

'The Department has insufficient information, as requested under Article 7(4) of the Planning (General Development) Order (NI) 1993, in that a full acoustic technical assessment has not been provided'.

A deferral was subsequently was granted to allow the agent to submit additional information to address the issue.

An acoustic assessment was submitted on 20 July 2015 and Environmental Health were re-consulted, as well as with an objection letter received. The proposed turbine has been changed to a C·&F Green Energy CF 100KW turbine.

The objector raised the point that the report specifies that monitoring was undertaken between 16/03/15 to 03/04/15 and this would appear to be confirmed on page 18, however the results in the appendix relate to different dates. An amended acoustic assessment was submitted on 30 September and Environmental Health were re-consulted. The dates of the monitoring now match and EHO have confirmed this.

No. 29 Legmurn Road is 251m from the proposed turbine and No.31 is 444m from it. The impact on these residential properties has been considered in the noise report, the ETSU levels has not been reduced as these two dwellings have no financial interest in the turbine. All consented turbines within 2km have been taken into account in the noise report and their cumulative impact considered.

EHO go on to state the noise report shows that while the amenity hours curve is exceeded at two of the receptors, the night time curve is not.

Whilst this is the case, in order for the proposed turbine to NOT contribute significantly to the cumulative wind turbine noise, its contribution needs to be at least 10dB below the 'others' cumulative contribution and also at least 10dB below the amenity hours limit curve.

In the case of the C&F Green Energy CF 100KW these requirements will be met and so the turbine will NOT significantly contribute to the cumulative noise.

Conditions have been provided to control the noise levels from the development at noise sensitive locations.

In terms of safety for smaller individual turbines a fall over distance plus 10 per cent is often used as a safe separation distance. The turbine is 50m hub height with 30m diameter blades, so a total height of 65m. The closest dwellings fall well outside the recommended fall over distance. (71.5m)

The visual impact of the proposed turbine which is 65m to the tip will be seen from various viewpoints, however due to the topography of the landform it will not be so significant as to merit refusal on this basis.

In terms of Cumulative visual impact, the closest turbine is I/2010/0410/F which has been approved to the south west with a 31m hub height. These two turbines are both set back from the road and will not when read together in such a way to cause a significant visual impact. There are a number of other approved and built turbines in the wider area, which are set back from various roads within the vicinity, and due to their varying locations will not cause a significant visual impact when viewed cumulatively with this application.

## OBJECTIONS

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An objection letter was received on 27/11/15 from 29 Legmurn Road, who has no financial interest in any turbine. The initial case officer report stated in error this was the applicants address. As detailed above, discrepancies in the submitted noise were raised, and have now been corrected. The Noise report was considered by EHO and conditions have been provided to control noise for nearby sensitive noise receptors.

Shadow flicker has been raised as a concern. There are no properties within 180 degrees either side of north relative to the turbine, in line with the PPS18 Best Practice guidelines, which states at distances greater than 10 rotor diameters from a turbine (10x 30m - 300m), the potential for shadow flicker is rare.

NIEA were consulted with the objection letter due to concern about bats. Natural Environmental Division considered the proposal and state there are no likely significant impacts on any

designated sites. The site and surrounding area contain habitat features suitable for bat and NED advise that a sufficient buffer distance is present to nearby habitat features.

Approval is recommended, subject to EHO conditions.

**Conditions;**

1. As required by Article 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.

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

PROPERTY & OSNI Grid Ref	Standardised wind speed at 10m height (m/s within the site averaged over 10-minute periods)								
	3	4	5	6	7	8	9	10	
35 Legmurn Road X 286952 Y 372493	14.7	15.4	17.0	18.7	20.4	23.0	25.6	26.2	
31 Legmurn Road X 286983 Y 372321	15.3	16.1	17.6	19.4	21.0	23.6	26.2	26.8	
29 Legmurn Road X 286983 Y 372293	15.2	15.9	17.4	19.2	20.9	23.4	26.1	26.7	
14 Legmurn Road X 287037 Y 371788	10.7	11.4	12.9	14.7	16.4	18.9	21.6	22.2	
66 Castlefarm Road X 287962 Y 371976	11.1	11.8	13.4	15.1	16.8	19.4	22.0	22.6	
Jn Bligh/Mntjoy Rds. X 287924 Y 372701	12.8	13.5	15.0	16.8	18.5	21.0	23.7	24.3	

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 development hereby approved shall be removed from the land and the site restored to its former condition within 6 months of permanent cessation of electricity generation by the turbine.

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

**Signature(s):**

**Date**



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**Mid Ulster**  
District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2015/0200/O	<b>Target Date:</b> 12 June 2015
<b>Proposal:</b> Single dwelling with garage	<b>Location:</b> 230m NE of 8 Cookstown Road Dungannon BT71 4BB
<b>Applicant Name and Address:</b> Gary Stewart 8 Cookstown Road Dungannon	<b>Agent name and Address:</b> CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
<b>Summary of Issues:</b> Dwelling within land zoned as Phase 2 Housing Land in Dungannon & South Tyrone Area Plan.	
<b>Summary of Consultee Responses:</b>  DETI – Geological Survey – any development unlikely to be impacted by undermined areas HSENI - no comment Transport NI have no objections subject to satisfactory access being detailed NIEA – no interest, site no longer regulated DARD – established and active farm	
<b>Characteristics of the Site and Area:</b> The site is zoned as Phase 2 housing land within the Dungannon & South Tyrone Area Plan 2010. It is part of a larger agricultural field which is relatively flat in the west portion and rises to the east to a mature hedgerow. The application site is a cut out of a larger field, accessed off an existing lane. There is a group of farm buildings and a farm cottage to the west, at the end of the lane and 3 existing dwellings at the other end of the lane, where it meets the Cookstown Road. A former	

railway line runs to the north of the site and former Tyrone Brick Quarry is located further to the north of this.

**Deferred Consideration:**

Members are reminded this application is on Phase 2 Housing Zoning within the Dungannon & South Tyrone Area Plan 2010 which has not been identified for release under the Housing Review and therefore Plan Policy HOUS1 means it must be treated under rural policy.

Following the deferral at the Committee in December 2016, additional information has been submitted advising this is for a dwelling on a farm and providing information about the farm. I have checked the planning history for the farm and I would like members to note the Department granted planning permission for a dwelling on this farm under file reference M/2011/0203/F. The Department granted that planning permission under Planning Policy Statement 7 – Quality Residential Environments. The reason for the previous approval is very important in the consideration of this application as it means Policy CTY10 has not been already been used to grant planning permission and I am content that this application can be consider under CTY10. The Department of Agriculture and Rural Development have advised this is an active and established farm. A land registry check has confirmed the approved site has not been sold off the farm and I am content no development opportunities have been sold off.

I consider it is appropriate to site the dwelling in the west of the site, beside the approved dwelling, as it will visually link with the farm buildings and I consider it will not prejudice the comprehensive development of the housing zoning. The proposed development is accessed off an existing lane which has a sub-standard access. There are 4 dwellings and the existing farm, using the lane and the approval of this dwelling would result in intensification of the use of the access. I consider it is appropriate to condition the improvements to the access to the appropriate standard specified by the Roads Engineers.

I consider the proposed development meets with the policies contained within the Development Plan, CTY 10 of PPS21 and the consequential amendment to PPS 3 and recommend to the committee that this application is approved.

**Conditions:**

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

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

2. As required by Section 62 of the Planning Act (NI) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or

- ii. ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: Time Limit

3. The dwelling hereby approved shall be sited within the area identified in green on the approved drawing No 01 Rev 1 bearing the stamp dated 03 SEP 2015.

Reason: To ensure the development meets with rural policy and does not prejudice the development plan proposals.

4. The curtilage of the dwelling hereby approved, except for the access, shall not be extend beyond the area identified in green on drawing No 01REV1 bearing the stamp dated 03 SEP 2015.

Reason: To ensure the development meets with rural policy and to does not prejudice the development plan proposals

5. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 120.0m, where the access meets the Cookstown Road, 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 the 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.

6. All existing vegetation, identified in green on the approved drawing No 02 REV 02, bearing the stamp dated 26 FEB 2016, shall be permanently retained unless it becomes a danger to the public in which case the Council should be notified in writing within 28 days of its removal.

Reason: To ensure the development satisfactorily integrates into the landscape.

7. During the first available planting season following the occupation of the dwelling hereby approved, or within a time period otherwise agreed with the Council, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of new boundary treatment and a 8.0 - 10.0 metre wide landscaped belt along the north western boundary of the area identified in green on the drawing No 01 REV1 bearing the stamp dated 03 SEP 2015. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure that there is a satisfactory standard of buffer planting along the settlement limit in the interests of visual amenity, in accordance with the provision of Planning Policy Statement 7 Quality Residential Environments.

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**Signature(s):**

**Date**





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**Lár Uladh**  
**Mid Ulster**  
District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2015/0250/RM	<b>Target Date:</b> 4 September 2015
<b>Proposal:</b> Erection of 2 storey dwelling and domestic garage	<b>Location:</b> Land approx. 50m SW of 12 Farriter Road Cabragh Dungannon
<b>Applicant Name and Address:</b> Michael and Ann Kelly 16 Farriter Road Dungannon	<b>Agent name and Address:</b> Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Summary of Issues:</b> Design of the dwelling.	
<b>Summary of Consultee Responses:</b>  Transport NI have no objections	
<b>Characteristics of the Site and Area:</b> This is a rural site that lies adjacent to the A4 between Cabragh and Ballygawley and is accessed off Farriter Road. The site has one mature boundary to the north and a mature hedge in the middle of the site. northern boundary of the site is defined by mature native species hedgerow of varying size approx 2 -6 or 7m in height. The A4 is elevated above the surrounding countryside at this location with one of the grassed embankments forming the south boundary of the application site.	
<b>Deferred Consideration:</b> Following the deferral at the Committee in March 2016, amended plans have been submitted showing a 2 storey dwelling with an 8 metre ridge height, 2 symmetrical 2 storey front projections either side of a central doorway and with the frontage reduced from 16 metres to 14 metres for the main portion of the dwelling. The proposed dwelling has a natural Donegal stone front and smooth K Rend to all other walls. I consider this is consistent with rural design guidance. The proposed	

siting makes use of the existing vegetation on the site to provide integration by siting the dwelling behind a good hedge when viewed from Farriter Road. The dwelling will also be partially screened from the A4, which is elevated above the site.

I consider the proposed development meets with the policies contained within CTY 13 of PPS21 and recommend to the committee that this application is approved.

**Conditions:**

1. As required by Section 62 of the Planning Act (NI) 2011, the development hereby approved shall be commenced within:
  - i. 2 years from the date of this approval or
  - ii. 5 years from the date of the grant of outline planning approval

Reason: Time Limit

2. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 70.0m shall be provided in accordance with the details as shown on drawing No 02 Rev 02 bearing the stamp dated 26 FEB 2016. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the 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.

3. All existing vegetation, identified in green on the approved drawing No 02 REV 02, bearing the stamp dated 26 FEB 2016, shall be permanently retained unless it becomes a danger to the public in which case the Council should be notified in writing within 28 days of its removal.

Reason: To ensure the development satisfactorily integrates into the landscape.

4. During the first available planting season following the occupation of the dwelling hereby approved, all landscaping as indicated on drawing No 02 REV 02 bearing the stamp dated 26 FEB 2016 shall be carried out in accordance with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the provision of a high standard of landscape.

**Signature(s):**

**Date**

**D**

**Subject: Protocol for the Operation of the Planning Committee**

**Date of Meeting: 5<sup>th</sup> April 2016**

**Reporting Officer: Dr Chris Boomer**

**Contact Officer: Dr Chris Boomer**

<b>1</b>	<b>Purpose of Report</b>
1.1	To provide members with a revised Protocol for the Operation of the Planning Committee.

<b>2</b>	<b>Background</b>
2.1	A revised Protocol for Mid Ulster District Council Planning Committee was presented at the meeting on 2nd February 2016.
2.2	At that meeting the Planning Committee requested further amendments to the draft, and it was also requested that the original document be provided to show where revisions had been made to the original document.

<b>3</b>	<b>Key Issues</b>
3.1	<p>Several of the changes have been applied to make the document easier to read and more specific and meaningful to Mid Ulster. There are also minor changes to clarify existing practice, such as where Members vote against a proposal to approve an application, then that application will have been refused.</p> <p>Members speaking time at the Committee has been increased to 5 minutes and the procedures for enforcement, including who has the right to speak, are more clearly defined.</p> <p>In addition, the revised protocol states that the advice of the Planning Manager will be sought in the following circumstances:</p> <ul style="list-style-type: none"> <li>- Where members wish to add additional conditions to a grant of approval;</li> <li>- Where members are considering overturning a recommendation to refuse;</li> <li>- Where members are considering making a decision contrary to the local development plan; and</li> <li>- Where members vote against an opinion to approve, the Planning Manager will furnish the reasons for refusal;</li> </ul>
3.2	A flow diagram giving a brief overview of the application process has also been added as an Appendix to the Protocol.

<b>4</b>	<b>Resources</b>
4.1	<b><u>Financial</u></b> N/A
4.2	<b><u>Human</u></b> N/A
4.3	<b><u>Basis for Professional/ Consultancy Support</u></b> N/A
4.4	<b><u>Other</u></b>

<b>5</b>	<b>Other Considerations</b>
5.1	N/A

<b>6</b>	<b>Recommendations</b>
6.1	That it is agreed that the revised Protocol for Planning Committee is acceptable and can be published on the Council website.

<b>7</b>	<b>List of Documents Attached</b>
7.1	<ul style="list-style-type: none"> <li>(i) The amended Protocol for Planning Committee;</li> <li>(ii) The initial Protocol for Planning Committee showing 'tracked changes'</li> </ul>

PROTOCOL FOR  
THE OPERATION  
OF  
MID ULSTER  
DISTRICT COUNCIL  
PLANNING  
COMMITTEE

**Last updated by Mid Ulster District Council in March 2016**

## **INDEX**

	<b>Page</b>
<b>Purpose of the protocol</b>	<b>3</b>
<b>Remit of the planning committee</b>	<b>3</b>
<b>Size of committee</b>	<b>4</b>
<b>Frequency of meetings</b>	<b>4</b>
<b>Enforcement</b>	<b>5</b>
<b>Schemes of delegation</b>	<b>5</b>
<b>Referral of delegated application to committee</b>	<b>6</b>
<b>Format of committee meetings</b>	<b>6</b>
<b>Public speaking</b>	<b>8</b>
<b>Decisions contrary to officer recommendation</b>	<b>9</b>
<b>Decisions contrary to local development plan</b>	<b>10</b>
<b>Deferrals</b>	<b>11</b>
<b>Site visits</b>	<b>11</b>
<b>Pre-determination hearings</b>	<b>12</b>
<b>Training</b>	<b>13</b>
<b>Legal adviser</b>	<b>13</b>
 <b>The Application Process Flow Diagram</b>	 <b>Appendix 1</b>



## **PURPOSE OF THE PROTOCOL**

1. A protocol for the operation of Planning Committees was drafted by the Department of Environment in January 2015. Mid Ulster District Council (MUDC) has reviewed this document and has amended it to suit the needs of MUDC in the following way.
2. The purpose of the protocol for MUDC Planning Committee is to ensure that planning decisions are consistently taken, and are seen to be taken, in a fair and equitable manner. The protocol offers guidance for Councillors', applicants, agents and the general public
3. The protocol is not intended to change or alter the Standing Orders which apply to all Committee's or the Councillors' Code of Conduct.

## **REMIT OF THE PLANNING COMMITTEE**

### ***Development management***

4. One of the main functions of the planning committee is to consider applications made to the Council which are either major in scale, complex or controversial as set out in the adopted Scheme of Delegation, and decide whether or not they should be approved. In order to ensure that decisions are taken at the appropriate level, the decisions of the planning committee are taken under full delegated authority and the decisions of the committee will therefore not normally go to the full council for ratification.

### ***Development Plan***

5. The local development plans for the Mid Ulster district currently comprise the Cookstown Area Plan, the Dungannon and South Tyrone Area Plan and the Magherafelt Area Plan. These will remain the statutory development plans until replaced by the Mid Ulster Local Development Plan (LPD). The Department of Environment planning policies will also be retained as set out in the Planning Policy Statements and Strategic Planning Policy Statement, until such times as new policies are brought forward and adopted in the LDP.
6. Section 8 of the Planning Act (NI) 2011 requires MUDC to prepare a LDP which will comprise a plan strategy and a local policies plan. The strategy will set out the

objectives of MUDC in relation to the development land in the district, and the strategic policies for the implementation of those objectives. After the plan strategy has been adopted, a local policies plan will be prepared. This will set out the policy agreed by MUDC in relation to what type and scale of development is appropriate and where it should be located.

7. The local development will form the basis for public and private investment decisions, providing a degree of certainty as to how land will be developed. In law, planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise. Therefore, where land is zoned for a particular use, the MUDC Planning Committee should ensure it is reserved for that use: for example, an application for housing in an area zoned for housing should be approved unless the design and layout fails in terms of the environmental, open space and access standards, or its design and layout has a detrimental impact on the character of the area or neighbouring amenity.
8. The MUDC Planning Committee will approve the local development plan before it is passed by resolution of the full council. The Planning Committee will also ensure that the local development plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that it is reviewed every five years, giving consideration to whether there is a need to change the plan strategy or the zonings, designations and policies as contained in the local policies plan.

## **SIZE OF COMMITTEE**

9. The MUDC Planning Committee consists of 16 elected members.

The Planning Manager and/or the Head of Development Management or Head of Development Plan and Enforcement will attend planning committee meetings as appropriate.

## **FREQUENCY OF MEETINGS**

10. The Planning Committee will meet at least once every calendar month. Additional

meetings will be at the discretion of the Chair of the Committee with the consent of the Committee members. Dates for Planning Committee meetings are published on the Council's website.

## **SCHEMES OF DELEGATION**

11. There are two Schemes of Delegation. One relating to planning applications which is prepared under Section 31 of the Planning Act (Northern Ireland) 2011. The other scheme deals with planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations and is prepared under Section 7 (4) (b) of the Local Government Act 2014. The purpose of the Schemes of Delegation is to set out those decisions which shall be made by the Planning Committee and those which are the responsibility of the Planning Manager. The Planning Manager is responsible for determining the vast majority of applications, however these tend to be applications that are smaller in scale, local in character and uncontroversial. Whereas the Planning Committee resolves those applications which are either major in scale, subject to dispute or could give rise to a conflict of interest. The MUDC Schemes of Delegation for the Planning function are available to view at [www.midulstercouncil.org](http://www.midulstercouncil.org) . The Scheme of Delegation will be reviewed on a regular basis, normally annually.

## **ENFORCEMENT**

12. The planning Committee will determine when an enforcement notice should be served and other enforcement decisions as laid down in the Scheme of Delegation. In addition to those cases presented to the Planning Committee for decision, a monthly report from officers on the enforcement performance (number of cases opened, cases closed, notices issued and convictions obtained) will be provided to members.
13. Enforcement matters will be discussed in the closed section of the Planning Committee meeting (i.e. In Committee) to ensure MUDC complies with the provisions of the Data Protection Act and to ensure that future legal proceedings are not prejudiced.
14. An enforcement strategy, detailing how enforcement action will be dealt with, was

agreed by the Planning Committee on 19<sup>th</sup> January 2016. This is available on the Council website.

## **REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE**

15. The Scheme of Delegation agreed by MUDC includes the provision for members (including those not on the Planning Committee) to request, where they consider it appropriate, that an application which would normally fall within the Scheme of Delegation, to be referred to the Planning Committee for determination. In addition, the Planning Manager can also refer any matter which he considers suitable for determination by the Planning Committee. Members of the public cannot directly request that an application be referred to the Planning Committee. Any referral request **must** be made in writing.

## **FORMAT OF PLANNING COMMITTEE MEETINGS**

16. MUDC will operate its Planning Committee in line with its approved standing orders. In doing so, the following procedural arrangements will apply:
- the planning office will prepare a weekly list, which will be circulated to all members, of all valid applications that have been received;
  - all planning committee members will be sent the agenda at least 5 days in advance of the meeting with a report on each application to be decided;
  - if necessary, officers will prepare an addendum on the day of the meeting to report any updates since the agenda was issued; and
  - the Chair of the Planning Committee will hold a briefing session with planning officers on each application to be considered in advance of the planning committee meeting.
  - all committee items will be bookmarked and reports presented with visual aids to show the site and the proposal.
17. The meeting will be presided over by the Chair of the Planning Committee.

Following the approval of the minutes of the previous meeting and apologies, Councillors' will be given the opportunity to declare any interests they have on the agenda items, which should be recorded in the minutes of the meeting. Where a member has declared an interest in an application they cannot vote on that item and must either leave the meeting or sit in the public gallery for that item. However, they may make representations as per the normal speaking rights applicable to all councilors.

### **Consideration of Planning Applications**

18. The planning officer's report, which makes a recommendation on whether the application should be approved, approved with conditions or refused will be considered. Plans and photographs may be shown as appropriate.
19. In considering the report, members also have the opportunity to listen to speakers, ask questions of the officer, discuss and debate the case before taking a vote on whether or not to agree with the officer's recommendation. The Chair has a casting vote. Where the majority of members vote against an opinion to approve and in the absence of any other proposals, such as the deferral of the application, the application will be deemed to have been refused. The Planning Manager, based on the Committee's decision, will furnish the detailed reasons for refusal.
20. Members can add conditions to a permission but they cannot amend the application itself (for example, by allowing a one-bedroom flat if the application is for a two-bedroom flat). Any additional conditions should be proposed and seconded before being voted on by members. As conditions can be tested at appeal and they should, therefore, be (i) necessary, (ii) relevant to planning and the development under consideration, (iii) enforceable, (iv) precise, and (v) reasonable in all other respects. Therefore, where alterations to conditions are proposed, the Committee will seek the advice of the Planning Manager.
21. Members cannot take part in a debate or vote on an item unless they have been present for the entire item, including the officer's introduction and update.
22. Separate arrangement will be used to discuss special domestic or personal circumstances. Normally this will be held In Committee with members of the public and press excluded. An opportunity will be given for the applicant and objectors to

present their case, but each separately. Once this has been done each party will be asked to leave in order for the Committee to discuss and determine the application.

## **PUBLIC SPEAKING AT PLANNING COMMITTEE MEETINGS**

23. The following procedures will apply to MUDC Planning Committee meetings:

- planning committee meetings will be open to the public;
- Requests to speak must be received by the council (in writing or by email) no later than 12.00pm two working days prior to the meeting. The request should state whether they wish to speak in support or in opposition to a planning application. Any written information that the speaker wishes to circulate to members of the committee **must** also be provided at this time. Any written information received after this time **will not** be circulated;
- The order of speakers is a matter for the Chair, however, this will normally require objectors speaking before the applicant or their agent in order to allow the applicant the opportunity to respond to any issues raised. Thus, if members wish to speak, they should do so before the applicant/agent;
- All parties speaking at Planning Committee may be asked questions by members or the Planning Manager;
- The Planning Committee will be provided with copies of the information supplied by those who will be speaking at the Committee;
- other elected members may attend and speak about an application but only planning committee members can vote;
- elected members may speak for 5 minutes;
- members of the public (including agents / representatives etc.) for 3 minutes;
- Where more than one person wishes to speak on behalf of or against a development, they will be encouraged to elect a spokesperson and, in any event, required to share the 3 minutes speaking time.
- documentation not received in advance of the meeting will not be permitted to be circulated to members by speakers;
- Planning officers can address any issues raised and the planning committee can question officers;
- Any exception to normal speaking rights and procedures will be a matter

for the Chair.

## **Enforcement**

24. Enforcement matters will be discussed In committee with the public and press excluded. Accordingly, there are no speaking rights. However, a member may make a representation as to why action should or should not be taken. Such representations will be limited to 5 minutes and the member can be asked to leave the committee whilst a decision is being discussed.

## **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

25. The Planning Committee will reach its own decision on applications put before it. Officers offer advice and make a recommendation. Planning officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Planning Committee or its members. This is acceptable where planning issues are finely balanced as there should always be scope for members to express a different view from officers. The Planning Committee can accept or place a different interpretation on, or give different weight to, the various arguments and material planning considerations.

## **Overturning recommendation to approve**

26. If a member does not agree with the officer recommendation to approve an application, they can propose reasons for refusal, which must be seconded by another member and then voted on. Any decision by the Planning Committee **must be based on proper planning reasons**. The Planning Manager (or their deputy) will be given the opportunity to explain the implications of the Planning Committee's decision. The reasons for any decisions which are made contrary to the planning officer's recommendation will be formally recorded in the minutes and a copy placed on the planning application file / electronic record.
27. As the refusal of a planning application that officers have recommended for approval may be overturned on appeal (to the Planning Appeals Commission), with the potential for costs awarded against MUDC, the Chair will seek the views of officers (including the council's solicitor) before going to the vote in terms of

reasons for refusal that are contrary to officer recommendation. Officers will summarise what are considered to be the main reasons for refusal referred to by members during the debate and advise on what would be reasonable and what would not be reasonable reasons for refusal. Where appropriate the Planning Manager may also comment on whether a refusal on the proposed grounds is defensible, particularly at planning appeal.

28. The Planning Manager, in liaison with the Council Solicitor, will present the Committee's decision at planning appeal or in the courts or in any other forum.

### **Overturning recommendation to refuse**

29. MUDC Planning Committee may decide to approve an application against the officer's recommendation to refuse, aware that while there is no right of third party appeal, there is the possibility that the decision could be subject to judicial review. However, before making such a decision, the advice of the Planning Manager should be sought. Where an approval is granted contrary to officer advice, the Planning Manager and Council Solicitor will present the Council's decision is defended in the courts or any other forum.
30. The minutes should, in so far as is possible, accurately reflect the discussions and decisions taken during the meeting(s) as these could be used as evidence should any complaints be made about how decisions are taken. Members can take their own notes on controversial applications.

### **DECISIONS CONTRARY TO LOCAL DEVELOPMENT PLAN**

31. In general, planning decisions will be taken in accordance with the local development plan (in so far as it is material to the application) unless material considerations indicate otherwise. If a Planning Committee member proposes, seconds or supports a decision contrary to the local development plan they will have to clearly identify and understand the planning reasons for doing so, and demonstrate how these reasons justify overruling the development plan. The reasons for any decisions which are made contrary to the development plan will be formally recorded in the minutes and a copy placed on the planning application file / electronic record. Before making such decisions the advice of the Planning Manager shall be sought.



## **DEFERRALS**

32. The Planning Committee can decide to defer consideration of an application to the next meeting for further information, further negotiations, or for a site visit. Before deferring an application the advice of the Planning Manager shall be sought and the purpose of the deferral clearly set out. Deferrals will inevitably have an adverse effect on processing times and therefore will be restricted to one deferral only.
33. Where an office meeting is to be held all councillors' will normally be informed and may make representations on behalf of objectors or applicants. However, where a member of the planning committee chooses to make representations then they will be required to declare a conflict of interest and will not be able to vote on the application at the next planning committee meeting at which the application is to be determined.

## **SITE VISITS**

34. On occasions, members of the Planning Committee may need to visit a site to help them make a decision on a planning application (e.g. where the impact or effect of the proposed development is difficult to visualise from the plans or photographs, or the application is particularly contentious). These visits will be undertaken on an exceptional basis as they are time-consuming and expensive. Where required, they may be identified by officers in consultation with the Chair or they may be asked for by Planning Committee members, but these will only be permitted where the benefit is expected to be of considerable value.
35. The Planning Committee clerk will contact the applicant / agent to arrange access to the site. Invitations will then be sent to members of the Planning Committee. Site visits will not be used as an opportunity to lobby Councillors' or to seek to influence the outcome of a proposal prior to the Planning Committee meeting. Members will not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, or they may not have the information provided by the planning officer and, in some circumstances (e.g. where a Councillor is seen with applicant or objector) it might lead to allegations of bias. Only Planning Committee members, officers, and local Councillors' should be permitted to attend the site visit. Where possible, the full planning committee

should attend site visits, unless there are good reasons (e.g. a member is already very familiar with the site). The clerk to the planning committee will record the date of the visit, attendees and any other relevant information.

36. Planning officers will prepare a written report on the site visit which will then be considered at the next Planning Committee meeting at which the application is to be determined.

### **PRE-DETERMINATION HEARINGS**

37. Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 sets out a mandatory requirement for pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department of Environment for call-in consideration, but that have been returned to a council for determination). In such cases MUDC Planning Committee will hold a hearing prior to the application being determined.

In addition, the Planning Committee may also hold pre-determination hearings, at its discretion, when considered necessary, to take on board local community views, as well as those in support of the development.

38. In the main MUDC will only hold pre-determination hearings where there is a mandatory requirement as the speaking rights at planning committee are adequate to deal with nearly all cases. An exception may be made for major developments having taken into account:
  - the relevance of the objections in planning terms;
  - the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
  - the number of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.
39. The hearing will take place after the expiry of the period for making representations on the application but before the council decides the application. The Planning

Committee will decide whether to have a hearing on the same day as the related planning application is determined by the Planning Committee or to hold a separate hearing.

In holding a hearing the Planning Committee procedures will be the same as for the normal planning committee meetings (e.g. number of individuals to speak on either side, time available to speakers etc.). The planning officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the hearing is to be held on the same day as the application is to be determined, the report to members will also contain a recommendation.

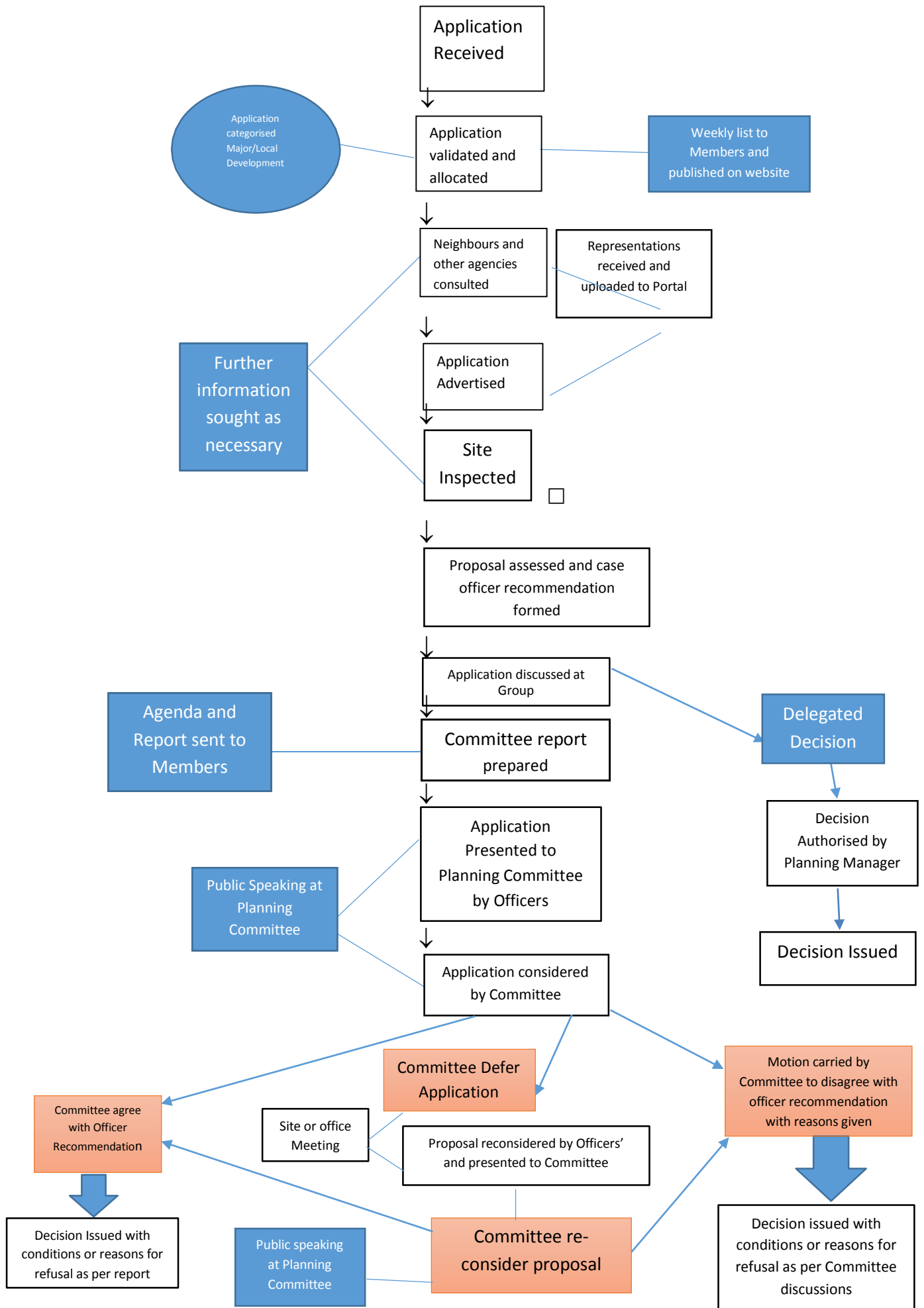
## **TRAINING**

40. Councillors' sitting on planning committees are required to attend relevant training on planning matters before they can sit on the Planning Committee.

## **LEGAL ADVISER**

41. The MUDC Planning Committee has access to its own in-house legal advice on planning matters.

## PLANNING APPLICATION PROCESS



# PROTOCOL FOR THE OPERATION OF PLANNING COMMITTEES



Department of the  
**Environment**  
[www.doeni.gov.uk](http://www.doeni.gov.uk)

**January 2015**

Last updated by Mid Ulster District Council in March 2016

## INDEX

	Page
Purpose of the protocol	3
Remit of the planning committee	3
Size of committee	<a href="#">45</a>
Frequency of meetings	<a href="#">45</a>
Enforcement	5
Schemes of delegation	<a href="#">56</a>
Referral of delegated application to committee	<a href="#">67</a>
Format of committee meetings	<a href="#">68</a>
<del>Pre-determination hearings</del>	<del>9</del>
Public speaking	<a href="#">810</a>
Decisions contrary to officer recommendation	<a href="#">911</a>
Decisions contrary to local development plan	<a href="#">1013</a>
Deferrals	<a href="#">1113</a>
Site visits	<a href="#">1114</a>
<a href="#">Pre-determination Hearings</a>	<a href="#">12</a>
Training	<a href="#">1315</a>
Network	<a href="#">1315</a>
Review of decisions	15
Legal adviser	15

[The Application Process Flow Diagram](#) [Appendix 1](#)

## PURPOSE OF THE PROTOCOL

A protocol for the operation of Planning Committees was drafted by the Department of the Environment in January 2015. Mid Ulster District Council (MUDC) has reviewed this document and has amended it to suit the needs of MUDC in the following way.

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1. This The purpose of the protocol for MUDC Planning Committee is to has been drafted by the Department of the Environment to assist the 11 new councils in setting up and running planning committees. This advice and guidance is not mandatory (although it does refer to a number of statutory requirements); rather it highlights what is considered to be best practice with regards to the operation of planning committees (following research in other jurisdictions). While councils have a degree of latitude in relation to how they will run their planning committees, it is important to ensure that planning decisions are consistently taken, and are seen to be taken, in a fair and equitable manner, and that there is a degree of consistency across the 11 councils so that applicants are not faced with a variety of processes. Councils can decide to incorporate any or all of these recommendations into their standing orders / constitutions. The protocol offers guidance for Councillors, applicants, agents and the general public.

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2. Councils should consider drawing up their own procedures to supplement this document; for example, expanding on public speaking rights, format of committee meetings, how to conduct site visits etc. Further advice and guidance may be requested from the Department, if considered necessary.

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3. Councillors should refer, as necessary, to the mandatory The protocol is not intended to change or alter the Standing Orders which apply to all Committee's or the Councillors' Code of Conduct, guidance issued on the Code by the Commissioner for Complaints, and to any relevant advice and guidance issued by the Department in relation to planning.

1.

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## REMIT OF THE PLANNING COMMITTEE

### *Development management*

4. ~~The~~One of the main ~~role~~ functions of the planning committee is to consider applications made to the council ~~as the local planning authority and decide whether or not they should be approved. In order to ensure that decisions are taken at the appropriate level, and in accordance with agreed timescales, it is strongly recommended that the decisions of the planning committee in determining applications made to the council should be taken under full delegated authority, meaning that the decisions of the committee will not go to the full council for ratification. However, if councils decide to retain the option of referring certain major applications to the full council for determination, it is recommended that these~~

~~Which are either~~ major in scale, complex or controversial, as set out in the adopted Scheme of Delegation, and decide whether or not they should be approved. In order to ensure that decisions are taken at the appropriate level, the decisions of the Planning Committee are taken under full delegated authority and the decisions of the committee will therefore not normally go to the full Council for ratification.



~~should be restricted to applications which are significantly contrary to the local development plan or contentious cross-boundary applications.~~

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### **Development Plan**

The local development plans for the Mid Ulster district currently comprise the Cookstown Area Plan, the Dungannon and South Tyrone Area Plan and the Magherafelt Area Plan. These will remain the statutory development plans until replaced by the Mid Ulster Local Development Plan (LDP). The Department of Environment planning policies will also be retained as set out in the Planning Policy Statements and Strategic Planning Policy Statement, until such times as new policies are brought forward and adopted in the LDP.

5.2. Each council is required by sSection 8 of the Planning Act (NI) 2011 requires MUDC to prepare a LDP which will comprise a plan strategy and a local policies plan; plan for its district to be known as a plan strategy. The strategy ~~must~~ will set out the ~~council~~ objectives o f M U D C in relation to the development land in its district, and its strategic policies for the implementation of those objectives. After the plan strategy has been adopted ~~the council must then prepare~~ a local policies plan will be prepared. This will set out the ~~council~~ policy agreed by MUDC in relation to what type and scale of development is appropriate and where it should be located.

6.3. Both these documents comprise t~~he~~ local development plan. ~~This plan~~ will forms the basis for public and private investment decisions, providing a degree of certainty as to how land will be developed. In law, planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise. ~~This means that~~ Therefore where land is zoned for a particular use, the planning MUDC Planning eCommittee should ensure it is reserved for that use: for example, an application for housing in an area zoned for housing should be approved unless the design and layout fails in terms of the environmental, open space and access standards, or its design and layout has a detrimental impact on the character of the area or neighbouring amenity.

7. The MUDC pPlanning Committee ~~s role in relation to~~ will approve the local development plan ~~is to approve the local development plan~~ before it is passed by resolution of the council. The planning committee ~~should~~ will also ensure that the local development plan is monitored annually, particularly in terms of the availability of housing and economic development land, and that it is reviewed every five years, giving consideration to whether there is a need to change the plan strategy or the zonings, designations and policies as contained in the local

policies plan.

#### *Development Plan Transition Arrangements*

8. ——— Until such time as the council has adopted its plan strategy the council's local development plan will be taken to be the extant Departmental development plan for that part of the council district.

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~~9.4. When the council has adopted its plan strategy, the local development plan will be the council's adopted plan strategy and the extant Departmental development plan read together. If there is a conflict between the council's plan strategy and the extant Departmental development plan the conflict shall be settled in favour of the council's adopted plan strategy.~~

~~10. When the council has adopted its local policies plan, the local development plan will be the council's adopted plan strategy and local policy plan as defined in Section 6 of the 2011 Act.~~

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## SIZE OF COMMITTEE

~~5. A recent study<sup>1</sup> carried out for the Welsh Government into the operation of planning committees in Wales found that there was no simple link between the size of a committee and its efficiency and effectiveness and that, in fact, the bigger committees often had lower attendance levels, greater inconsistency and cost more to operate. In addition, if all members of the council are on, the MUDC Planning Committee there is less room for members to act as advocates for their constituents. It is strongly recommended, therefore, that a planning committee should consist of between 20% and 50% of council 16 elected members, (depending on the size of the council) and that there should be a quorum (e.g. 50% of committee members). Councils can decide whether substitute members are permitted.~~

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~~11.6. The Planning Manager and/or the Head of Development Management or Head of Development Plan and Enforcement Planning would be expected to will attend all planning committee meetings as appropriate, in addition to the planning officers presenting their reports.~~

## FREQUENCY OF MEETINGS

~~12.7. Councils are free to determine the frequency of their planning committee meetings, depending on their governance models and schemes of delegation. The Planning Committee will meet at least once every calendar month. Additional meetings will be at the discretion of the Chair of the Committee with the consent of the Committee members. Details of the Planning Committee meetings are published on the Council's website.~~

## SCHEME OF DELEGATION

There are two Schemes of Delegation, one relating to planning applications which is prepared under Section 31 of the Planning Act (Northern Ireland) 2011. The other scheme deals with planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations and is prepared under Section 7 (4)(b) of the Local Government Act (Northern Ireland) 2014. The purpose of the Scheme of Delegation is to set out those decisions which shall be made by the Planning Committee and those which are the responsibility of the Planning Manager. The Planning Manager is responsible for determining 90% the vast majority of applications however these tend to be applications that are smaller in scale and local in character and uncontroversial. Whereas the Planning Committee resolves those applications which are either major in scale, subject to dispute or could give rise to a conflict of interest. The MUDC Schemes of Delegation for the planning function is available to view at [www.midulstercouncil.org](http://www.midulstercouncil.org). The Schemes of Delegation will be reviewed on a regular basis, normally annually.

## ENFORCEMENT

The Planning Committee will determine when an Enforcement Notice should be served and other enforcement decisions as laid down in the Scheme of Delegation. In addition to those cases presented to the Planning Committee for decision, a monthly reports from officers on the enforcement performance (number of cases opened, cases closed, notices issued and convictions obtained) will be provided to members.

Enforcement matters will be discussed in the closed section of the Planning Committee meeting (i.e., "In Committee") to ensure MUDC compliance with the provisions of the Data Protection Act and to ensure that future legal proceedings are not prejudiced.

~~13. It is strongly recommended that all enforcement activities are delegated to planning officers, who can use their professional judgement on what enforcement action to take, if any, to address alleged breaches of planning~~

<sup>††</sup>Study into the Operation of Planning Committees in Wales' by Fortismere Associates with Arup (July 2013)

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~~control as established by the council's policies. Planning committees can be informed of progress on cases and can request a report from officers to the committee on any enforcement matter (but the committee should not take any decisions on enforcement action). In addition, planning officers should prepare a quarterly report on the progress of formal enforcement cases which should be circulated to all councillors, not just planning committee members (this could be in relation to the number of notices issued, convictions obtained etc. as opposed to individual cases).~~

~~14.8. Each council should prepare a~~ An Enforcement Strategy detailing ~~how enforcement action will be dealt with, was is to be which should be agreed by the planning committee on 19<sup>th</sup> January 2016. This is available on the Council website at [www.midulstercouncil.org](http://www.midulstercouncil.org).~~

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## **SCHEMES OF DELEGATION**

~~15. Section 31 of the Planning Act (NI) 2011 requires each district council to introduce schemes of delegation. Schemes of delegation allow decision making for local, generally non-contentious, applications to be delegated to a council's planning officers to act on the council's behalf in implementing its planning policies. The details of each delegation scheme, which will only relate to applications within the category of local developments, will be for individual district councils to determine (a scheme of delegation cannot include major or regionally significant applications). The Department will be issuing a separate Guidance Note on Schemes of Delegation.~~

~~16. This means that the majority of planning applications (and other consents such as listed buildings, advertisements etc.) should be determined by planning officers rather than by the direct consideration and vote of the planning committee; however, such decisions are still, legally, decisions by the council. The overall objective is to ensure that district council arrangements for decision making on applications for local developments are efficient whilst ensuring that proposals that raise strong local views or sensitive issues for the local environment can still be dealt with directly by elected members.~~

~~17. There are certain statutory restrictions on which applications can be delegated to officers — the Planning (Development Management) Regulations (NI) 2015 state~~

| ~~that an appointed officer cannot determine an application for planning~~

~~permission where the application is made by the council or an elected member of the council, or the application relates to land in which the council has an interest. Instead, these applications must be determined by the planning committee. Apart from these restrictions it will be up to an individual council to decide if it wishes to place any further restrictions on which applications can be delegated to planning officers for example:~~

- ~~• applications made by a planning officer, senior officer of the council or a close relative or partner;~~
- ~~• applications which have an objection (or a number of objections); and / or~~
- ~~• an associated application is being determined by the planning committee.~~

## REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE

~~18.—The Scheme of Delegation agreed by MUDC included the provision for members (including those not on the Planning Committee) to request, where they consider it appropriate, that an application that would normally fall within the Scheme of Delegation to be referred to the Planning Committee for determination. of planning applications to officers is seen as a critical factor affecting the overall performance of the development management process as it helps to ensure that decisions are taken at the most appropriate level, procedures are clear and transparent, costs are minimised and members have more time to concentrate on the more complex or more controversial cases. (It is recommended that, over time, councils should aim to have 90 — 95% of applications dealt with under delegated arrangements.) It is essential, however, that members have the opportunity to request, where they consider it appropriate, that an application, which would normally fall within the scheme of delegation, be referred to the planning committee for determination.~~

~~19.—However, a balanced approach is necessary and councils should ensure that applications are not unnecessarily referred to the planning committee as this may result in delay to the processing of applications. The scheme of delegation should include a procedure, to be determined locally, whereby councillors are able to request that the planning committee consider a proposal. In addition, the Head of Planning Manager can also refer any matter which they he considers suitable for determination by the planning committee. Members of the public should not be able cannot directly to request that an application be referred to the~~

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planning committee. Any referral request must [be made in writing](#).~~clearly specify the planning grounds on~~



~~which the request is being made to ensure that applications are not unduly delayed.~~

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~~20. It is recommended that councils monitor the number of applications referred to the planning committee to ensure that only those that are significant or controversial are considered by the planning committee.~~

## FORMAT OF PLANNING COMMITTEE MEETINGS

~~24.9. MUDC will operate its Councils are free to operate their~~ planning committees in accordance ~~line~~ with ~~their its own approved~~ standing orders. ~~The In doing so, the following procedural arrangements will apply recommendations and paragraphs are made to provide some advice and guidance to councils following research into best practice. It is recommended that:~~

- ~~the planning officer should~~ will prepare a weekly list, ~~which will be circulated to all members, of all valid applications that have been received; that will indicate which applications are to be considered by the planning committee and which are to be determined by officers under delegated powers;~~
- ~~all planning committee members should~~ will be sent the agenda ~~at least 5 days~~ in advance of the meeting with a report on each application ~~to be decided not delegated to officers;~~
- ~~if necessary, officers will should~~ prepare an addendum on the day of the meeting to report any updates since the agenda was issued; ~~and~~
- ~~the Chair of the Planning Committee should~~ will hold a briefing session with planning officers on each application to be considered in advance of the planning committee meeting; ~~and;~~
- ~~All committee items will be bookmarked and reports presented with visual aids to show the site and the proposal.~~

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~~22.10. The meeting will be is~~ presided over by the Chair of the planning committee. Following the approval of the minutes of the previous meeting and apologies, councillors: ~~should will be given the opportunity to~~ declare any interests they have on the agenda items, which should be recorded in the minutes of the meeting. ~~Where a member has declared an interest in an application they cannot vote on that item and The councillor must either~~ -leave the meeting ~~or sit in the public gallery~~ for that item. ~~However, they may make representations as per the~~

normal speaking rights applicable to all councilors.

### **Consideration of Planning Applications**

~~23.—The planning officer's report, which makes a recommendation on whether prepared and presented by the case officer makes a recommendation on whether~~  
the application should be approved, approved with conditions or refused will be  
~~presentconsidered~~. Plans and photographs may be shown as appropriate. ~~After~~  
~~the planning officer presents the report members have an opportunity to listen to~~  
~~speakers, ask questions of the officer and debate the case. The planning~~

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~~has been considered.~~In considering the report, members also have the opportunity to listen to speakers, ask questions of the officer, discuss and debate ~~the case committee then discusses the application~~ before taking a vote ~~(proposed and seconded followed by a show of hands)~~ on whether or not to agree with the officer's recommendation. The Chair has a casting vote. ~~Where the majority of M~~members vote against an opinion to approve, and in the absence of any other ~~moti~~proposals, such as the deferral of the application, the application will be ~~deemed to have been refused.~~ The Planning Manager, based on the Committee's decision, will furnish the ~~detailed~~ reasons for refusal.

Members can add conditions to a permission but they cannot amend the application itself (for example, by allowing a one-bedroom flat if the application is for a two-bedroom flat). Any additional conditions should be proposed and seconded before being voted on by members. ~~Members should be aware that~~ As conditions can be tested at appeal ~~and~~ they should, therefore, be: ~~(i) necessary, enforceable, reasonable and (ii) relevant to planning and (iii) the development under consideration, (iiiiv) enforceable, (iv) precise and (vi) reasonable in all other respects.~~the development under consideration. Therefore, where alterations to conditions are proposed, the Committee will seek the advice of the Planning Manager.

~~24. Members must be present for the entire item, including the officer's introduction and update; otherwise they cannot take part in the debate or vote on that an item unless they have been present for the entire item, including the officer's introduction and update. However, the chair of the planning committee can use their discretion in exceptional circumstances.~~

~~11. Separate arrangements will be used to discuss special domestic or personal circumstances. Normally this will be held in Committee with members of the public and press excluded. An opportunity will be given for the applicant and objectors to present their case, but each separately. Once this has been done, each party will be asked to leave in order for the Committee to discuss and determine the application.~~

#### **PRE-DETERMINATION HEARINGS**

~~25. In order to enhance scrutiny for applications for major development which may raise issues with particular sensitivity for a local area, Regulation 7 of the Planning~~

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~~(Development Management) Regulations (NI) 2015 sets out a mandatory requirement for pre-determination hearings for those major developments which have been subject to notification (i.e. referred to the Department for call-in consideration, but that have been returned to a council for determination). A council's planning committee will therefore have to hold a hearing prior to the application being determined. In addition, councils may also hold pre-determination hearings, at their own discretion, where they consider it necessary, to take on board local community views, as well as those in support of the development. The intention is to give applicants and those who have submitted relevant representations the opportunity to be heard by the council before it takes a decision. This will make the application process for major development more inclusive and transparent.~~

- ~~26. The scope to hold these hearings is likely to apply only to those applications for major developments which have attracted a significant body of relevant planning-based objections. It would be for an individual council to judge when a significant body of relevant planning objections was a sufficient material consideration to warrant a pre-determination hearing, taking account of:~~

- the relevance of the objections in planning terms;
- the extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
- the numbers of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.

27. Any hearing should take place after the expiry of the period for making representations on the application but before the council decides the application. It will be for the planning committee to decide whether it wishes to have a hearing on the same day as the related planning application is determined by the planning committee or to hold a separate hearing. The scale and complexity of the planning issues will have to be considered. In holding a hearing the planning committee procedures can be the same as for the normal planning committee meetings (e.g. number of individuals to speak on either side, time available to speakers etc.). The planning officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the planning committee decides to hold the hearing on the same day as it wishes to determine the application the report to councillors should also contain a recommendation.

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## PUBLIC SPEAKING AT PLANNING COMMITTEE MEETINGS

28. ~~Good practice, following research in other jurisdictions, suggests that~~ The following procedures ~~should be followed when conducting~~ will apply to MUDC planning committee meetings:

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- planning committee meetings ~~should~~ will be open to the public;
- requests to speak ~~should~~ must be received by the council (in writing or by email) no later than 12.00pm two working days prior to the meeting. ~~setting out the planning reasons the speaker wishes to raise; however, at the meeting the Chair can decide whether to allow any relevant information to be tabled which was not made available to members in advance of the meeting; The request should state whether they wish to speak in support or in opposition to a planning application. Any written information that the speaker wishes to circulate to members of the committee must also be provided at this time. Any written information received after this time will not be circulated;~~

- the planning committee should be provided with copies of these statements;

- The order of speakers is a matter for the Chair, however, this will normally require objectors speaking before the applicant or their agent in order to allow the applicant the opportunity to respond to any issues raised. Thus, if members wish to speak, they should do so before the applicant/agent;

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- All parties speaking at Planning Committee may be asked questions by members or the Planning Manager;

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- The Planning Committee will be provided with copies of the information supplied by those speaking at the Committee;

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- other ~~councillors~~ elected members may attend and speak about an application but only planning committee members can vote;

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- ~~local councillors~~ elected members may speak for 5 minutes;

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- members of the public (including agents / representatives etc.) for 3 minutes;

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- ~~in addition to councillors addressing the planning committee, Where more than one person wishes to speak on behalf of or against a development, they will be encouraged to elect a spokesperson and in any event or ask required to share the 3 minutes speaking time - one person from those objecting to the proposal and one person in support of the proposal should be allowed to speak. Where there is more than one request to speak, the 3 minutes should be shared between them or they can appoint one representative;~~

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- ~~if an objector speaks the applicant should be allowed to respond if they wish even if they have not registered to speak in advance;~~

- the planning committee may seek clarification of those who have spoken on any issues raised by them but not enter into a debate with them;

- ~~no~~ documentation not received in advance of the meeting will not be permitted to should be circulated at the meeting to members by speakers;

- ~~applications where there will be speakers from the public should be taken first;~~

- Planning officers can address any issues raised and the planning committee can question officers; and

- Any exception to normal speaking rights and procedures will be a matter for the Chair may agree to accept representations outside these procedures under exceptional circumstances;

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## Enforcement

Enforcement matters will be discussed in Committee with the public and press excluded. Accordingly, there are no speaking rights. However, a Member may make a representation as to why action should or should not be taken. Such representations will be limited to 5 minutes and the Member can be asked to leave the committee whilst a decision is being discussed.

## **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

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29-12. The planning committee ~~has to~~ will reach its own decision on applications put before it. Officers offer advice and make a recommendation. Planning officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the planning committee or its members. This is acceptable where planning issues are finely balanced as there should always be scope for members to express a different view from officers. A The Planning Committee can accept or place a different interpretation on, or give different weight to, the various arguments and material planning considerations.



### **Overturning recommendation to approve**

30. Any if a member ~~who~~ does not agree with the officer recommendation to approve an application they can propose reasons for refusal, which ~~need to~~ must be seconded by another member and ~~then~~ voted on. Any decision by the planning committee **must be based on proper planning reasons**. The ~~P~~planning officer Manager (or their deputy) should always will be given the opportunity to explain the implications of the planning committee's decision. The reasons for any decisions which are made contrary to the planning officer's recommendation must be formally recorded in the minutes and a copy placed on the planning application file / electronic record.

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13. ~~Councillors who~~ As the ~~refusal~~ rejection of a planning application that officers have recommended ~~should be accepted for approval~~ advised them to accept risk being may be overturned on appeal (to the Planning Appeals Commission), with the potential for costs awarded against ~~the council~~ MUDC, ~~if no sound reasons for the decision have been given~~. ~~The~~ Chair ~~should~~ will seek the views of officers (including the council's solicitor) before going to the vote in terms of reasons for refusal that are contrary to officer recommendation. Officers ~~should endeavour to~~ will summarise what are considered to be the main reasons for refusal referred to by members during the debate and ~~include~~ advise on what would be reasonable and what would not be reasonable reasons for refusal. Where appropriate, the Planning Manager may also comment on whether a refusal on the proposed grounds is defensible, particularly at planning appeal.

34-14. The Planning Manager, in liaison with the Council solicitor, will ensure that represent the Committee's decision is defended at planning appeal or in the courts or in any other forum.

32-15. ~~If officers consider that the suggested planning refusal reasons are reasonable and capable of being defended on appeal members should vote on the reasons for refusal. If the view of officers is that the reasons for refusal are either in whole or in part not capable of being defended then members should give consideration to deferring determination of the planning application until the next planning committee and ask for a further report (and / or site visit) to ensure it has all the relevant information it considers necessary to inform its decision. Advice and assistance should be sought from council solicitors, as necessary.~~

33. ~~In the event of an appeal against a refusal of planning permission contrary to~~

~~officer recommendation, it is a matter for each council to decide who should attend the appeal to defend the decision. However, the following options are available:~~

- ~~• councils could require planning officials to prepare the case for written submissions and / or attend the appeal even if it is against their recommendation;~~

- ~~some may require the members who proposed and seconded a motion to refuse consent contrary to officer recommendation to be called as council's witnesses;~~
- ~~some may use planning consultants or different planners from those who made the original recommendation.~~

### ***Overturning recommendation to refuse***

~~34-16. If the MUDC pPlanning eCommittee may~~ decides to approve an application against the officer's recommendation to refuse, ~~the planning committee should be~~ aware that, while there is no right of third party appeal, there is the possibility that the decision could be subject to judicial review. However. Before making such a decision, the advice of the Planning Manager should be sought. Where an approval is granted contrary to officer advice, the Planning Manager and Council Solicitor-~~Again, councils will have to decide who should will ensure represent defend~~ the council's decision ~~is defended~~ in ~~the courts, or any other forum.~~

~~35-17. It is critical that t~~The minutes ~~will~~should, in so far as is possible, accurately reflect the discussions and decisions taken during the meeting(s) as these could be used as evidence should any complaints be made about how decisions are taken. Members ~~may wish to consider can~~ takeing their own notes on controversial applications.

### **DECISIONS CONTRARY TO LOCAL DEVELOPMENT PLAN**

~~36-18.~~ In general, planning decisions should be taken in accordance with the local development plan (in so far as it is material to the application) unless material considerations indicate otherwise. If a planning committee member proposes, seconds or supports a decision contrary to the local development plan they will need have to clearly identify and understand the planning reasons for doing so, and clearly demonstrate how these reasons justify overruling the development plan. The reasons for any decisions which are made contrary to the development plan ~~must will~~ be formally recorded in the minutes and a copy placed on the planning application file / electronic record. Before making such decisions the advice of the Planning Manager shall be sought.

## DEFERRALS

~~37-19.~~ The planning committee can decide to defer consideration of an application to the next meeting for further information, further negotiations or for a site visit. Before deferring an application the advice of the Planning Manager should be sought and the purpose of the deferral clearly set out. Members should be aware, however, that Deferrals will inevitably have an adverse effect on processing times and ~~therefore should~~ will be restricted to one deferral only. Clear reasons why a deferral is necessary must be presented ~~themselves, where~~

Where an office meeting is to be held, all councilors will normally be informed and may make representations on behalf of objectors or applicants. However, where a member of the planning committee chooses to make representations then they will ~~be required to declare a conflict of interest and will not be able to vote on the application at the next planning committee meeting at which the application is to be determined~~ forfeit their vote on the application.

~~possible, to one deferral only. In addition, there should be clear reasons why a deferral is necessary.~~

## SITE VISITS

~~38-20. It is recognised that, e~~On occasions, members of the planning committee may need to visit a site to help them make a decision on a planning application (e.g. where the impact or effect of the proposed development is difficult to visualise from the plans or photographs, or the application is particularly contentious). ~~However, t~~These visits ~~should will~~ be undertaken on an exceptional basis as they are time-consuming and expensive. Where required, they may be identified by officers in consultation with the Chair or they may be asked for by planning committee members, but these should only be permitted where the benefit is expected to be of considerable value.

~~39-21.~~ The planning committee clerk should contact the applicant / agent to arrange access to the site. Invitations ~~should will~~ then be sent to members of the planning committee. Site visits ~~are will~~ not ~~be used as~~ an opportunity to lobby councillors or to be ~~used~~ to seek to influence the outcome of a proposal prior to the planning committee meeting. ~~Councillors should~~ ~~Members will~~ not carry out their own unaccompanied site visits as there may be issues relating to permission for access to land, ~~or~~ they ~~will may~~ not have the information provided by the planning officer, and, in some circumstances (e.g. where a councillor is seen with applicant or objector) it might lead to allegations of bias. ~~It is recommended that~~ ~~e~~Only planning committee members, officers, and local councillors should be permitted to attend the site visit. Where possible, the full planning committee should attend site visits, unless there are good reasons (e.g. a member is already very familiar with the site). The clerk to the planning committee ~~should will~~ record the date of the visit, attendees and any other relevant information.

~~40-22.~~ Planning officers ~~should will~~ prepare a written report on the site visit which ~~should will~~ then be ~~presented-considered at~~ the next planning committee meeting at which the application is to be determined.

## PRE-DETERMINATION HEARINGS

Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 sets out a mandatory requirement for pre-determination hearings for those major developments which have been subject to notification (i.e referred to the Department of Environment for call-in consideration, but that have been returned to a council for determination). In such cases MUDC Planning Committee will hold a hearing prior to the application being determined.

In addition, the Planning committee may also hold pre-determination hearings at its discretion, when considered necessary, to take on board local community view, as well as those in -support of the development.

In the main, MUDC will only hold pre-determination hearings where there is a mandatory requirement as the speaking rights at planning committee are adequate to deal with nearly all cases. An exception may be made for major developments having taken into account:

- The relevance of the objections in planning terms;
- The extent to which relevant objections are representative of the community, particularly in the context of pre-application community consultation; and
- The number of representations against the proposal in relation to where the proposal is and the number of people likely to be affected by the proposal.

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The hearing will take place after the expiry of the period for making representations on the application but before the council decides the application. The Planning Committee will decide whether to have a hearing on the same day as the related planning application is determined by the planning committee or to hold a separate hearing.

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In holding a hearing the planning committee procedures will be the same as for the normal planning committee meetings (e.g. number of individuals to speak on either side, time available to speakers etc.) The planning officer will produce a report detailing the processing of the application to date and the planning issues to be considered. If the

hearing is to be held on the same day as the application is to be determined, the report to members will also contain a recommendation.

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## TRAINING

~~41. It is strongly recommended that c~~Councillors sitting on planning committees ~~should be~~ are required to attend relevant training on planning matters before they can sit on the planning committee. ~~—this would allow for a generally consistent approach to be taken. This requirement should be extended to planning committee members continuing to receive relevant training on an ongoing basis. It is also strongly recommended that planning committee chairs should receive separate, additional training in relation to their roles.~~

~~23.~~

## NETWORK

~~42.24. It is recommended that a network of planning committee chairs should be established and meet regularly to discuss matters of common interest.~~

## REVIEW OF DECISIONS

~~43.25. On an annual basis members should inspect a sample of implemented planning decisions in order to assess the quality of decision-making. This should include a sample of decisions delegated to officers to give assurance that the scheme of delegation is operating effectively and in line with the council's views.~~

## LEGAL ADVISER

~~44.26. It is strongly recommended that t~~The MUDC planning committee has ~~access to its own in-house~~ legal advice on planning matters. ~~7. preferably attending each planning committee meeting.~~

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**E**

**Subject:** Planning Appeal decisions.

**Date of Meeting:** 5<sup>th</sup> April 2016

**Reporting Officer:** Melvin Bowman

**Contact Officer:** Dr Chris Boomer

<b>1</b>	<b>Purpose of Report</b>
1.1	To inform members of recent Planning Appeal decisions.

<b>2</b>	<b>Background</b>
2.1	The Planning Appeals Commission have issued the following appeal decisions.
2.2	An analysis of these decisions is provided below for information.

<b>3</b>	<b>Key Issues</b>
3.1	<b>H/2014/0354/F</b> –Alterations to existing retail building involving extension, elevational changes and provision of new car park and service road for Mr Patsy Forbes (Forbes Furniture Building, Castledawson Road, Magherafelt.– (appeal dismissed)
3.2	The main issues in this appeal surrounded whether the proposal is in accordance with prevailing retail planning policy and whether the development would have an adverse impact on the safety and convenience of road users.
3.3	The Commissioner concluded that the Magherafelt Area Plan contains no provisions material to the appeal proposal and that the SPPS cancelled PPS5 'Retailing and Town Centres'. Of significance was the fall-back position available to the applicant in the form of a Certificate of Lawfulness confirming that the building benefitted from unrestricted Class A1 retail use. Objections on retail impact grounds were not sustained.

3.4	As there was no Traffic Assessment specific to the proposal it could not be said with confidence that the intensified use of the existing access onto Castledawson Road would not cause a significant intensification in the flow of traffic. Accordingly Policies AMP2 and 6 of PPS3 were sustained and the appeal was dismissed.
3.5	The applicant has on the 14 <sup>th</sup> March 2016 initiated Judicial Review proceedings against the PAC in relation to this decision.
3.6	<b>H/2014/0358/O</b> – Drive-Through restaurant, site adjacent to Lidl Car Park, Castledawson Road, Magherafelt. (appeal allowed)
3.7	The main issue in this appeal was whether this proposal would have an unacceptable impact on the safety and convenience of road users and on town centre uses.
3.8	As with the previous appeal decision the Magherafelt Area Plan contains no provisions material to the appeal proposal. The commissioner felt that no traffic assessment was required for this stand-alone proposal and in examining the evidence presented at the hearing concluded that, subject to a condition preventing the premises not being brought into use until the Magherafelt By-Pass is opened for public use, the appeal be allowed subject to conditions.
3.9	<b>M/2015/0158/O</b> – Mr Aiden Dolan, proposed dwelling (infill) between 22 and 26 Drumkee Road, Dungannon.
4.0	This appeal site was ruled not to be a small gap within the development fronting onto Drumkee Road. The site does not have a frontage onto the private laneway but would connect to it at its end. In summary, the appeal site was not considered to be a small gap within a line of buildings along a frontage on the private laneway. The appeal was dismissed.
4.1	<b>LA09/2015/0003/F</b> – Mr Vivian Teague – appeal against conditions imposed on application for a dwelling to include reduction and retention of existing domestic garage at lands west and adjacent to 17 Gortgonis Road, Coalisland.
4.2	<p>The applicant in the appeal sought removal of a condition requiring that partial demolition of an existing garage on the site takes place prior to development of the new dwelling. The Council had required the condition to ensure that sufficient private amenity space would be provided for the new dwelling.</p> <p>The commissioner ruled that demolition work must take place to facilitate the proper development of the dwelling and that in any case the decision notice did not contain any specific condition relating to what should take place by way of demolition. There is no requirement, either in the form of a condition or reference in the approved drawings, that the demolition element must take place in advance of work commencing. The appeal was dismissed.</p>

4.3	<b>LA09/2015/0174/O</b> – Mr Seamus McCloy – appeal against the conditional grant of permission for a dwelling and garage on land 60m east of No.20 School Lane, Mayogall, Gulladuff.
4.4	<p>This appeal related to the Councils imposition of a siting condition which stated:</p> <p><b>‘The proposed dwelling shall be sited in the area shaded green on the approved drawing No.01’</b></p> <p><b>Reason: To ensure that the development is integrated into the landscape.</b></p>
4.5	The Commissioner ruled that the alternative site proposed by the applicant would equally well provide for integration and would achieve the requirements of CTY10 and that the Council had advanced no valid reasons for restricting the siting of the approved development. The Council’s argument which had been advanced during the appeal that allowing the appeal would result in a potential infill opportunity was not sustained.
4.6	The Commissioner has also ruled that, as a result of the Councils failure to provide any evidence to support the reason for applying the siting condition and its failure to pursue part of its case, a partial award of costs is to be made to the applicant this being limited to those costs associated with the preparation of the planning arguments advanced from paragraph 4.0 onwards of the appellants initial statement of case. The claimants will therefore now submit details of these costs to the Council with a view to reaching an agreement on the amount. If this cannot be agreed, the claimants may refer the matter to the Taxing Master of the High Court.

<b>5</b>	<b>Resources</b>
5.1	<p><b><u>Financial</u></b> N/A</p>
5.2	<p><b><u>Human</u></b> N/A</p>
5.3	<p><b><u>Basis for Professional/ Consultancy Support</u></b> N/A</p>
5.4	<p><b><u>Other</u></b></p>

<b>6</b>	<b>Other Considerations</b>
6.1	N/A

<b>6</b>	<b>Recommendations</b>
6.2	That members note the attached appeal decisions.

<b>7</b>	<b>List of Documents Attached</b>
7.1	Copies of PAC decisions.

Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
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Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)

Your Reference: H/2014/0354/F &  
H/2014/0358/O

Our Reference: 2014/A0191 &  
2014/A0192

Date: 19<sup>th</sup> February 2016

Dear Sir/Madam

**THE PLANNING (NORTHERN IRELAND) ORDER 1991**

**APPEAL: Patsy Forbes**

Alterations to existing retail building involving extension, elevational changes, roof changes and removal of part of first floor (no increase in total floorspace). Provision of new car park and service yard. Amendments to road layout involving improved access to Castledawson Road, improved accesses to Lidl and new link road to Station Road Industrial Estate.

Forbes Furniture Retail Building (Station Road Industrial Estate) and land to the immediate south of it bounded by the existing Lidl Store and Castledawson Road, Magherafelt.

**THE PLANNING (NORTHERN IRELAND) ORDER 1991**

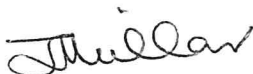
**APPEAL: Patsy Forbes**

Drive through restaurant, associated car park, picnic area and improved access to Lidl.

Site adjacent and North East of Lidl car park Castledawson Road, Magherafelt.

I enclose copies of the Commission's decisions on the above two appeals.

Yours faithfully



**Jennifer Millar**  
Case Officer

Enc



# Appeal Decision

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---

**Appeal Reference:** 2014/A0191  
**Appeal by:** Mr Patsy Forbes  
**Appeal against:** The non-determination of an application for full planning permission  
**Proposed Development:** Alterations to existing retail building involving extension, elevational changes, roof changes and removal of part first floor (no increase in floorspace). Provision of new car park and service yard. Amendments to road layout involving improved access to Castledawson Road, improved access to Lidl and new link road to Station Road Industrial Estate.  
**Location:** Forbes Furniture Retail Building (Station Road Industrial Estate) and land to the immediate south of it bounded by the existing Lidl Store and Castledawson Road, Magherafelt  
**Planning Authority:** Mid Ulster Council  
**Application Reference:** H/2014/0354/F  
**Procedure:** Informal Hearing on 30<sup>th</sup> June 2015  
**Decision by:** Commissioner Helen Fitzsimons dated 17<sup>th</sup> February 2016.

---

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether the proposal is in accordance with prevailing retail planning policy and whether the development would have an adverse impact on the safety and convenience of road users.
3. Section 45 of the Planning Act (Northern Ireland) 2015 requires the decision maker to have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6 requires decisions to be made in accordance with the local development plan unless material considerations indicate otherwise.
4. The Magherafelt Area Plan 2015 (MAP) operates as the local development plan for the purposes of the 2011 Act. One of the objectives of MAP is to promote vital and viable town centres. The MAP strategy identifies Magherafelt as the primary commercial centre within the plan area and observes that it is well served by banks, offices and retail services. Magherafelt Town Centre is designated by MT 36 in Part 4 of the plan and its extent is shown on map 5a Magherafelt Town Centre. The purpose of the designation is to accommodate growth in the commercial role of the town centre. The appeal site lies outside the town centre but within the settlement development limit of Magherafelt. MAP is silent on





retailing outside the designated town centre and does not promote a town centre first approach. It contains no provisions material to the appeal proposal.

5. MAP indicates that the current regional policy for retailing and town centres is set out in Planning Policy Statement 5 'Retailing and Town Centres' (PPS 5). However, the recently published Strategic Planning Policy Statement cancelled PPS 5 for Northern Ireland 'Planning for Sustainable Development' (SPPS). The SPPS is now the prevailing regional policy for retail proposals.
6. The appeal building was last in use as a furniture store. It comprises 1701sq.m of retail floorspace contained over two floors. The building is located in the Station Road Industrial Estate. It can be accessed via the Station Road entrance to the industrial estate and from a small laneway which adjoins the adjacent access road for a Lidl Store onto the Castledawson Road.
7. On 21<sup>st</sup> June 2000 planning permission was granted for a 'proposed first floor showroom' in the appeal building. This planning permission was subject to a condition restricting the floorspace comprised in the showroom to the retail sale and ancillary storage of kitchens and bedroom furniture manufactured and/ or assembled on the premises. The planning permission was implemented by the insertion of a first floor. On 24<sup>th</sup> November 2011 the appellant was granted a Certificate of Lawful Existing Use (LDC) for 'retail use as a furniture shop' on the whole building. The effect of this certificate is that all existing floorspace in the building has unrestricted Class A1 retailing use rights and that the restrictive condition attached to the 2000 planning permission is no longer applicable. On 17<sup>th</sup> July 2012 an existing use LDC was granted for 'Access Road' from the small laneway off the Lidl access road which serves the appeal site.
8. The appellant's evidence acknowledged that the former furniture store had been vacant for 18 months. However, at the hearing no party sought to argue that the retail use of the building has been abandoned. I will therefore proceed on the basis that the appeal building still has existing use rights for Class A1 purposes.
9. The appeal proposal contains two main elements:- (i) an extension and internal and external alterations to the building (ii) a substantial increase to the existing curtilage of the building to facilitate an increase in car parking provision (125 spaces) along with improvements to the access configuration. This is all operational development. No change of use is proposed. The evidence is that the appellant has a discount retailer in mind but that before he could install such a tenant he would have to overcome a restrictive covenant prohibiting the sale of food.
10. There were no objections to the physical nature of the works to be carried out under the first element of the proposal. Even though the appeal scheme involves an extension to the ground floor the overall proposal is for a reconfiguration of existing floorspace. During the course of the appeal the appellant reduced the proposed size of the building to provide 1107 sq.m of retail floorspace and not 1701sq.m as originally intended. The proposed reduction in floorspace of some 884 sq. m, involving the removal of the first floor, could be secured by a condition.



11. The sequential test set out in paragraphs 6.280 and 6.281 of the SPPS is not applicable to the proposed reconfiguration of the existing retail unit. The proposed development would not result in a retail unit exceeding a gross 1000 sq. m measured externally as it already exceeds that floorspace threshold in its current form. Therefore, the requirement of Paragraph 6.283 for a full assessment of retail impact as well as need does not arise. The first draft reason for refusal and third party objections based on retail impact are not sustained.
12. Planning Policy Statement 3 'Access Movement and Parking' (PPS3) is also a material consideration in this appeal. Policy AMP 3 of PPS 3 states that the level of use of existing accesses onto protected routes will be controlled. Where access onto a protected route in a settlement is proposed planning permission will only be granted for direct access or intensification of use of an existing access in two circumstances, one of which is where access cannot reasonably be taken from an adjacent minor road.
13. There is a minor road serving the industrial estate in which the appeal site is located and this may be a reasonable alternative. However, at the hearing the Transport NI witness stated that when the Magherafelt by-pass opens in autumn 2016 it is highly likely that the protected route status of A31 (Castledawson Road) will be downgraded within three to six months because it would no longer fulfil the requirements of protected route designation. He said that this was a matter for Transport NI only and that a public consultation exercise would not be required. Although the objectors disagreed with his position he is the official representative from that Government Agency and has cognisance of the process. Having regard to his evidence, a condition restricting the commencement of development to the opening of the by-pass would overcome the second draft reason for refusal and the objectors' concerns in this regard.
14. Policy AMP 2 of PPS 3 states that planning permission will be granted for a development involving the intensification of use of an existing access onto a public road only where such access will not significantly inconvenience the free flow of traffic. Policy AMP 6 states that in order to evaluate the transport implications of development proposals, developers will, where appropriate, be required to submit a Transport Assessment (TA).
15. In this out-of-centre location, which for all practical purposes is only accessible by car, the provision of a new car park with 125 spaces to serve the reconfigured retail unit is likely to have significant transport implications even though no increase in retail floorspace is proposed. A TA is therefore necessary.
16. The appellant submitted a TA with his written statement. It addressed the individual impact of the larger retail development of 1701 sq.m with 125 car parking spaces, which was originally applied for, and the cumulative impact of that development together with the drive through restaurant (Appeal 2014/A0192). It indicates that in the pm peak hour in 2028 the operation of the Castledawson Road / Station Road mini roundabout would be likely to be adversely affected by the larger retail development alone and even more adversely affected with the addition of the restaurant. The TA did not address the appellant's amended proposal for a retail unit of 1107 sq. m. and 125 car parking spaces.

17. It may be that the revised appeal development would have less impact on the road network than the developments considered in the TA, but it would not be appropriate to extrapolate figures from those provided. In effect there is no TA for appeal scheme. It cannot be said with confidence therefore that the intensified use of the existing access onto Castledawson Road to serve this appeal development would not cause a significant intensification in the flow of traffic, especially when account is taken of the permission being granted under Appeal 2014/A0192 for a drive through restaurant. Accordingly, this appeal proposal is contrary to Policies AMP 2 and AMP 6 of PPS 3 and the third, fourth and fifth draft reasons for refusal and the objectors' related concerns are sustained.

18. Although I have found the proposed development to be acceptable in principle and have concluded that the objections on protected routes policy could be overcome, the lack of a proper analysis of the impact of the appeal proposal on the free flow of traffic is fatal and the appeal must fail for that reason.

This decision relates to the following drawings: -

- 1:2500 scale site location plan numbered PL06b;
- 1:500 scale existing block plan numbered PL04;
- 1:500 scale proposed block plan numbered PL01b
- 1:100 scale existing elevations numbered PL05;
- 1:100 scale extension to existing retail numbered PL02 and schedule of areas table;
- 1:100 scale extension to existing retail numbered PL03 (2 drawings)

**COMMISSIONER HELEN FITZSIMONS**



**List of Appearances**

Planning Authority:- Mr M Bowman (Mid Ulster Council)  
Mr S Hackett (Transport NI)

Appellant(s):- Mr P Forbes, Appellant  
Mr M Burroughs, Michael Burroughs Associates(MBA)  
Mr R O'Toole, (MBA)  
Mr D Monaghan (MBA)  
Mr K McShane (Count Us In )

Third Parties:- Mr A Stephens Matrix Planning Consultants (NIIRTA)  
Mr E Loughery, Inaltus (for Castlefarm Properties)  
Mr R Agus, MRA Partnership (for Merit Investments and Properties)  
Mr C Shanks, Clyde Shanks (for Merit Investments and Properties)  
Mr D Taggart (Merit Investments and Properties)  
Mr Stewart (JC Stewarts)  
Mr Bradley (Local Trader)

**List of Documents**

Planning Authority:- PA 1 Written Statement and appendices  
PA 2 Post Hearing Evidence on Article 31 report  
PA 3 Comments on SPPS

Appellant:- A1 Written Statement and appendices  
A2 Post Hearing Evidence on Article 31 report  
A3 Comments on SPPS

Third Parties:- OBJ 1 Written Statement Matrix  
OBJ 1 Written Statement and Appendices(Inaltus)  
OBJ 1 Written Statement and Appendices (Clyde Shanks)  
OBJ 2 Post Hearing Evidence on Article 31 Report (Matrix)  
OBJ 2 Post Hearing Evidence on Article 31 Report (Inaltus)  
OBJ 2 Post Hearing Evidence on Article 31 Report (Clyde Shanks)  
OBJ 3 Comments on SPPS (Matrix)  
OBJ 3 Comments on SPPS (Inaltus)  
OBJ 3 Comments on SPPS (Clyde Shanks)

# Appeal Decision

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---

**Appeal Reference:** 2014/A0192.  
**Appeal by:** Mr Patsy Forbes.  
**Appeal against:** The non-determination of an application for outline planning permission.  
**Proposed Development:** Drive through restaurant, associated car park, picnic area and improved access to Lidl.  
**Location:** Site adjacent and north east of Lidl Car park, Castledawson Road Magherafelt.  
**Planning Authority:** Mid Ulster Council.  
**Application Reference:** H/2014/0358/O.  
**Procedure:** Informal Hearing on 30<sup>th</sup> June 2015.  
**Decision by:** Commissioner Helen Fitzsimons dated 17<sup>th</sup> February 2016

---

1. The appeal is allowed subject to the conditions set out below.

## Reasons

2. The main issues in this appeal are whether the proposed development would have an unacceptable adverse impact on the safety and convenience of road users and on town centre uses.
3. Section 45 of the Planning (Northern Ireland) Act 2015 requires the decision maker to have regard to the local development plan, so far as material to the application, and to any other material considerations. Section 6 requires decisions to be made in accordance with the local development plan unless material considerations indicate otherwise.
4. The Magherafelt Area Plan 2015 operates as the Local Development Plan for the purposes of the 2011 Act. The appeal site is undeveloped land within the settlement development limit of Magherafelt as identified in map No. 5 of the plan. There are no proposals or policies for this area and the plan contains no provisions material to the appeal proposal.
5. Planning Policy Statement 3 'Access Movement and Parking (PPS 3) is a material consideration in this appeal. Policy AMP 2 of PPS 3 'Access to Public Roads' states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where two criteria are met. The first criterion is that such accesses will not prejudice road safety or significantly inconvenience the





flow of traffic; and the second is that the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

6. Policy AMP 3 of PPS 3 states that the level of use of existing accesses onto protected routes will be controlled. Where access onto a protected route in a settlement is proposed planning permission will only be granted for direct access or intensification of use of an existing access in two circumstances, one of which is where an access cannot reasonably be taken from an adjacent minor road.
7. There is a minor road serving the industrial estate adjacent to where the appeal site is located and this may be a reasonable alternative. However, at the hearing the Transport NI witness stated that when the Magherafelt by-pass opens in autumn 2016 it is highly likely that the protected route status of A31 (Castledawson Road) will be downgraded within 3 to six months of that date because it would no longer fulfil the requirements of protected route designation. He said that this was a matter for Transport NI only and that a public consultation exercise would not be required. Although the objectors disagreed with his position he is the official representative from that Government Agency and has cognisance of the process. Having regard to his evidence, a condition restricting the commencement of development until the opening of the by-pass would overcome the first draft reason for refusal based on Policy AMP 2 of PPS 3 to the extent that it relates to protected route status and the second draft reason for refusal based on Policy AMP 3 of PPS 3.
8. Policy AMP 2 of PPS 3 states that planning permission will be granted for a development involving the intensification of use of an existing access onto a public road only where such access will not significantly inconvenience the free flow of traffic. Policy AMP 6 states that in order to evaluate the transport implications of development proposals, developers will, where appropriate, be required to submit a Transport Assessment (TA).
9. I am not entirely convinced that a TA was required for the proposed drive through restaurant as a standalone proposal. Be that as it may, a TA submitted with the conjoined appeal 2014/A0191 addressed the individual impact of the proposed restaurant in the design year (2018) and ten years post the design year (2028) with the Magherafelt by-pass in place. The TA was not advertised in the local press, but I am not aware of any reason why it should have been.
10. At the hearing the Transport NI witness stated that he had not assessed the TA and had no comments to make in its regard. However, objectors criticised the TA on the following grounds: - the age and accuracy of the existing traffic flow data; the growth rates applied; the traffic generation and distribution assumptions on junction modelling; and lack of sensitivity testing with the main area of concern related to junction capacity. A main concern of theirs was the cumulative impact of this appeal development together with the reconfigured retail development proposed in the conjoined appeal 2014/A0191 on the operation of the Castledawson Road / Station Road mini-roundabout.
11. It is generally accepted that the desirable flow/capacity ratio (RFC) at which a junction should operate is 0.85 or less, as not all drivers make optimum use of available road space. The TA indicates that the present afternoon peak hour RFC at the most congested arm of the Station Road mini roundabout is 1.1,



meaning it is overloaded. With the opening of the Magherafelt by pass the volume of traffic using Castledawson Road is anticipated to reduce significantly and the TA reflects this. Table 5.13 of the TA indicates that the introduction of the proposed drive through restaurant (without the reconfigured retail unit) would result in an RFC of 0.82 at the most congested arm of the mini roundabout in the afternoon peak in 2028. That is not indicative of a capacity problem.

12. Even if some of the objectors' criticisms of the methodology used in compiling the TA were shown to be well founded, I would still not be persuaded that the restaurant on its own would be likely to cause significant inconvenience to the free flow of traffic on Castledawson Road. The proposal is not contrary to Policy AMP 2 of PPS 3 and the first reason for refusal is not sustained.
13. A third party objector raised generalised concern regarding the proposal but stated that it was not an objection to the principle of the development. I do not consider a drive through restaurant to be a town centre use and do not accept that it would undermine the restaurant sector in Magherafelt. I do not accept that this restaurant of some 330 sq.m floorspace would have such a significant adverse impact as to undermine the economy of Magherafelt. Whether the restaurant would offer an early morning menu attractive to older students is not a determining matter in this appeal.
14. The appeal site and its environs are dominated by areas of hard surfacing. A condition requiring a soft landscaping scheme and its implementation is necessary in the interests of visual amenity.

### **Conditions**

- (1) The following reserved matters shall be as approved by the Planning Authority – the siting, design and external appearance of the building, and the means of access thereto.
- (2) The restaurant shall not be brought into use and no food or drinks shall be sold from it until the Magherafelt By- Pass as identified in the Regional Strategic Transport Network Plan 2015 has been opened for public use .
- (3) The access, car parking and servicing arrangements as finally approved shall be completed before the restaurant is brought into use and any food or drinks are sold from the site.
- (4) No development shall take place until there has been submitted to and approved by the Planning Authority a landscaping scheme showing new soft landscaping within the appeal site. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Planning Authority gives written consent to any variation.
- (5) Application for approval of reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision.

- (6) The development shall be begun before the expiration of 5 years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision is based on the 1:2500 scale site location plan and the 1:500 scale proposed block plan.

**COMMISSIONER HELEN FITZSIMONS**

## **2014/A0192**

### **List of Appearances**

Planning Authority:- Mr M Bowman (Mid Ulster Council)  
Mr S Hackett (Transport NI)

Appellant:- Mr P Forbes, Appellant  
Mr M Burroughs, Michael Burroughs Associates (MBA)  
Mr R O'Toole, MBA  
Mr D Monaghan, MBA  
Mr K McShane, Count Us In

Third Parties:- Mr A Stephens Matrix (for NIIRTA)  
Mr E Loughery, Inaltus (for Castlefarm Properties)  
Mr R Agus, MRA Partnership (for Merit Investments and Properties)  
Mr C Shanks (for Merit Investments and Properties)  
Mr D Taggart (Merit Investments and Properties)  
Mr Stewart (JC Stewarts)  
Mr Bradley (Local Trader)

### **List of Documents**

Planning Authority:- PA 1 Written Statement

Appellant:- A1 Written Statement and appendices

Third Parties:- OBJ 1 Written Statement (Matrix)  
OBJ 1 Written Statement and appendices (Inaltus)  
OBJ 1 Written Statement and appendices (Clyde Shanks)



Mid Ulster District Council  
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**Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)**

Your Reference: M/2015/0158/O  
Our Reference: 2015/A0155

Date: 16<sup>th</sup> March 2016

Dear Sir

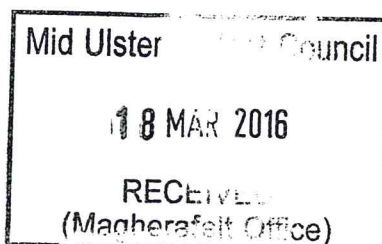
**THE PLANNING ACT (NORTHERN IRELAND) 2011**

**APPEAL: Mr Aidan Dolan  
Proposed Dwelling (CTY8 Ribbon Development)  
Between 22 and 26 Drumkee Road, Dungannon**

Please find enclosed a copy of the commission's decision.

Yours faithfully

*Yvonne Adgey*  
pf Yvonne Adgey  
Case Officer



# Appeal Decision

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---

**Appeal Reference:** 2015/A0155.  
**Appeal by:** Mr Aidan Dolan.  
**Appeal against:** The refusal of outline planning permission.  
**Proposed Development:** Proposed Dwelling (CTY8 Ribbon Development).  
**Location:** Between 22 and 26 Drumkee Road, Dungannon.  
**Planning Authority:** Mid Ulster District Council.  
**Application Reference:** M/2015/0158/O.  
**Procedure:** Written Representations and Commissioner's site visit on 3 March 2016.  
**Decision by:** Commissioner Mark Watson, dated 16 March 2016.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issue in this appeal is the principle of development.
3. The Dungannon and South Tyrone Area Plan 2010 (DSTAP) is the statutory local development plan for the proposal. In it, the site lies within the countryside. The DSTAP offers no specific policy or guidance in respect of the proposed single dwelling and is not material.
4. The Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) was published on 28th September 2015. Paragraph 1.5 of the SPPS states that its provisions are material to all decisions on individual planning appeals. Paragraph 1.12 states that any conflict between the SPPS and any policy retained under the transitional arrangements set out in paragraph 1.10 must be resolved in favour of the provisions of the SPPS. There is no conflict or change in policy direction between the provisions of the SPPS and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). Therefore the policy provisions of PPS21 remain applicable to the proposed development.
5. The site comprises a portion of grassed land adjacent and east of No. 22 Drumkee Road, a chalet bungalow with detached garage. No. 22 is accessed via its own private laneway from the public road, which will also serve the appeal site. The site itself is relatively flat and is bounded to the northern and eastern sides by a line of mature trees and hedge. A planted bank and mature tree line form the southern boundary, whilst the western boundary is undefined. An informal stretch of stone laid down across and through the middle of the site provides hardstanding



between the end of the private laneway and the field adjacent and east of the site. There are several dwellings of varying design along the northern side of the road. No. 26, a two storey dwelling, lies adjacent and south of the appeal site, between it and the Drumkee Road.

6. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. It follows that if the development complies with CTY8 it will also comply with Policy CTY1 of PPS21.
7. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Contrary to the Appellant's contention, it does not however follow that a building which does not create or add to ribbon development should be granted permission. Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 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. The Appellant considered that the appeal site was such a gap site, falling within a frontage comprising Nos. 14 – 28 Drumkee Road.
8. The policy states that for its purposes, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The policy amplification at paragraph 5.33 of PPS21 states that a road frontage can include a footpath or private lane.
9. Whilst there are several dwellings along the roadside that have a frontage on it, No. 22 and the appeal site do not. Both No. 22 and the appeal site are accessed via a private laneway to the roadside and do not have a frontage to the road. The appeal site does not abut or share a boundary with Drumkee Road, thus the reasoning in appeal decision 2013/A0249 Manse Road, Castlereagh, Belfast does not assist the Appellant's case. An access point in itself does not constitute a frontage to the road. The appeal site is not a small gap site within the development fronting onto the Drumkee Road. The appeal site does not have a frontage onto the private laneway, but would connect to it at its end, which in any event serves only one other dwelling, No. 22, as No. 26 has its frontage onto the Drumkee Road. Thus the site cannot be considered to be a small gap site within a line of buildings along a frontage on the private laneway.
10. In appeal decision 2011/A0044 Bellagherty Road, Ballyronan, the then planning authority (Department of the Environment) conceded that there was a common frontage, which was the starting point for the Commissioner's consideration. In that case the site was judged to lie within that common frontage, which is not the case in this instance. That decision would not justify approval of the appeal proposal.

11. As the site does not lie within a small gap in an otherwise substantially and continuously built up frontage, the appeal development fails in the first instance against the policy exception under Policy CTY8 which permits a new dwelling. Whilst the site is small, would not result in ribbon development and would also meet the other planning and environmental requirements, it, nonetheless, does not meet Policy CTY8 of PPS21 for the reason given.
12. The development does not meet Policy CTY8 of PPS21. There are no overriding reasons why the development is essential and could not be located in a settlement. As the appeal proposal does not satisfy Policy CTY8, it does not meet Policy CTY1 of PPS21. The Planning Authority's reason for refusal is sustained and determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:-

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
3142-L1	Location Map	1:2500	March 15
3142-L2	Concept Map	1:2500	March 15

**COMMISSIONER MARK WATSON**

### **List of Documents**

Planning Authority:-

'A' Mid Ulster District Council Statement of Case & Appendices

'B' Mid Ulster District Council Rebuttal Statement & Appendices

Appellant:-

'C' Appellant's Statement of Case & Appendices

'D' Appellant's Rebuttal Statement

History Map – Drumkee Road. Drumkee

DoE Ref M/2015/0158/O

PAC Ref 2015/A0155



Appeal Site

Approved

Refused

Pending

Withdrawn





Planning Appeals  
Commission

Mid-Ulster District Council  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
MAGHERAFELT  
BT45 6EN

Park House  
87/91 Great Victoria Street  
Belfast  
BT2 7AG

Phone: 028 9025 7235 (direct line)  
Phone: 028 9024 4710 (switchboard)  
Fax: 028 9031 2536

Email: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

**Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)**

Your Reference: LA09/2015/0003/f  
Our Reference: 2015/A0151

Date: 3 March 2016

Dear Sir/Madam

**THE PLANNING ACT (NORTHERN IRELAND) 2011**

**APPEAL: Mr Vivian Teague**

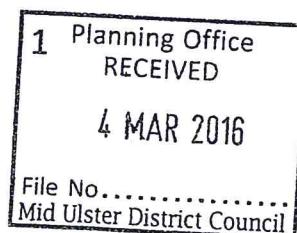
**Conditions imposed on an approved application for a proposed  
3 bedroom two storey detached dwelling house to include the  
reduction and retention of existing domestic garage  
Lands west and adjacent to 17 Gortgonis Road, Coalisland**

I enclose a copy of the Commission's decision.

Yours faithfully

Yvonne Adgey  
**Case Officer**

ENC





Planning Appeals  
Commission

# Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
F: 028 9031 2536  
E: info@pacni.gov.uk

---

**Appeal Reference:** 2015/A0151.  
**Appeal by:** Mr Vivian Teague.  
**Appeal against:** The conditional grant of full planning permission.  
**Proposed Development:** Three bedroom two storey detached dwelling house to include the reduction and retention of existing domestic garage.  
**Location:** Lands west and adjacent to 17 Gortgonis Road, Coalisland.  
**Planning Authority:** Mid Ulster District Council.  
**Application Reference:** LA09/2015/0003/F.  
**Procedure:** Written representations with Commissioner's site visit on 18 February 2016.  
**Decision by:** Commissioner Mark Watson, dated 1 March 2016.

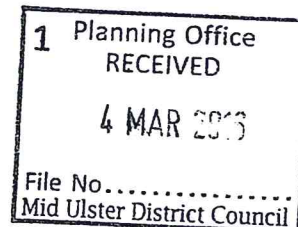
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## Decision

1. The appeal is dismissed.

## Reasons

2. Full planning permission was granted under reference LA09/2015/0003/F on 30 July 2015 for a "*proposed three bedroom two storey detached dwelling house to include the reduction and retention of existing domestic garage*". Seven drawings that accompanied the application were stamped approved by the Planning Authority.
3. The Appellant submitted an appeal to the Commission "against conditions" but did not specify which conditions. Further correspondence and the Appellant's appeal evidence stated that the appeal sought removal of the condition requiring that partial demolition of the existing garage on the site takes place prior to development of the new dwelling. The Appellant wishes to retain the garage in its entirety until work on the new dwelling commences. The Appellant's evidence stated that he was aware that the demolition work must take place in accordance with the approved plans when development of the new dwelling commences.
4. The Planning Authority submission stated that planning permission for the new dwelling was granted on the proviso that a substantial portion of the existing garage would be demolished in order to provide sufficient private amenity space for the dwelling. It considered that the demolition requirement should remain in place in order to ensure adequate amenity space for the new dwelling.
5. The partial demolition of the existing garage forms part and parcel of the development. It is referenced in the proposal description and approved drawings





01-03 Rev B and 02-02 Rev A detail the extent of this demolition. Clearly it is intended that to facilitate proper development of the dwelling, the demolition work must take place. The only condition pertaining to the timing of the works is the normal requirement that development must commence within 5 years of the date of permission being granted. The decision notice does not contain a specific condition relating to the partial demolition or when it should take place. There is no requirement, either in the form of a condition or reference in the approved drawings, that the demolition element must take place in advance of work commencing on the approved dwelling.

6. There is no condition relating to the timing of demolition against which to appeal in the first instance. The appeal must fail.

This decision relates to the following drawings approved with the application:

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
3-01-01	Location Map	1:100	Feb 2015
01-02	Existing Site Layout	1:200	Feb 2015
01-03 Rev B	Proposed Site Layout	1:200	07/07/15
02-01	Existing Garage Plans & Elevations	1:100	Feb 2015
02-02 Rev A	Proposed Garage Plans & Elevations	1:100	07/07/15
02-03	Proposed Dwelling Plans & Elevations	1:100	Feb 2015
01-04	Town Centre Map	1:2500	May 2015

**COMMISSIONER MARK WATSON**

### **List of Documents**

Planning Authority:-

'A' Mid Ulster District Council Statement of Case

Appellant:-

'B' Appellant's Statement of Case

# Appeal Decision

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---

**Appeal Reference:** 2015/A0128.  
**Appeal by:** Mr Seamus McCloy.  
**Appeal against:** The conditional grant of outline planning permission.  
**Proposed Development:** Dwelling and garage.  
**Location:** Land 60 metres east of No. 20 School Lane, Mayogall, Magherafelt.  
**Planning Authority:** Mid Ulster District Council.  
**Application Reference:** LA09/2015/0174/O.  
**Procedure:** Written Representations with an Accompanied Site Visit on 5<sup>th</sup> February 2016.  
**Decision by:** The Commission dated 15<sup>th</sup> March 2016.

---

## Decision

The Commission has considered the report by Commissioner Hannon and accepts his analysis of the issues and recommendation that the appeal should succeed. The outline planning permission granted under reference number LA09/2015/0174/O is therefore amended as set out below:

1. Condition 7 is amended as follows:  
The proposed dwelling shall be sited in the hatched area on the attached 1:2500 scale drawing entitled PAC 1.
2. The following condition is added:  
Sole access to field 1 shall be taken from the existing agricultural laneway indicated as between points 'A' and 'B' on the attached 1:2500 scale drawing entitled PAC 1.

This decision relates to the 1:2500 scale Location Map approved pursuant to planning permission Ref. LA09/2015/0174/O.

*Elaine Kinghan*

ELAINE KINGHAN  
Chief Commissioner

**PLANNING APPEALS COMMISSION**

**THE PLANNING (NORTHERN IRELAND) ACT 2011  
SECTION 58**

**Appeal by Mr Seamus McCloy against the conditional grant of outline planning permission for a dwelling and garage on land 60 metres east of No. 20 School Lane, Mayogall, Magherafelt.**

**Report  
by**

**Commissioner Damien Hannon**

**Planning Authority Reference: LA09/2015/0174/O  
Procedure: Written Representations with an  
Accompanied Site Visit on 5<sup>th</sup> February 2016.**

**Report Date: 29<sup>th</sup> February 2016**





## **1.0 BACKGROUND**

- 1.1 Mid Ulster District Council granted outline planning permission for a dwelling and garage on land 60 metres east of 20 School Lane, Mayogall, Magherafelt, by notice dated 8<sup>th</sup> September 2015. This permission was granted subject to conditions including number 7 which reads:-  
The proposed dwelling shall be sited in the area shaded green on the approved drawing No. 01 date stamped 5<sup>th</sup> May 2015.  
Reason: To ensure that the development is integrated into the landscape.
- 1.2 An appeal challenging condition 7 was received by the Commission on the 15<sup>th</sup> September 2015 and was advertised in the local press on the 29<sup>th</sup> September 2015.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 20 School Lane is a dwelling and garage located on a farm owned by the appellant. It is not however, the principal dwelling and farm group associated with the farm as these are located at No. 24. The appeal site lies adjacent and to the east of the curtilage of No. 20, within remote farmland approximately 1km north east of the village of Gulladuff. No. 20 lies at one end of a forked private lane of more than 600m in length, taken off School Lane, Mayogall, a single track road. This private lane serves two other dwellings including the appellant's principal farm dwelling (No 24). The appeal site comprises 3 relatively flat fields which are annotated as follows on the map attached as Appendix 1 to this report:-
- Field 1 incorporates 2 parcels, namely a vegetated hillock/outcrop and a flat arable section marked 'site', which is the appellant's preferred location for the dwelling.
  - Field 2 is a triangular shaped plot with a frontage onto the private laneway. An agricultural track, running along the eastern boundary of field 2, links field 1 with the private laneway.
  - Field 3 is the area shaded green on the approved drawing No. 01 received by the Planning Office on 5<sup>th</sup> May 2015.

## **3.0 THE PLANNING AUTHORITY'S CASE**

- 3.1 Outline planning permission was granted for a dwelling and garage at the appeal site, in accordance with Policy CTY 10 of Planning Policy Statement 21- Sustainable Development in the Countryside (PPS 21). Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where, among other considerations, the new building is visually linked or sited to cluster with an established group of buildings on the farm. No. 20 constitutes an established group of buildings on the farm for the purposes of Policy CTY 10. Indeed, for health and safety reasons, it would be more appropriate to group the new dwelling and garage with No. 20 rather than with the principal group of farm buildings. Policy CTY 10 states that the proposed site must also meet the requirements of policies CTY 13 and CTY 14.
- 3.2 Condition 7 is reasonable and necessary because field 3 is the only field within the appeal site where the siting of a dwelling and garage would be acceptable. Field 2



is owned by the appellant but is not included within his registered farm holding (DARD Business ID No. 639377), as defined by the farm maps submitted with the application. It cannot therefore be considered as acceptable under Policy CTY 10. In any case, a dwelling on in this field would not appear sufficiently clustered with the existing dwelling and garage at No. 20, to comply with criterion (c) of Policy CTY 10.

- 3.3 A dwelling and garage in field 1 would be adequately integrated into the surrounding landscape and while it would not cluster with the existing dwelling and garage at No. 20, would nonetheless visually link with these buildings. In accordance with Policy CTY 8 of PPS 21, planning permission will be refused for a building which creates or adds to a ribbon of development. Construction of a dwelling and garage on field 1 would not create ribbon development. However, Policy CTY 8 allows 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, 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. Construction of a dwelling and garage on field 1 would enable field 3 to be developed as a gap site thereby having a knock on effect of the creation of ribbon development. The siting of the dwelling and garage on field 1 could therefore give rise to the creation of ribbon development to the detriment of rural character and in conflict with Policy CTY 8 and criterion (d) of CTY 14 of PPS 21. As such, the proposal would offend Policy CTY 14 and would consequently fail to comply with policies CTY 10 and CTY 1 of PPS 21.

3.4 **Conditions**

- 3.5 None suggested.

4.0 **THE APPELLANT'S CASE**

- 4.1 The omission of field 2 from the current farm maps is an oversight which will be rectified when these maps are updated. The field lies within the ownership of the appellant, functions as an integral part of the registered farm holding and therefore warrants consideration as such. When viewed from the access lane, a dwelling and garage in this field would appear visually linked with the buildings in the bordering field at No. 20. Existing mature vegetation along the field's eastern boundary, in conjunction with mature vegetation within bordering fields to the north and northwest, would facilitate adequate integration into the countryside. Siting of the proposal in this field would comply with the requirements of Policy CTY 10.
- 4.2 The Council object to the siting of the development within field 1, the appellant's preferred location, on the grounds that this would cause field 3 to become an infill opportunity, the development of which would lead to the creation of ribbon development. This analysis is flawed for a number of reasons. Firstly, Policy CTY 8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. The policy opposes ribbon development and paragraph 5.33 sets out instances where a ribbon could occur. It does not however, clearly define what constitutes a ribbon, either in the policy headnote or the justification and amplification text.



- 4.3 A Planning Strategy for Rural Northern Ireland (The Rural Strategy) has largely been superseded and can no longer be relied upon when assessing dwellings in the countryside. However, it does give an insight into an earlier definition of ribbon development and Policy DES 7 of the Rural Strategy states "Ribboning is not a category of development that can be defined by numbers, although, if there are two buildings proposed fronting a road and beside one another there could be a tendency to ribboning". Policy DES 7 gives a clear definition of ribbon development and while much of the wording from Policy DES 7 has been transposed into Policy CTY 8, such a definition has not. Therefore, it would appear that the reader is left to apply a common understanding of what would constitute a ribbon of development. If we adopt the DES 7 definition, it is clear that the buildings need to be beside one another to constitute a ribbon. A ribbon cannot be created by siting the dwelling and garage in field 1 as a spatial gap exists between field 1 and the existing buildings at No. 20.
- 4.4 Secondly, there is no policy basis to refuse a development proposal on the grounds that approval may, at some point in the future, give rise to a further proposal for development which would have a detrimental impact on rural character but be difficult to refuse as it would nonetheless, be policy compliant. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Construction of the development on the appellant's preferred site would not create ribbon development, a point acknowledged by the Council. Policy CTY 8 makes no reference to terms such as leading to ribbon development, the possibility of ribbon development, or a tendency to ribbon. The Council, in applying such reasoning are seeking to over extend the scope of the policy.
- 4.5. Also, the policy to allow an infill dwelling in accordance with Policy CTY 8 requires there to be a gap within a continuously built up frontage. The policy defines a continuously built up frontage as a line of three or more buildings along a road frontage and acknowledges that a road frontage can include a private laneway. However, field 1 does not have a frontage onto the laneway and could not therefore form part of an otherwise substantial or continuously built of frontage as referred to in Policy CTY 8. Development of field 1 would therefore not render field 3 a gap site in accordance with Policy CTY 8.
- 4.6. The Council concede that a dwelling and garage at field 1 would visually link with the dwelling at 20 School Lane and such a scheme would therefore comply with the requirements of Policy CTY 10, including that detailed in criterion (c). The Council have advanced no valid reasons for restricting the siting of the approved development to field 3.
- 4.7 **Conditions**
- 4.8 No comment.
- 5.0 **CONSIDERATION**
- 5.1 The Magherafelt Area Plan 2015, which is the statutory development plan relevant to the appeal site, contains no specific policies relating to dwellings in the countryside. The Strategic Planning Policy Statement for Northern Ireland (SPPS) does not introduce



any change or clarification that would conflict with extant policy in respect of proposals for dwellings on farms in the countryside. The main issue in this appeal is whether the siting of a dwelling and garage on field 1 or 2 would comply with Policy CTY 10 of PPS 21 and in particular criterion (c). Criterion (c) requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. There was no dispute that access to field 2 would be taken off the private laneway serving No. 20 or that access to field 1 could be taken off the private access way via an existing agricultural lane. The preference that access to the dwelling should be obtained from an existing lane could be met in respect of both field 1 and 2.

- 5.2 Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where a number of listed criteria are met. Paragraph 5.38 of Policy CTY 10 adds that new houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period. Field 2 was not included as within the appellant's farm holding registered as DARD Business ID No. 639377 and defined by the farm maps submitted with the application. The appellant's assertion that the omission of field 2 from the farm maps was an oversight was disputed by the Council. In these circumstances and in the absence of confirmation from DARD to the contrary, I conclude that it has not been demonstrated, as required under Policy CTY 10, that field 2 forms part of the appellant's active and established farm. Consequently, the siting of the approved dwelling and garage on field 2 would not comply with Policy CTY 10.
- 5.3. Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where, in accordance with criterion (c), the new building is visually linked or sited to cluster with an established group of buildings on the farm. The Council have conceded that development at field 1 would visually link with existing buildings at No. 20 and I conclude that such development would comply with Policy CTY 10 including criterion (c) and consequently Policy CTY 1.
- 5.4 Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. The Council stated that a dwelling and garage in field 1 would not lead to the creation of or addition to a ribbon of development, in conjunction with the buildings at No. 20.
- 5.5 Policy CTY 8 also states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. A condition requiring that field 1 is accessed off the laneway via an agricultural lane could be attached to any approval. Field 1 would therefore have no frontage onto the laneway and cannot therefore form part of a continuously built up frontage as referred to in Policy CTY 8. Therefore, even if the approved development were to be sited in field 1, this would not render field 3 a gap



site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. The Council's objection on the grounds that siting of the dwelling and garage on field 1 could enable subsequent development resulting in the creation of ribbon development, is not therefore sustained. In these circumstances a condition prohibiting the siting of the dwelling and garage on field 1 would be unnecessary.

## **6.0 RECOMMENDATION**

6.1 I recommend to the Commission that the appeal be allowed and that:-

1. Condition 7 be amended as follows:-

The proposed dwelling shall be sited in the hatched area on the attached 1:2500 scale drawing entitled PAC 1.

2. The following condition be added:-

Sole access to field 1 shall be taken from the existing agricultural laneway indicated as between points 'A' and 'B' on the attached 1:2500 scale drawing entitled PAC 1.

This recommendation relates to the 1:2500 scale Location Map approved pursuant to planning permission Ref. LA09/2015/0174/O.

**2015/A0128**

**List of Documents**

Planning Authority: - C1 Statement of Case and appendices  
C2 Rebuttal to the Appellant's Statement of Case

Appellant: - A1 Statement of Case and appendices  
A2 Rebuttal Statement and Additional Statement of Case and appendix.

**List of Appearances**

Planning Authority: - Mr Niall Hasson  
Mr Melvyn Bowman

Appellant: - Mr Barry Diamond (Agent)

PAC 1

PLANNING APPEALS  
COMMISSION  
29 SEP 2015  
File No: .....

1 Planning Office  
RECEIVED  
5 MAY 2015  
File No: .....

Planning Act  
(NI) 2011  
**GRANTED**  
For the reasons set out on  
Decision form No. LA09/2015/0174/0  
2 Date 08 September 2015

DWELLING &  
GARAGE ON  
THE FARM

Mid Ulster  
District Council

SITE

PRINCIPAL FARM  
DWELLING

FARM  
BUILDINGS

Coolderry

LA09/2015/0174

Mid Ulster District Council

Drawing  
Number.....

01

VISIBILITY TRIANGLES AS PER  
DOE ROAD SERVICE  
REQUIREMENTS  
2-4 by 45 metres

SCHOOL LANE

SITE AREA 0.9HECT.



Planning Appeals  
Commission

## Costs Decision

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---

<b>Appeal Reference:</b>	2015/A0128.
<b>Appeal against:</b>	The conditional grant of outline planning permission for a dwelling and garage.
<b>Location:</b>	Land 60 metres east of No. 20 School Lane, Mayogall, Magherafelt.
<b>Claim by:</b>	Mr Seamus McCloy.
<b>Claim against:</b>	Mid Ulster District Council for a full award of costs.
<b>Decision by:</b>	The Commission, dated 16 <sup>th</sup> March 2016.

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The Commission has considered the report by Commissioner Hannon and accepts his analysis and recommendation that a partial award of costs be granted in the terms set out below.

In exercise of the powers under Section 205 of the Planning Act (Northern Ireland) 2011, it is hereby ordered that Mid Ulster District Council shall pay to Seamus McCloy the costs of the appeal proceedings described in the heading of this decision limited to those costs associated with the preparation of the planning arguments advanced from paragraph 4.0 onwards in the appellant's initial Statement of Case.

On receipt of this order the claimants may submit details of those costs to the Council with a view to reaching agreement on the amount. If the parties are unable to agree, the claimants may refer the matter to the Taxing Master of the High Court for a detailed assessment.

**ELAINE KINGHAN**  
Chief Commissioner



**PLANNING APPEALS COMMISSION**

**THE PLANNING (NORTHERN IRELAND) ACT 2011  
SECTION 205**

**Claim by Mr Seamus McCloy for an award of costs against Mid Ulster District  
Council in respect of Appeal reference 2015/A0128**

**Report**

**By**

**Commissioner Damien Hannon**

**Planning Authority Reference: LA09/2015/0174/O**

**Report Date: 29th February  
2016**



**Planning Appeals  
Commission**



**1.0 BACKGROUND**

- 1.1 The claim for a full award of costs against Mid Ulster District Council is made by Mr Seamus McCloy, pursuant to planning appeal reference 2015/A0128. The claim was made by written statement accompanying the appellant's rebuttal document and was received by the Commission on 28<sup>th</sup> January 2016.

**2.0 SUBMISSIONS BY THE CLAIMANT**  
**Unreasonable behaviour.**

- 2.1 The Council has acted unreasonably by failing to pursue part of its case and by the late introduction of new objections.

**Failure to pursue part of its case.**

- 2.2 Article 22 of the Planning (General Development Procedure) Order (NI) 2015 directs that the Council, in deciding to grant permission subject to conditions, shall state the reasons for their decision. The reason for condition 7 given on the Council's decision notice was; to ensure that the development is integrated into the landscape. The Council, in their statement of case, provided no evidence to support the reason stated within the decision notice for applying condition 07 and stated "I have no concerns regarding integration within the appellant's preferred site". The Council abandoned the reason for imposing condition 7 as stated in the decision notice and therefore, acted unreasonably by failing to pursue part of its case.

**Late introduction of objections.**

- 2.3 The Council could have taken any of the following courses of action:-
- Applied proper reasoning for the imposition of the condition upon drafting of the decision notice and advised the appellant of their decision to rely on this amended reasoning.
  - On issuing the decision notice and realising their error, written to the appellant advising them that, should an appeal be lodged to remove/vary condition 07, it would be presenting an alternative reasoning for imposing the siting condition.
  - On receipt of notification of an appeal against the imposition of the siting condition and realising their error, written to the appellant advising that they would be presenting an alternative rationale for imposing the siting condition.
- 2.4 The Council chose not to pursue any of the above courses of action. Consequently, the appellant was only made aware of the Council's intention to abandon the stated reason for applying the condition and to introduce several new reasons for applying it, upon receipt of the Council's Statement of Case. The introduction of new information by the appellant, following the grant of planning permission, would not be admissible to the Commission, except in exceptional circumstances (Section 59, Planning (NI) Act 2011). The Council however, approaches the late submission of new reasoning to support the imposition of the condition with no regard to the legislative provisions. The appellant could only have considered lodging an appeal and assessed its likely success, based on the reason provided by the Council on the decision notice. The Council's decision to introduce several new reasons for applying the condition (ribbon development & rural character), constitutes unacceptable behaviour on behalf of a public authority acting in the public interest.



**Unnecessary or wasted expense**

- 2.5 The appellant has incurred unnecessary expense in preparing the initial Statement of Case to address the Council's subsequently abandoned reasoning. The purpose of a rebuttal statement should be to narrow and focus on the issues in dispute, to correct errors, identify inconsistencies in the other party's argument etc, not to address entirely new reasons introduced by the Council. The appellant, having submitted an obsolete Statement of Case, had then to bear the additional cost of preparing a rebuttal statement to address the amended reasoning introduced by the Council in their Statement of Case.
- 2.6 For the reasons set out above the Council has engaged in unacceptable behaviour which has resulted in the appellant incurring unnecessary costs in the preparation of the initial Statement of Case and a rebuttal.

**3.0 RESPONSE BY THE PLANNING AUTHORITY**

- 3.1 The Council accepts that the wording of the reason for condition 7, as specified on the decision notice, does not reflect the case officer's intention and rationale for imposing the condition. However, the officer's opinion that approval for a dwelling on field 1 would conflict with Policy CTY 8, in that it could contribute to the creation of ribbon development, was set out in the Development Management Officer Report of 12 August 2015. This report was publicly available approximately one month prior to the issue of the decision notice on 8<sup>th</sup> September 2015 and submission of the appeal on 15<sup>th</sup> September 2015. This report presented the appellant with a reasonable opportunity to have full knowledge of the officer's concerns surrounding Policy CTY 8. The Council have not introduced new matters as these were already before the appellant.

**4.0 CONSIDERATION**

- 4.1 In accordance with its publication 'Guidance on Costs Awards in Planning and Related Appeals', the Commission will normally award costs only where all four of the following conditions are met:-
- The claim relates to a relevant type of appeal.
  - The claim is timely.
  - The party against whom the award is sought has acted unreasonably.
  - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.
- 4.2 Appeal 2015/A0128 was made under Section 58 of the Planning Act (Northern Ireland) 2011. Section 205 of the 2011 Planning Act enables the Commission to make costs awards in the case of planning appeals under section 58 of that Act. This claim for an award of costs therefore relates to a relevant type of appeal. The appeal proceeded by exchange of written representations with an accompanied site visit. The costs claim accompanied the claiming party's final written submission and was therefore presented in a timely fashion, in accordance with the Commission's guidance.
- 4.3 Article 22 of the Planning (General Development Procedure) Order (NI) 2015 states that the Council shall give notice of a decision in writing, and on an application for planning permission, where a permission or approval is granted

subject to conditions, the notice shall state the reasons for the refusal or for any condition imposed. The Development Management Report contains an officer's recommendation only and does not therefore represent the decision of the Planning Authority.

- 4.4 Prior to the submission of the Council's Statement of Case, received by the Commission on 9<sup>th</sup> December 2015, the only expression of the Planning Authority's reasoning for imposing condition 7 was that detailed on the decision notice. The Planning Authority concedes that it abandoned integration as a reason for the imposition of condition 7 and in these circumstances I can only conclude that it acted unreasonably by not pursuing this part of its case.
- 4.5 Section 59—(1) of the Planning Act (NI) 2011 states that in an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council except in certain stated circumstances. However, this requirement is qualified in section 59— (2) which states that nothing in subsection (1) affects any requirement or entitlement to have regard to any other material consideration. The matters of rural character and ribbon development are material to consideration of the siting of a dwelling in the countryside and were addressed by the appellant in his rebuttal statement. Nonetheless, I conclude that the Council have acted unreasonably by introducing amended reasoning at such a late stage in the process.

***Unnecessary Expense***

- 4.6 The appellant was made aware that the Council had abandoned its original argument and substituted it with another, through the exchange of Statements of Case. This had the effect of rendering the appellant's original Statement of Case nugatory in respect of the planning arguments from paragraph 4.0 onwards and of requiring the appellant to address the new material considerations through his rebuttal statement. The appellant would, in any case have had to prepare evidence in respect of the Council's amended reasoning. Nevertheless, the unreasonable behaviour of the Council caused the appellant to incur the unnecessary expense associated with preparation of their original Statement of Case to the extent set out above. All other aspects of the costs claimed by the appellant would have been required to contest the Council's decision and are not therefore recoverable.

**5.0 RECOMMENDATION**

- 5.1 I recommend that an order to award costs is made in favour of the claimants. The award is limited to the costs associated with the preparation of the appellant's initial Statement of Case to the extent set out above.



**2015/A0128**

**List of Documents**

**Claimant: -** C1 Application for an Award of Costs.

**Planning Authority: -** PA1 Response to Application for an Award of Costs

**F**

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0625/F	Two Storey Side Extension to provide Living Room and Bedroom	25 Clarkes Square Knockloughrim Magherafelt	01/02/2016	Mr Dorrity 25 Clarkes Square Knockloughrim	PJ Carey Architecture 21 Slaght Lane Glarryford Ballymena BT44 9QE
LA09/2015/1066/F	Demolish fire damaged dwelling and erect new dwelling on same floor plate existing	136 Ballynakilly Road Coalisland BT71 6HE	01/02/2016	Chris McQuaid Crawfords and Co Parkwood House Newforge Lane Belfast BT9 5NW	JWA Design 1 Bramble Grove Newtownabbey BT37 0GE
LA09/2015/0790/F	Change of Use of Retail Unit to Class D1 Physiotherapy Suite	40 Circular Road Dungannon	02/02/2016	Mr Rory O'Donnell 250a Coalisland Road Dungannon BT71 6EP	J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
LA09/2015/1061/F	Two storey extension to rear of dwelling (sun room on ground floor, bedroom on first floor)	120 Coash Road Ballynakilly Dungannon	02/02/2016	Mr Ashley Cardwell 120 Coash Road Ballynakilly Dungannon	Mr Nigel Hogg 20 Milltown Street Dungannon BT71 7AU

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0422/O	Proposed site for dwelling and domestic garage/store	50m North West of 89a Feegarran Road Ballynagilly Cookstown	03/02/2016	Miss Tanya Rodgers 89a Feegarran Road Ballynagilly Cookstown BT80 9TE	Brendan Monaghan 45 Letteran Road Moneymore BT45 7UB
LA09/2015/0766/LI	Storage and Sales Shed of Hazardous Type 4 Fireworks	18m NW of 126 Ballynakilly Road Dungannon	03/02/2016	Ms Daphne Ferguson 126 Ballynakilly Road Dungannon Co Tyrone BT71 6HE	CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
LA09/2015/0844/LI	A car dismantling operation and breakers yard and car parts containing end of life vehicles	145 Mullanahoe Road Dungannon	03/02/2016	James Wilkinson 145 Mullanahoe Road Dungannon BT71 5AX	
LA09/2015/0902/O	Proposed dwelling on a farm in accordance with PPS21 policy CTY10	Lands approximately 150m South of 94 Kilrea Road Portglenone	03/02/2016	Mr Henry 94 Kilrea Road Tyane Portglenone	MDF Architecture 11 Blackthorn Road The Brambles Newtownabbey BT37 0GH

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0948/LI	Property at 242 Drum Road, Cookstown was originally in residential use but has been in use as both residential and commercial premises since 1999. Premises has been continuously used since 1999 for display, sales ,hire,service, maintenance and repair of cars and commercial vehicles and the storage and sale of motor parts. Associated hard standing for display and parking of vehicles, structures/units for the storage of parts, and signage and supporting structures have been permanently in place on the site since 1999 (refer to attached plans)	242 Drum Road Cookstown BT80 9HP	03/02/2016	Eamon McGurk Motors 242 Drum Road Cookstown BT80 9HP	T A Gourley 32 The Spires Cookstown BT80 8QT
LA09/2015/0986/F	Single Storey Side Extension to Dwelling and Internal Refurbishment	30 Blacktown Road Dungannon	03/02/2016	Mr William D Anderson c/o Agent	Scott Montgomery 76 Tullydraw Road Dungannon BT70 3LT
LA09/2015/0995/F	Side and rear extension to dwelling with new roof over complete dwelling that includes first floor conversion of roofspace	54a Battery Road Coagh Cookstown	03/02/2016	Mr Patrick Donnelly c/o Agent	Lissan Design 45 Letteran Road Moneymore BT45 7UB

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1013/F	Provision of community garden, including planting boxes, garden shed, concrete paths, poly tunnel and associated site works (retrospective)	Approx 50m South East of 27 Old Coagh Road Cookstown	03/02/2016	Mid Ulster Womens Aid C/o agent	Henry Murray 37C Claggan Road Cookstown BT80 9XJ
LA09/2015/1056/LI	Upgrade of existing waste water treatment works	Curglasson Wastewater Treatment Works 63m N.E. of 1 Sans Souci Park Stewartstown	03/02/2016	Northern Ireland Water Ltd Westland House Old Westland Road Belfast	Mc Adam Design 1c Montgomery House Castlereagh Business Park 478 Castlereagh Road Belfast BT5 6BQ
LA09/2015/1057/LI	Upgrade of existing wastewater treatment works	Cappagh Wastewater Treatment Works 38m N.W. of 10 Sans Almore View Cappagh Road Cappagh	03/02/2016	Northern Ireland Water Ltd Westland House Old Westland Road Belfast	McAdam Design 1C Montgomery House Castlereagh Business Park 478 Castlereagh Road Belfast BT5 6BQ
LA09/2015/1144/O	Site of proposed infill site for 2 storey dwelling and garage	60m South of 2 Ballyronan Road Toomebridge BT41 3SJ	03/02/2016	Mr and Mrs H P Johnston 4 Ballyronan Road Toomebridge	Warwick Stewart Architects 892 Antrim Road Templepatrick BT39 0AH

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1175/F	Remove old outbuilding, demolish same and clear site of all remains. (Removal of Condition No 5 of Planning Permission I/2004/1387/O)	250m N of 45 Ballygrooby Road Moneymore/postal address 40 Ballygrooby Road Moneymore	03/02/2016	Mr Richard Johnston 67 Ballygrooby Road Loup Moneymore BT45 7XD	
LA09/2015/0043/F	New dwelling on farm, with garage and new wastewater treatment system	34 metres South-East of 139 Moneymore Road Magherafelt	04/02/2016	Mr and Mrs P Burns 139 Moneymore Road Magherafelt BT45 6HL	McGarry-Moon Architects 9 Fallahogey Road Kilrea BT51 5ST
LA09/2015/0304/F	Proposed 2 storey replacement dwelling (existing dwelling to be inhabited by applicant until new dwelling is constructed)	29 Ballynahone Road Tobermore Magherafelt BT46 5DL	04/02/2016	Mr S Boyd C/ o.agent	Paul Moran Architect 18B Drumsamney Road Desertmartin Magherafelt BT45 5LA
LA09/2015/0427/F	One number storey and a half dwelling house with domestic garage	40m North West of 14 Derrynoyd Lane Draperstown	04/02/2016	Martina McKenna 14 Derrynoyd Lane Draperstown BT45 7EX	Architectural Services 5 Drumderg Road Draperstown BT45 7EU

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1074/LI	The use of the land for the manufacture of doors including associated ancillary storage, office uses and activities, under class B2 of the planning (use Classes)order (Northern Ireland) 2015. The erection and use of buildings 3,4,6,8,10,12,13,13a, 14,15, 17, 18 ,19, 20 and21 as identified on drawing No. 3182-P-02 for the uses together with the access and associated hard standing.	106 Syerla Road Benburb Dungannon BT71 7ET	04/02/2016	O and S Holdings Ltd 106 Syeria Road Benburb Dungannon BT71 7ET	J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
LA09/2015/1094/F	1 no reinforced concrete ball rebound wall, 20 m long, 3.5 m high with 2 m high catch nets above.	230 m east of 93 Ballinderry Bridge Road Coagh.	04/02/2016	Ballinderry Shamrocks GAC 91A Ballinderry Bridge Road Coagh Cookstown BT80 8BU	Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0JH
LA09/2015/1201/RI	Single dwelling and garage	Land to rear of 3 Ballynease Road Bellaghy Magherafelt	04/02/2016	Ian Leslie 3 Ballynease Road Bellaghy Magherafelt BT45 8TD	CMI Planners Ltd Unit C5 The Rainey Centre 80 - 82 Rainey Street Magherafelt BT45 5AG



## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1250/F	Roof space conversion to provide domestic rooms within the existing attic space and disabled ramp access	1 Mossbawn Magherafelt	04/02/2016	Pat and Mary O'Kane 1 Mossbawn Magherafelt BT45 5BY	M.J Fullerton Design 12 Rainey Court Magherafelt BT45 5BX
LA09/2015/0629/O	Dwelling and garage	Immediately East of 16 Killybearn Road Cookstown	08/02/2016	Christopher Vincent 16 Killybearn Road Cookstown	TA Gourley 32 The Spires Cookstown BT80 8QT
LA09/2015/0657/A	Retention of Totem Sign with static LED Display	A29 Service Station 42 Dungannon Road Cookstown	08/02/2016	Solo Retailing Ltd 42 Dungannon Road Cookstown BT80 9AE	Kee Architecture Ltd 9A Clare Lane Cookstown BT80 8RJ
LA09/2015/0816/F	Erection of Dwelling and Garage (Change of House Type to application I/2007/0529/RM)	50m N of 96 Blackrock Road Omagh	08/02/2016	David Mahon Properties c/o Agent	ERES Ltd Mourne House 41-43 Downshire Road Newry BT34 1EE
LA09/2015/0818/F	Erection of dwelling and garage (change of house type to that approved under I/2007/0531/RM)	70m North West of 96 Blackrock Road Omagh	08/02/2016	David Mahon Properties C/o agent	ERES Limited Mourne House 41-43 Downshire Road Newry BT34 1EE

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0892/RI	Proposed new dwelling and garage/domestic store in infill site	Between 69 and 73 Kinturk Road Coagh Cookstown BT80 0JD	08/02/2016	Mr Gabriel Quinn 36 Mullan Road Coagh Cookstown BT80 0JE	Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
LA09/2015/1016/RI	Proposed replacement dwelling and garage	540m S.E. of 74 Gortindarragh Road Dungannon	08/02/2016	Paul Rafferty Gortindarragh Road Galbally Dungannon	C McIlvar Ltd The Gadda Building 89 Main Street Garvagh BT51 5AB
LA09/2015/1020/O	Proposed dwelling on a farm	Adjacent to 29 Gortreagh Road Cookstown	08/02/2016	Ms C Loughran 73 Westfort Cookstown BT80 8TH	Don Sonner 26a St Jeans Cottages Cookstown BT80 8DQ
LA09/2015/1022/F	Proposed extension including ramped access with handrails.	2A Tullaville Westland Road Cookstown BT80 8EB	08/02/2016	George Mc Cann 2A Tullaville Westland Road Cookstown	Peter McCaughey 31 Gortnasaor Dungannon BT71 6DA
LA09/2015/1070/O	Proposed 2 No. dwellings on infill site	Site opposite 138 Washigbay Road Coalisland	08/02/2016	Bernadette Gavin 138 Washingbay Road Coalisland	Dennis O'Neill 90 Gortgonis Road Coalisland BT71 4NE

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1231/F	Proposed 11000v Overhead Line to facilitate grid connection	160 Tanderagee Road Dungannon BT70 3HS	08/02/2016	Cloughbane Farm Foods 160 Tanderagee Road Dungannon BT70 3HS	Northern Ireland Electricity Networks Carn Industrial Estate Portadown BT63 5QJ
M/2015/0166/F	Extension and alterations to shop, new fuel pumps, canopy and totems. Formation of right hand turning lane and new access/egress arrangements, extension to car park	Centra 18-20 Augher Road Clogher BT76 0AD	08/02/2016	McDade Foodstores Ltd Centra 18-20 Augher Road Clogher BT76 0AD	Keys And Monaghan Architects Ltd 12 Main Street Irvinestown BT94 1GJ
LA09/2015/0924/RI	Proposed single storey dwelling and detached garage	Adjacent to and North of 30 Tullydraw Road Donaghmore	09/02/2016	Colin and Elaine Rafferty 11 The Milestone Dungannon BT70 1HG	
LA09/2015/0934/F	Proposed two storey dwelling with front porch and single storey gable and rear returns and detached domestic garage	105m South West of 68 Dunnamore Road Cookstown	09/02/2016	Sean Hagan 68 Dunnamore Road Cookstown BT80 9NX	Donnelly Design Services 8 Devesky Road Carrickmore Omagh BT79 9BU

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0960/F	Proposed gas tank enclosure also retention of plasma recirculation exhaust annex (no fumes or dust omissions) including provision of small material storage area to side and rear	110 Gortgonis Road Coalisland	09/02/2016	C/o. Conor McGuckin Toubkal Limited Torrent Valley Business Park Unit 12 Donaghmore Dungannon	McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
LA09/2015/1157/F	Proposed change of use from domestic dwelling to out of hours accommodation for on call vet, increased reception / retail area and provision of office and staff room	23 - 27 Main Street Fivemiletown	09/02/2016	Three Valleys Veterinary Ltd 23 - 27 Main Street Fivemiletown BT75 0PG	Neil Irvine Design Limited Unit 5 The Buttermarket 132 Main Street Fivemiletown BT75 0PW
LA09/2015/1171/F	Change of House Type to that previously approved M/ 2012/0001/F including Domestic Garage	Site Located Between 198 and 202 Dungannon Road Ballygawley	09/02/2016	Miss Noeleen Rafferty 193 Dungannon Road Ballygawley	McKeown & Shields 1 Annagher Road Coalisland BT71 4NE
LA09/2015/1283/F	improvements and extension to dwelling	9 Halftown Road Augher Co Tyrone BT77 0BT	09/02/2016	Damien McDermott 15 Halftown Road Augher BT77 0BT	j. Aiden Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1299/F	Replacement dwelling due to recent fire at existing dwelling	49 Fintona Road Carryclogher Clogher	09/02/2016	Mr Paul Agnew C/o. 8 Hinto Park Limavady Road Derry BT47 6HX	KJS Strathern Architects 75 Westlake Derry BT47 6WE
LA09/2015/1301/F	Proposed installation of a trolley shelter in the location of the existing trolley bay	10 Dungannon Street Moy BT71 7SH	09/02/2016	H & J Martin 163 Ormeau Road Belfast BT7 1SP	Tate Stevenson Architects Ltd Unit 1A Rawdon Road Moir BT67 0LQ
LA09/2015/1025/F	Proposed single storey granny flat, providing kitchen, living / dining area, 1 bedroom ,bathroom and utility room	115 Derryfubble Road Dungannon	10/02/2016	Leo Kelly 115 Derryfubble Road Dungannon	AP Mackle 127 Benburb Road Tobermesson Moy BT71 7QA
LA09/2015/0516/F	Proposed free range poultry shed with 2 feed bins, 2 gas tanks and an office and standby generator building (to contain in total 14400 free range broilers)	Land approx. 310m South East of 165 Carnteel Road Aughnacloy	11/02/2016	Mr Andrew Lockhart 9 Castletown Road Aughnacloy BT69 6ED	Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0717/F	To install a fish pass adjacent to the weir and redevelop the microhydroelectric ,renewable energy system with an output up to a maximum of 250kw on the Moyola River to generate electricity to include modification of the intake and construction of a turbine house	Land at the intake at 90m south west of Moyola Park House Castledawson and lands at the turbine house 120m South East of Moyola Park House Castledawson	11/02/2016	Mr Edward Whitley The Old Vicarage Wilmington near Polegate East Sussex	Mr Richard Reade Carncairn 40 Carnlough Road Broughshane BT43 7HF
LA09/2015/1093/F	Proposed single storey flat roofed extensions to create new offices and controlled lobby accommodation to school entrance and new PE equipment store	St Patrick's Primary School 9 Springhill Road Moneymore BT45 7NG	11/02/2016	The Trustees St Patricks Primary School 9 Springhill Road Moneymore	Education Authority Southern Region 3 Charlemont Place The Mall Armagh BT61 9AX
LA09/2015/1252/F	Proposed disabled facilities (single storey extension to rear of existing dwelling)	8 Riverside Dunman Cookstown	11/02/2016	Kelly Ann Larmour 8 Riverside Dunman Cookstown BT80 9UX	
LA09/2015/1253/F	Proposed dwelling and detached garage	Approx 70m N.W. of 38 Tullycorker Road Augher	11/02/2016	Mr B Bingham 6 Jamestown Road Ballinamallard BT94 2JQ	Marcus Kerr Design 111 Gillygooley Road Omagh BT78 4SU

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1264/F	Proposed roof mounted solar PV installation up to 150KW	49 Creagh Road Toomebridge BT41 3SE	11/02/2016	IDM Ltd 49 Creagh Road Toomebridge BT41 3SE	CD Consulting Unit54 Enniskillen Business Centre 21 Lackaghbhoy Road Enniskillen BT74 4RL
LA09/2015/0319/F	Retention of and change of use from retail shop to class B1 business ,ground floor food research and development area, 1st floor office and 2nd floor kitchen training area	122A Moore Street Aughnacloy BT69 6AA	15/02/2016	Montgomery Food Consulting 122a Moore Street Aughnacloy	Prestige Homes 1 Lismore Road Ballygawley BT70 2ND
LA09/2015/0328/A	One Shop Sign, One Projecting Sign and One Door Sign	122A Moore Street Aughnacloy	15/02/2016	Montgomery Food Consulting 122a Moore Street Aughnacloy	Prestige Homes 1 Lismore Road Ballygawley BT70 2ND
LA09/2015/0483/F	Dwelling within existing site	60m South West of 20 Moss Road Ballymagan Magherafelt	15/02/2016	Claire Bateson c/o CMI Planners Ltd	CMI Planners Ltd Unit C5 The Rainey Centre 80 - 82 Rainey Street Magherafelt BT45 5AG
LA09/2015/0501/F	Proposed 2 no additional broiler poultry sheds with 4 no feed bins, 2 no gas tanks and a biomass boiler shed with fuel bin. (Proposed sheds to contain 68,000 broilers giving a total site capacity of 136,000 broilers).	Land approx. 250m West of 36 Killyliss Road Dungannon	15/02/2016	Mr Noel Smith 39 Killyliss Road Dungannon	Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0511/O	Proposed site for new dwelling with maximum 6.5m ridge height and garage	Approximately 170m NE of 41 Lough Fea Road Cookstown	15/02/2016	Mr Winston Harkness 41 Lough Fea Road Cookstown BT80 9QL	Rodney Henry 2 Liscoole Cookstown BT80 8RG
LA09/2015/0518/F	Proposed conversion and adaption of a vacant agricultural building to provide a new storage and retail outlet for the supply and sale of agricultural components	150 Bush Road Dungannon	15/02/2016	Robert and Peter McCann 148 Bush Road Dungannon	McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
LA09/2015/0645/F	Proposed infill dwelling and garage	Adjacent to 8 Main Street Culnady	15/02/2016	Mr & Mrs R. Barnes 8 Main Street Culnady	Simpson Design 42 Semicock Road Ballymoney BT53 6PY
LA09/2015/0833/F	Change of House Type from previously commenced application M/2005/1152/F	36 Drumnafern Road Cullenfad Donaghmore	15/02/2016	Ciaran and Emea Colton 25 Mullaghbane Road, Dungannon	Paul McAlister Architects Ltd The Barn 64a Drumnacanvey Road Portadown Craigavon BT63 5LY
LA09/2015/1045/F	Revisions to approved M/ 2010/0921/F change of house type and ex. dwelling retained as storage/ agricultural storage	20 Tullyleek Road Tullyleek Donaghmore	15/02/2016	Sharon and Paul Maguire 16 Caulfield Glen Castlecaulfield Dungannon BT70 3DN	Paul Maguire 16 Caulfield Glen Castlecaulfield Dungannon BT70 3DN



## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1046/F	Proposed first floor extension over existing garage	4 Hawthorn Manor Moneyhaw Road Drummullan	15/02/2016	Karl Mc Kinless 4 Hawthorn Manor Moneyhaw Road Drummullan	
LA09/2015/1050/O	Proposed dwelling on a farm	64 Killygullib Road Swatragh BT46 5QR	15/02/2016	James Adrian Quinn 64 Killygullib Road Swatragh BT46 5QR	Newline Architects 48 Main Street Castledawson BT45 8AB
LA09/2015/1151/F	Replacement dwelling on site. New dwelling to one and a half storey dwelling facing road side with single storey building to rear. Adjoining single car garage. Materials used to be in keeping with local area including cream render finish and stone cladding. Dwelling to appear as a cluster of buildings on exiting plot to tie in with local farm developments. Building has been designed to take advantage of the orientation and views while also providing protection from the prevailing winds	25 Aghintain Road Clogher	15/02/2016	Mr and Mrs H Boyd 22 Aghintain Road Clogher BT76 0UY	MDA Studio 65 Redford Avenue Edinburgh EH13 0BU

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1159/F	This application is to seek approval for amendments to approved application M/ 2004/0954/O (also see M/ 2006/1296/F). The approved dwelling is currently under construction. This application is for permission to allow the layout to be altered to allow dwelling as per enclosed drawings. Proposed dwelling to be chalet bungalow with stand alone garage. Please note foundations for previous approved building have been laid and inspected, these can be altered for proposed dwelling	88b Derryfubble Road Dungannon	15/02/2016	John Kerr 124 Cloveneden Road Loughgall Armagh BT61 8LE	Ryan Kerr 124 Cloveneden Road Loughgall Armagh BT61 8LE
LA09/2015/1182/F	Proposed change of house type to that previously approved and under construction M/2009/0144/ F including detached garage	Lands to the rear and adjacent to 139 and 141 Old Caulfield Road Castlecaulfield Dungannon	15/02/2016	Alskea Contracts Ltd 16a Crosscavanagh Road Galbally Dungannon BT70 3BJ	McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
LA09/2015/1222/F	Proposed change of use from vacant shop unit to 4 bedroom dwelling	68 Main Street Aughur	15/02/2016	Mr John Corey 64 Main Street Aughur	Dan Mc Nulty 4 Dergmoney Court Omagh BT78 1HA

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1293/F	Proposed domestic garage and store with extension to existing curtilage	Site to rear of 6 Stiloga Road Eglish Dungannon	15/02/2016	Mr John Daly 8 Stilago Road Eglish Dungannon	Daly O'Neill and Associates Ltd 23 William Street Portadown BT62 3NX
LA09/2015/0165/F	New dwelling and garage	211A Washingbay Road Coalisland	16/02/2016	Michael McCuskey 211A Washingbay Road Coalisland BT71 5EG	Gary Breen 152A Washingbay Road Coalisland BT71 4QE
LA09/2015/1064/F	Proposed extension to rear of dwelling	100 Drum Road Cookstown	16/02/2016	Ms Eileen Doris 100 Drum Road Cookstown	Don Sonner 26a St Jean's Cottages Cookstown BT80 8DQ
LA09/2015/1067/F	Retention of mobile home to facilitate the construction of a new dwelling on site	Adjacent to 32 Tullywiggan Road Cookstown	16/02/2016	Ms Paula Mc Ivor 107 Church Street Cookstown	Don Sonner 26a St Jeans Cottages Cookstown BT80 8DQ
LA09/2015/1217/LI	Access road, sight lines, site clearance, and foundations.	Lands approx 120m NE of 60 Tullyreavy Road Cookstown	16/02/2016	Des Keenan 306 Drum Road Cookstown BT80 9PT	
LA09/2015/1226/LI	Proposed demolition of existing utility room at rear of existing dwelling and replaced with a single storey shower room	1 Carnlea Terrace Coalisland BT71 4JS	16/02/2016	Mrs Patricia Lavery 1 Carnlea Terrace Coalisland BT71 4JS	McKeown and Shields 1 Annagher Road Coalisland BT71 4NE

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0268/F	Erection of building in connection with a commercial business - sale of vehicles, fuel, tyres and vehicle parts/accessories	Site between No's 4 and 8 Cookstown Road Moneymore	17/02/2016	P And J Birt 52 Garden Street Magherafelt BT45 5DD	McGurk Architects 33 King Street Magherafelt BT45 6AR
LA09/2015/0860/F	Modifications to existing car park layout to improve safety and manoeuvrability while retaining the number of parking spaces	Newell Stores 11 Lineside Coalisland	17/02/2016	Rossdale Developments Ltd 48 Aghareany Road Donaghmore Dungannon	Peter Quinn 15 Derrytresk Road Dungannon BT71 4QL
LA09/2015/1078/F	Proposed replacement dwelling and garage at 60 Sessiagh Scott Road, Rock, Cookstown	60 Sessiagh Scott Road Rock Cookstown	17/02/2016	Damien McGorry 66 Sessiagh Scott Road Cookstown BT70 3JU	PD Conlon 16 Gortreagh Road Cookstown BT80 9ET
LA09/2015/1110/F	Rear extension to dwelling and new garden wall	31 Draperstown Road Moneyguiggy Tobermore BT45 5QG	17/02/2016	Mr and Mrs I Hopper 31 Draperstown Road Moneyguiggy Tobermore	Laverty Architecture 63a Churchfield Road Ballycastle BT54 6PX

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1242/F	Renewal of planning permission for housing development as previously approved under M/ 2011/0053/F	Adjacent to and rear of 260 Coalisland Road Dungannon	17/02/2016	Mr and Mrs E Watterson Flowermil Hill 268 Coalisland Road Dungannon BT71 6EP	J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
LA09/2015/1302/LI	Lawful commencement of planning permission I/2008/0468/F for dwelling and garage. Site clearance, site access and foundations dug.	50m North of the junction of Blackrock Road and Corvanagh Road Dunamore	17/02/2016	Des Keenan 305 Drum Road Cookstown BT50 9PT	Mr P Bradley 76 Main Street Pomeroy BT70 2QP
LA09/2015/0557/F	Change of use of vacant redundant newsagent shop to storage area for attached dwelling house	53 High Street Draperstown	18/02/2016	Patrick Rodgers 53 High Street Draperstown BT45 7AB	Aidan O'Hagan Architectural Services 5 Drumderg Road Draperstown
LA09/2015/0851/F	Proposed erection of dwelling and garage on a farm in substitution of outline planning approval M/2014/0403/O	Land approx. 100m East of 19a Derrycloony Road Augher	18/02/2016	Mr Cathal McGirr 2 Irish Street Augher	Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/0856/F	Retention of change of use from bank (Class A2) to community building and ancillary offices and retention of two no. storage containers to the rear (Class D).	3 Dungannon Road Coalisland	18/02/2016	Coalisland Residents Community Forum Western House 3 Dungannon Road Coalisland	Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
LA09/2015/0947/F	Proposed retrospective application for the retention of re-distributed and raised layering of surplus excavated clay material, reverting the drea back to open green space	450m South West of 6 Killyliss Road Dungannon BT70 1RP	18/02/2016	Portafill International Ltd 29 Farriter Road Dungannon BT70 1TL	McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
LA09/2015/1062/O	Proposed dwelling and garage	90m North of 78 Ballygittle Road Stewartstown Dungannon	18/02/2016	John Corr 78 Ballygittle Road Stewartstown Dungannon	Barry Canavan 110 Mountjoy Road Brocagh Dungannon BT71 5DY
LA09/2015/1130/F	2 Storey dwelling with garage (renewal of M2010/0916/F)	Approx 265m South West of 112 Mountjoy Road Dungannon	18/02/2016	Miss Grace Watters and Mr Ross Black 112 Mountjoy Road  Magheralambfield Dungannon	2020 Architects 37 Main Street Ballymoney BT53 6AN

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1212/LE	Retention of change of use from former bank buildings (class A2) to community based building offices (class D1) and retention of two no. storage containers to the rear	3 Dungannon Road Coalisland	18/02/2016	Coalisland Residents and Community Forum Western House 3 Dungannon Road Coalisland BT71 4HP	Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
LA09/2015/1115/O	Proposed site for replacement dwelling and double domestic garage	110m South East of 58 Annaghmore Road Castledawson BT45 8DU	22/02/2016	Mr John Lennox 63 Annaghmore Road Castledawson BT45 8DU	
LA09/2015/1124/RI	Farm Dwelling and Garage	Land adjacent to 29 Carrydarragh Road Money more	22/02/2016	Mr Noel McAdoo c/o Agent	CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
LA09/2015/1155/RI	Dwelling and Garage	60m SW of 54 Moneyneany Road Draperstown Magherafelt	22/02/2016	Mr McAuley & Ms Devlin 41 Sixtowns Road Draperstown BT45 7BA	Slemish Design Studio Raceview Mill 29 Raceview Road Broughshane BT42 4JJ
LA09/2015/1198/F	Proposed conversion, alteration and 2 storey front extension of Old Coach House to 2no. apartments	Property to the rear of 28 Northland Row Dungannon	22/02/2016	Alexander Bain and Murray 28 Northland Row Dungannon BT71 6AP	McCarter Hamill Architects 44 Circular Road Dungannon BT71 6BE

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1204/F	Retention of dwelling under construction, including amendment of house location and levels as previous approved dwelling ref:M/2014/0308/F	Site between 131 and 139 Killymeal Road Dungannon	22/02/2016	Mr and Mrs Karl Anderson c/o Mr Eamon Mallon 139 Killymeal Road Dungannon BT71 6LE	J . Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
LA09/2015/1234/LI	A grass runway for aircraft (approx. 300mx5m)	Syerla Road Dungannon (approx. 1/2 mile to the SSE of Moygashel)	22/02/2016	Mr Glenn Millar 1 Mullybrannon Road Dungannon BT71 7ER	
LA09/2015/1243/RI	Proposed dwelling and garage on a farm	Site immediately East of 15 Strawmore Road Draperstown	22/02/2016	Paul McCullagh 23 Gortnaskey Road Draperstown BT45 7JX	C McIlvar Ltd 89 Main Street Garvagh Coleraine BT51 5AB
LA09/2015/1306/F	Proposed new single storey detached structure to provide gym facility	51 Longfield Road Desertmartin	22/02/2016	Saint Martins GAC 51 Longfield Road Desertmartin	Paul Moran Architect 18B Drumsamney Road Desertmartin Magherafelt BT45 5LA



## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2016/0008/F	Proposed first floor extension over extg. single storey rear accommodation to dwelling house	Tullynure Lodge 18 Castlecaulfield Road Donaghmore	22/02/2016	Mr J Faloon Tullynure Lodge 18 Castlecaulfield Road Donaghmore BT70 3PQ	Susan Rafferty 14 Willowfield Gardens Belfast BT6 9AZ
LA09/2016/0012/F	Change of use from retail area to off-license in existing shop with no change to external appearance or elevations	32-36 Main Street Augher	22/02/2016	Michael McElroy Ltd 32-36 Main Street Augher	Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
LA09/2016/0014/F	Two Storey Extension to Rear of Dwelling	19 Loughan Road Aughnacloy	22/02/2016	Mr Barry Loane 19 Loughans Road Aughnacloy BT69 6BZ	Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
LA09/2016/0077/A	Projecting sign on Main Street elevation and signage at main entrance, on side elevation.	Credit Union 52 Main Street Fivemiletown BT75 0PW.	22/02/2016	Murnaghan and Fee Solicitors Murnaghan and Fee Solicitors Boston Chambers Queen Elizabeth Road Enniskillen BT74 7DS	Keys and Monaghan Arhictects Ltd 12 Main Street Irvinestown BT94 1GJ

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1140/O	Proposed outline for 2 no. dwellings at 70m North of 45 Annaghmore Road Castledawson (Renewal of H/2011/0237/O)	70m North of no.45 Annaghmore Road Castledawson	23/02/2016	Mr John Keenan 60 Broagh Road Castledawson BT45 8ER	Paul Moran Architects 18b Drumsamney Road Dessertmartin Magherafelt BT45 5LA
LA09/2015/1195/LE	Proposed conversion, alteration and 2 storey front extension of Old Coach House to 2no. apartments	Property to the rear of 28 Northland Row Dungannon	23/02/2016	Alexander Bain and Murray 28 Northland Row Dungannon BT71 6AP	McCarter McGaw Hamill Architects 44 Circular Road Dungannon BT71 6BE
LA09/2016/0068/LI	Proposed agricultural access East of 18 Lisgallon Road by creating a new lane	18 Lisgallon Road Ennish Dungannon	23/02/2016	Patrick Daly 8 Stiloga Road Eglish Dungannon BT71 7DW	
LA09/2015/1112/F	Erection of a dwelling on a farm.	25m South of 111 Gortsraheen Road Cookstown	24/02/2016	Roland Mullin 111 Gortsraheen Road Pomeroy Cookstown	Building Design Solutions 76 Main Street Pomeroy BT70 2QP
LA09/2015/1128/F	Single storey gable extension with new bedroom and shower room	53 Greenvale Drive Cookstown BT80 8HW	24/02/2016	Ms Leon O'Neill 53 Greenvale Drive Cookstown BT80 8HW	Landlord Services Design Group 10-16 Hill Street Belfast BT1 2LA

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1183/O	Proposed gap site for new dwelling and garage	Lands between 135 and 137 Coolreaghs Road Cookstown	24/02/2016	Mr and Mrs MacMahon 133 Coolreaghs Road Cookstown	Taggart Design 133a Coolreaghs Road Cookstown BT80 9QD
LA09/2015/1111/F	3.3km 3x200mm Overhead Line on wooden poles for Eshmore wind Farm	60m South of 223 Termon Road Pomeroy to 130m SE of 52 Altmore Road Pomeroy crossing the Townlands of Cananakeeran Gortnagam Altmore and Turnabarson	25/02/2016	Northern Ireland Electricity Networks Annagh Drive Carn Industrial Estate Portadown BT63 5QJ	
LA09/2015/1158/F	Two Storey Rear Extension.	3 Millburn Avenue Cookstown	25/02/2016	Marius Zzyser 3 Millburn Avenue Cookstown BT80 8BU	Robbie Gilmour 20 Donaghendry Road Stewartstown BT71 5PW
LA09/2015/1191/F	Renew of lapsed planning application H/2012/0149/RM - replacement dwelling with 2 storey dwelling	Approx 720 NW of junction of Lisnamuck Road and Glenshane Road Maghera	25/02/2016	Michael Bradley 3 St Lurachs Gardens Tullyheron Maghera BT465JJ	Ward Design 10 Main Street Castledawson BT45 8SB

## Delegated Planning Applications Decisions Issued

Decision Issued From: 01/02/2016 To: 29/02/2016

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1221/F	Proposed single storey rear extension to dwelling	160 Tanderagee Road Pomeroy Dungannon	25/02/2016	Mrs Lorna Robinson 160 Tanderagee Road Pomeroy Dungannon BT70 3EB	Lissan Design 45 Letteran Road Moneymore BT45 7UB
LA09/2015/1307/O	Proposed infill site for dwelling and garage	Between 21A and 23A Drumullan Road Moneymore	25/02/2016	Mr Ciaran Bell 23 Drumullan Road Moneymore BT45 7XS	
LA09/2016/0007/O	Dwelling and garage	Adjacent to 55 and opposite 59 Coole Road Bogside Aughamullan Coalisland	25/02/2016	Joe Cullen 200 Washingbay Road Aughamullan Coalisland BT71 4QE	Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
LA09/2016/0019/RI	Proposed dwelling and garage for residential purposes	50m South West of 15 Carncose Road Cranny Moneymore	25/02/2016	Leanne McGuckin 13 Carncose Road Cranny Moneymore	Diamond Architecture 77 Main Street Maghera BT46 5AB
LA09/2015/1108/F	Two Storey Replacement Dwelling	12 Cavanreagh Road Draperstown	26/02/2016	Mr and Mrs Stephen Phillips 6 Calmore Court Tobermore Magherafelt BT45 5SF	M J Fullerton Design 12 Rainey Court Magherafelt BT45 5BX

## Delegated Planning Applications Decisions Issued

**Decision Issued From: 01/02/2016 To: 29/02/2016**

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2015/1268/RI	Proposed off site replacement dwelling and garage for domestic use with existing dwelling to be demolished	Site located 470m North of 80 Claggan Road Lissan Cookstown	26/02/2016	Mr Peter Quinn 38 Derrygarve Park Castledawson BT45 8EZ	
LA09/2016/0002/O	Dwelling	91A Aughrim Road Magherafelt.	26/02/2016	Wm. John Simpson 91 Aughrim Road Magherafelt BT45 6JY	
LA09/2016/0016/F	Proposed temporary staff room / office	4 Coltrim Road Moneymore	26/02/2016	J and K Coaches 4 Coltrim Road Moneymore	APS Architects LLP No4 6 Derryloran Industrial Estate Cookstown BT80 9LU
LA09/2015/1238/F	Proposed granny flat extension to side of existing dwelling (single storey) with kitchen extension to rear of dwelling (single storey)	119 Washingbay Road Coalisland	29/02/2016	Mr Michael Devlin 119 Washingbay Road Coalisland	Dennis O'Neill 90 Gortgonis Road  Coalisland BT71 4QG
LA09/2016/0071/F	Alterations and Side and Rear Extensions to Dwelling	5 Laghey Cottages Dungannon	29/02/2016	Jonathan and Julie Mills 5 Watts Park Dungannon BT71 6SF	J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY

## Delegated Planning Applications Decisions Issued

Decision Issued From: 01/02/2016 To: 29/02/2016

Reference Number	Proposal	Location	Date Decision Issued	Applicant	Agent
LA09/2016/0073/F	Erection of a double garage	Site adjacent and west of number 23 Tamnamore Road Killyman Dungannon	29/02/2016	Mr Colin Turkington Corove Ltd 14 Tullylagan Road Sandholes Cookstown BT80 9AZ	McAdam Stewart Architects Banbridge Enterprise Centre Scarva Road Banbridge BT32 3QD
LA09/2016/0074/F	Erection of a double garage	Site adjacent and east of number 8 Clarfield Tamnamore Road Killyman Dungannon	29/02/2016	Mr Colin Turkington Corove Ltd 14 Tullylagan Road Sandholes Cookstown BT80 9AZ	McAdam Stewart Architects Banbridge Enterprise Centre Scarva Road Banbridge BT32 3QD