



19 June 2023

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Monday, 12 June 2023 at 19:00 to transact the business noted below.

A link to join the meeting through the Council's remote meeting platform will follow.

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

1. Notice of Recording  
This meeting will be webcast for live and subsequent broadcast on the Council's You Tube site [Live Broadcast Link](#)
2. Apologies
3. Declarations of Interest  
Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.
4. Chair's Business

### Matters for Decision

#### Development Management Decisions

5. Receive Planning Applications 11 - 740

|      | Planning Reference | Proposal   | Recommendation |
|------|--------------------|--|----------------|
| 5.1. | LA09/2019/0335/F   | Six semi detached 2 storey dwellings with private drive and associated site works at Lands | APPROVE        |

|      |                  |   |         |
|------|------------------|---|---------|
|      |                  | opposite 9 Cabragh Road, Cabragh, Dungannon for Laurence MC Guigan  |         |
| 5.2. | LA09/2019/0937/F | Amendment to road junction (approved LA09/2015/0881/F) to include new footpath along Anneeter Road and Ardean Close at Junction of Anneeter Road & Battery Road, Cookstown for St Malachy's GAC Moortown  | APPROVE |
| 5.3. | LA09/2020/0368/F | Change of use from a barber shop to a gym at 11-13 Rainey Street, Magherafelt for Shane Maguire   | APPROVE |
| 5.4. | LA09/2020/0472/F | Winning and working of minerals (sand and gravel) across an area of c.12 ha; construction of a new site access and haul route; erection of processing plant and machinery (washing plant), weighbridge and office with restoration to agriculture (further info - Noise/Dust Report) at lands to the W of Iniscarn Road and N of Crocknamohil Road, Draperstown for Hollow Park Sand and Gravel Ltd | APPROVE |
| 5.5. | LA09/2020/0780/O | Furniture storage/warehouse facility at site 80m W of 37 Charlemont Street, Moy, Dungannon for Moy Furniture Centre Ltd   | REFUSE  |
| 5.6. | LA09/2020/0966/F | Housing development of 26 two storey dwellings (20 semi-detached dwellings, 5 Townhouses and 1 detached dwelling), site road and associated site works at lands 20m W of 180 Battery Road, Moortown for Loughview Developments  | APPROVE |
| 5.7. | LA09/2020/1423/F | 1 two bedroom apartment and 2 one bedroom apartments at 28m NE of 30 Augher Road, Clogher, BT76 for RMS Civils  | REFUSE  |
| 5.8. | LA09/2021/0205/F | Mixed use redevelopment of former convent building & school to include:, public, community & interpretive spaces; event space including a restaurant/function   | APPROVE |

|       |                    |   |         |
|-------|--------------------|---|---------|
|       |                    | room; Parish office, archive store & library facility; General office space; Existing chapel to be retained for occasional mass services; Nursery & Creche facility; Ancillary spaces & redevelopment of surrounding curtilage to provide gardens, interpretive space & car parking plus waste water treatment plant (revised description) at Sisters of Mercy Convent, 9 Northland Row, Dungannon, for Drumglass Parish Trust Fund   |         |
| 5.9.  | LA09/2021/1396/O   | Site for housing development. at 34 Main Street, Tullyhogue, Cookstown. for Calvert Development Ltd   | REFUSE  |
| 5.10. | LA09/2021/1559/LBC | Mixed use redevelopment of former convent building & school to include:, public, community & interpretive spaces; event space including a restaurant/function room; Parish office, archive store & library facility; General office space; Existing chapel to be retained for occasional mass services; Nursery & Creche facility; Ancillary spaces & redevelopment of surrounding curtilage to provide gardens, interpretive space & car parking plus waste water treatment plant (revised description) at Sisters of Mercy Convent, 9 Northland Row, Dungannon, for Drumglass Parish Trust Fund | APPROVE |
| 5.11. | LA09/2021/1653/F   | Extension of facilities, provision of new workshop, new access to public road to replace existing substandard access, adequate parking, associated site works and landscaping at site Immediately E of 19 Annagh Road, Lungs, Clogher, for Malcolm Keys   | REFUSE  |
| 5.12. | LA09/2021/1708/F   | Access at 276 Mountjoy Road, Stewartstown, Dungannon. for Mr Stephen Hughes   | APPROVE |

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| 5.13. | LA09/2022/0047/F | Store & associated parking at 80m N of 74 Kilmasally Road, Ardboe for Gary Campbell   | APPROVE |
| 5.14. | LA09/2022/0264/F | Renewal of LA09/2016/0361/F - free range poultry house at approx. 690m NE of 16 Greenhill Road, Ballygawley for Mr Eugene MC Bride  | REFUSE  |
| 5.15. | LA09/2022/0281/F | Housing development of 13 units (12 two storey semi detached and 1 two storey detached) opposite Cluntoe Park, Ardboe Rd, Cookstown, for Hagan Builders   | APPROVE |
| 5.16. | LA09/2022/0424/F | Mixed use scheme comprising the erection of a three storey building, retention and alterations to existing building on Rainey Street and existing rear return to provide 13 apartments (total), retention of 2 retail units, amenity space, car parking and ancillary site works at lands at 39-41 Rainey Street, Magherafelt, for Genmark Developments | APPROVE |
| 5.17. | LA09/2022/0454/F | Dwelling and garage on a farm at land approx. 60m SW of 6 Beaghbeg Road, Dunamore, Kildress for Louise Devlin   | REFUSE  |
| 5.18. | LA09/2022/0465/F | 25m high lattice telecommunications tower on elevated ground with antenna & dishes located within a new compound area to be enclosed with a 1.2m high timber stock proof fence & access track to installation at area of field approx. 750m NE of Ballnagilly Road, Lissan, Cookstown for Cornerstone Telecommunications                                | APPROVE |
| 5.19. | LA09/2022/0576/O | Dwelling and garage at 35m W of 77 Carraloan Road, The Woods, Magherafelt for Mr John Gribbin   | APPROVE |
| 5.20. | LA09/2022/0600/F | Battery energy storage system facility 100MW (BESS) and associated 33KV transformers, including 2 switch houses with control rooms lighting and closed-circuit television (CCTV) columns, new site boundary fencing and landscaping proposals, use of   | APPROVE |



|       |                  |  |         |
|-------|------------------|--|---------|
|       |                  | existing access and ancillary development works, including underground cabling route linking the site to Tamnamore main substation to the W at lands immediately E of Tamnamore Substation and 260m SW of 167 Ballynakilly Road, Coalisland, Dungannon for Heron Storage Ltd |         |
| 5.21. | LA09/2022/0624/F | Section 54 application requesting to remove the requirement of road widening & provision of an additional footpath along the frontage of the development (LA09/2017/0487/F) at O'Rahilly GFC, 93 Washingbay Road, Coalisland, for Clonoe O'Rahilly GFC                       | REFUSE  |
| 5.22. | LA09/2022/0626/F | Two agricultural sheds for housing sheep/feed/machinery and the retention of two existing sheds. at 100m WSW of 43 Tullynagee Road, Moneymore for Paul McCrystal   | APPROVE |
| 5.23. | LA09/2022/0630/O | 5 no. 2 storey dwellings (1 detached and 4 semi detached) at 73 Main Street, Tobermore, for Mr C Beatty  | REFUSE  |
| 5.24. | LA09/2022/0657/O | Dwelling and domestic garage at 40m W of 62 Ballynargan Road, Stewartstown, for Nuala McReynolds   | REFUSE  |
| 5.25. | LA09/2022/1183/O | Site for dwelling on a farm at 250m NE of 19 Derrylattinee Road, Dungannon for Caolan Gildernew  | APPROVE |
| 5.26. | LA09/2022/1193/O | Dwelling and domestic garage at 20m NE of 168 Washingbay Road, Coalisland, for Mrs Anne Nugent   | APPROVE |
| 5.27. | LA09/2022/1209/F | Dwelling with integrated garage and associated site amenities at 180m NE of 40 Foygh Road, Castlecaulfield, Dungannon for Mr And Mrs McCausland  | APPROVE |
| 5.28. | LA09/2022/1420/F | Extension of existing factory to include new assembly/workshop, paint-line, offices to increase production of existing product.  | APPROVE |

|       |                  |   |         |
|-------|------------------|---|---------|
|       |                  | Extension of car parking & associated works at Emerson, Ballyreagh Industrial Estate, Cookstown for Emerson   |         |
| 5.29. | LA09/2022/1509/F | Farm Storage Shed at 170m W of 4 Dunmurry Road, Draperstown for Joe McWilliams  | REFUSE  |
| 5.30. | LA09/2022/1572/O | Site for 2 storey dwelling between 8 and 14 Drumvale Avenue, Cookstown for Mr Fergal Eastwood   | APPROVE |
| 5.31. | LA09/2022/1686/O | Dwelling and garage at 61 Ballynakilly Road, Coalisland for Mr Terry McCann   | REFUSE  |
| 5.32. | LA09/2022/1687/F | Retention of commercial access and extension to storage yard a(pproved LA09/2021/0899/F) at 30 Tullyodonnell Road, Rock, Dungannon, for Mr Paul McGoldrick  | APPROVE |
| 5.33. | LA09/2022/1730/O | Dwelling & detached garage (Replacement) at approx 45m SW of 239 Coalisland Road, Dungannon for Mr JP Canavan   | APPROVE |
| 5.34. | LA09/2022/1736/O | Dwelling and garage at approx 210m SE of 59 Glengomna Road, Draperstown for Sean Donnelly   | REFUSE  |
| 5.35. | LA09/2022/1740/O | Site for farm dwelling and garage at 50M East of 18 Drummond Road, Dungannon for Mr Norman Watt   | APPROVE |
| 5.36. | LA09/2022/1743/O | Dwelling and garage at approx 30m W of 5 Carrydarragh Road, Moneymore for Mr Randall Crooks   | REFUSE  |
| 5.37. | LA09/2022/1762/F | Development of the existing playing field to incorporate pedestrian trim trail, formalized car parking area, access link to the existing children's playpark to the north of the site. Provision of a 70sqm service building, new polytunnel and rainwater collection system. at existing playing field and allotment area within Park View, Castledawson for Mr Johnny McNeill | APPROVE |
| 5.38. | LA09/2022/1777/O | 2 storey dwelling with detached garage adjacent to and S of 14  | REFUSE  |

|       |                  |   |         |
|-------|------------------|---|---------|
|       |                  | Tullylinton Road, Dungannon for Mr R Hopper   |         |
| 5.39. | LA09/2023/0034/F | Amended rear pedestrian access to shop & first floor apartment at 108 and 108B Main Street, Fivemiletown, for Mr Gary Coote   | APPROVE |
| 5.40. | LA09/2023/0045/O | Dwelling and domestic garage at lands immediately E and adjacent to 103 Old Caulfield Road, Castlecaulfield for Eugene McKenna  | APPROVE |
| 5.41. | LA09/2023/0073/O | Dwelling and domestic store on farm at lands 70m N of 158A Washingbay Road, Coalisland for Martin Hughes  | APPROVE |
| 5.42. | LA09/2023/0076/O | Infill dwelling and garage at land between 6 and 15 Dungororan Road, Dungannon for Miss Jessica Brown   | REFUSE  |
| 5.43. | LA09/2023/0141/O | Farm building for sheep handling and sheep feed store at 15m E of 101 Bancran Road, Draperstown for Mr Dermot Brown   | REFUSE  |
| 5.44. | LA09/2023/0148/O | Site for dwelling and garage at adjacent and S of Killygullib Orange Hall, Tamlaght Road, Kilrea for Mr Terence Birt  | APPROVE |
| 5.45. | LA09/2023/0162/F | Change of Use of existing commercial property into 2 residential apartment at 27 Union Place, Dungannon for Mr John Rafferty  | APPROVE |
| 5.46. | LA09/2023/0164/F | Redevelopment of existing Integrated College Dungannon to provide a new integrated post primary school to accommodate circa. 700 pupils (as existing). Works to include demolition of existing buildings, phased construction of new two-storey school accommodation and extension to existing sports block. Other works include 2 new grass pitches, 5 new tennis courts, hard play areas, a sensory garden, cycle parking area, fencing, retaining walls, car parking, landscaping and all associated site works. Vehicular and pedestrian access to the main | APPROVE |

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|-------|------------------|--|---------|
|       |                  | school site will be maintained off Gortmerron Link Road and an additional access point is proposed through to Stevenson Park Rugby grounds, to facilitate the southern pitches. at Integrated College Dungannon, , 21 Gortmerron Link Road, Former Pitches to The South East and Portion of Dungannon Rugby, Club (Stevenson Pk) at 36 Moy Road, Dungannon for Board of Governors of Integrated College, Dungannon |         |
| 5.47. | LA09/2023/0175/F | Change of house type to M/2009/0967/RM, extension of dwelling curtilage and erection of domestic garage at 103D Ballagh Road, Fivemiletown for Mr Cormac Mc Gale   | APPROVE |
| 5.48. | LA09/2023/0211/F | 2 infill dwellings adjacent to and immediately SE of 26 Whitetown Road, Newmills, Dungannon for Sydney Brown   | APPROVE |
| 5.49. | LA09/2023/0219/F | Off-site replacement dwelling and garage (substitution of M/2007/0028/RM) at lands approx 75m NE of 83 Clonavaddy Road, Galbally, Dungannon for Mr Tiarnan McKenna   | REFUSE  |
| 5.50. | LA09/2023/0232/O | Infill site for dwelling between 139 and 143 Drumagarner Road, Kilrea for Mr Brian Mc Closkey  | REFUSE  |
| 5.51. | LA09/2023/0280/F | Single storey extension to the rear of 21 Loran Vale, Cookstown for Ryan McKenna   | APPROVE |
| 5.52. | LA09/2023/0281/F | Single storey extension and alterations at 58 Station Road, Maghera, for Mr & Mrs Leslie & Sharon Smith & Lynd-Smith   | APPROVE |
| 5.53. | LA09/2023/0284/F | Single storey dwelling and access lane at lands approx. 20m NW of 10 Colliers Lane, Coalisland for Mr Brian Carron   | REFUSE  |
| 5.54. | LA09/2023/0317/F | Infill dwelling and garage at 15m NW of 259 Hillhead Road, Knockcloghrim for Albert Speer  | REFUSE  |
| 5.55. | LA09/2023/0318/O | Dwelling in an existing cluster at 50m SE and adjacent to 166  | APPROVE |

|       |                  |  |         |
|-------|------------------|--|---------|
|       |                  | Washingbay Road, Coalisland for Michelle O'Hagan   |         |
| 5.56. | LA09/2023/0328/F | Renewal of LA09/2017/1700/F - extension to rear and side of dwelling to accommodate at 5 Coolmount Drive, Cookstown for Emma McAleer | APPROVE |
| 5.57. | LA09/2023/0407/O | Infill site for dwelling with garage, driveways and septic tank lands between 112 and 116 Lismoyle Road, Swatragh for Mr Paul Tohill | APPROVE |
| 5.58. | LA09/2023/0408/O | Infill dwelling and garage at lands between 112 and 116 Lismoyle Road, Swatragh, for Mr Bosco Tohill                                 | APPROVE |
| 5.59. | LA09/2023/0423/F | Infill dwelling and outbuildings at lands between 7 and 11 Roughan Road, Stewartstown for Mr Martin Armour                           | APPROVE |

#### 6. Receive Deferred Applications

741 - 870

|      | Planning Reference | Proposal  | Recommendation |
|------|--------------------|---|----------------|
| 6.1. | LA09/2020/0093/O   | Dwelling and garage on a farm at 60m E of 43 Carnaman Road, Gulladuff for Mr James McErlean                 | APPROVE        |
| 6.2. | LA09/2021/0352/F   | Stable and store at lands approx. 55m W of 303 Battleford Road, Dungannon, for Mr Patrick McKenna           | REFUSE         |
| 6.3. | LA09/2021/0739/F   | Dwelling & garage/store. at 150m NE of 230 Coalisland Road, Gortin, Dungannon, for Mr Cathal Keogh          | APPROVE        |
| 6.4. | LA09/2021/1286/O   | Dwelling and garage under CTY 10 at 30m SW of 30 Cloane Road, Draperstown for Sean Gallagher                | APPROVE        |
| 6.5. | LA09/2021/1366/F   | 5 glamping pods and associated external works at 170m SE of 52 Derrycourtney Road, Caledon for Mr Jim Moore | APPROVE        |
| 6.6. | LA09/2022/0490/O   | Dwelling and garage on a farm at 194m SW of 8 Killybearn Lane, Cookstown for Martyn Devlin                  | APPROVE        |
| 6.7. | LA09/2022/0654/O   | Dwelling and Garage at lands 40m SW of 50 Battery Road, Coagh for Joanne Devlin                             | APPROVE        |

|      |                  |   |         |
|------|------------------|---|---------|
| 6.8. | LA09/2022/0732/O | Dwelling and garage at 110m NE of 26 Broagh Road, Knockcloghrim, Magherafelt, for Martin McErlean | APPROVE |
|------|------------------|---|---------|

- |    |   |           |
|----|---|-----------|
| 7. | Receive Report on Increased Charges for Property Certificates                     | 871 - 878 |
| 8. | Receive Report on DFIs Consultation on Revised Regional Strategic Planning Policy | 879 - 902 |

Matters for Information

- |    |  |           |
|----|--|-----------|
| 9  | Minutes of Planning Committee held on 4 April 2023 | 903 - 922 |
| 10 | Receive Planning Department Service Plan 2023- 24  | 923 - 940 |

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

Matters for Decision

11. Receive Report on Staffing Restructure
12. Receive Report on Advanced Notice of Listing - Fivemiletown
13. Receive Report on Advanced Notice of Listing - Maghera
14. Receive Enforcement Report

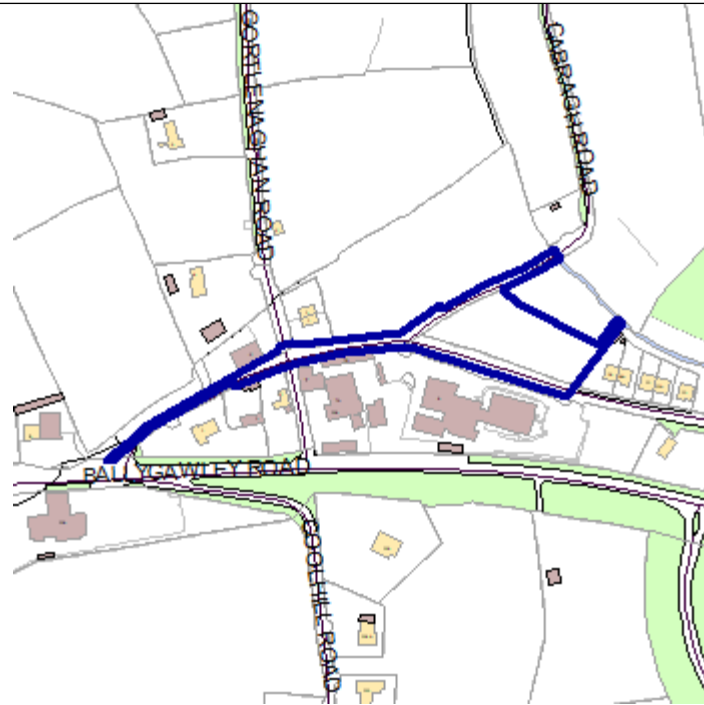
Matters for Information

15. Confidential Minutes of Planning Committee held on 4 April 2023
16. Enforcement Cases Opened
17. Enforcement Cases Closed
18. Enforcement Live Case List



## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.1   |
| <b>Application ID:</b><br>LA09/2019/0335/F  | <b>Target Date:</b> 8 May 2019   |
| <b>Proposal:</b><br>Six semi detached 2 storey dwellings with private drive and associated site works (revised site area to include footpath provision, revised location of footpath) | <b>Location:</b><br>Lands Opposite 9 Cabragh Road<br>Cabragh<br>Dungannon                            |
| <b>Referral Route:</b><br>Approve is recommended<br><br>A number of objections have been received to the application.   |  |
| <b>Recommendation:</b> Approve  |  |
| <b>Applicant Name and Address:</b><br>Laurence MC Guigan<br>38 Garvagh Road<br>Donaghmore<br>Dungannon  | <b>Agent Name and Address:</b><br>Building Design Solutions<br>76 Main Street<br>Pomeroy<br>BT70 2QP |
| <b>Executive Summary:</b>   |  |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                        | <b>Response</b>                     |
|--------------------------|---|-------------------------------------|
|                          | NIEA                                    | Substantive:<br>YResponseType: FR   |
|                          | Shared Environmental Services           | Substantive:<br>TBCResponseType: FR |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | NI Water - Multiple Units West          | Substantive:<br>TBCResponseType: FR |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |



|   |                                |                                   |
|---|--------------------------------|-----------------------------------|
|   | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|   | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|   | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|   | DFI Roads - Enniskillen Office | Substantive: TBC                  |
| Statutory Consultee   | DFI Roads - Enniskillen Office | 10-02-2023.docx                   |
| Statutory Consultee   | DFI Roads - Enniskillen Office | Conditions.docx                   |
| <b>Representations:</b>   |                                |                                   |
| Letters of Support  | 0                              |                                   |
| Letters of Objection  | 2                              |                                   |
| Letters Non Committal   | 0                              |                                   |
| Number of Support Petitions and signatures  |                                |                                   |
| Number of Petitions of Objection and signatures   |                                |                                   |
| <b>Summary of Issues</b>  |                                |                                   |
| <p>A letter of objection has been received to the planning application from No 5 Cabragh Road which is dwelling house and the same objector has objected on behalf of his commercial premises on the opposite side of the road at No 6 Cabragh Road. The objections are on the basis of a change to the road network which will affect access to his premises. The works will not impact on the aforementioned properties being accessed as they currently are.</p> <p>The neighbours and objectors were notified on 14 May 2023 of the final layout and works and no further objections have been received on the revised plans.</p> |                                |                                   |
| <b>Characteristics of the Site and Area</b>   |                                |                                   |
| <p>The application site is located within the development limits of Cabragh as identified in the Dungannon and South Tyrone Area Plan 2010. The site is part of a larger agricultural field. To the south, and on the opposite side of Cabragh Road, is Glenview Nursing Home. The remainder of the immediate land uses are either agricultural or detached residential dwellings.</p>  |                                |                                   |
| <b>Description of Proposal</b>  |                                |                                   |
| <p>This is an application for a housing development of 6 semi-detached dwellings and associated site works.</p>   |                                |                                   |
| <b>Planning Assessment of Policy and Other Material Considerations</b>  |                                |                                   |
| <b><u>Policy Consideration</u></b>  |                                |                                   |

Regional Development Strategy  
Strategic Planning Policy Statement  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3 - Access, Movement and Parking  
Planning Policy Statement 7 - Quality Residential Environments  
Planning Policy Statement 15 - Planning and Flood Risk

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

The settlements of Aghaginduff/Cabragh comprise three separate clusters of development and the application site is located within the settlement limit of the most eastern of these clusters. The Area Plan states that housing development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement. It goes on to state that residential developments in excess of five units will not normally be permitted, though it does not preclude in excess of 5 units and consideration will given to the context of the site and the design and layout of this proposal.

The proposal is for 6 semi-detached dwellings on the application site. The site falls away from the Cabragh Road by up to 5m. The dwellings are therefore designed to be stepped down in each pairing. Sites 1 and 2 are proposed fronting towards the Cabragh Road, with site 3/4 and 5/6 sitting side onto the Cabragh Road. There is a strong belt of mature trees along the road which will significantly soften the impact as the siting is restricted by the topography of the land. In terms of the guidance in Creating Places the private amenity spaces are well in excess of 70 square metres and the properties will not overlook any other residential properties. There is no capacity at the WWTW and the agent has included details of private package plants to accommodate the waste. Planning permission was granted for a development of 4 semi detached and 1 detached dwelling close to the site to the east along the Cabragh Road. I consider the semi-detached dwellings currently proposed to be appropriate given the context of the area. It is my opinion that 6 dwellings, though not normally permitted, is appropriate at this location.

There has been a considerable number of amended drawings received for this application based on concerns from DfI Roads. Following the submission of a number of amended drawings and a Design Scheme Overview to address the reduction in standards the scheme is now considered to be acceptable to DfI Roads. There are no concerns from EHO or SES. There is no history of flooding at this site.

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 (NI) 1995 (as

amended). The proposal would not be likely to have a significant effect on the features of any European site.

I recommend an approval of the application subject to the conditions below.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

The existing natural screenings of the site, as noted on approved drawing 02/10, date stamped received 06 March 2023 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: : To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Condition 3**

During the first available planting season after the occupation of the first dwelling, a hawthorn/natural species hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the amenity afforded by existing hedges is maintained.

**Condition 4**

During the first available planting season after the occupation of the last dwelling, a native species hedgerow shall be planted along those identified boundaries of the site as noted on drawing 02/10 date stamped 06 March 2023.

Reason: In the interest of visual amenity.

**Condition 5**

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council 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 Drawings No 02/10 bearing the date stamp 06 March 2023.

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.

**Condition 6**

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road, including footway provision, have been completed in accordance with the details outlined blue on Drawing Number 02/10 bearing the date stamp 06 March 2023. The Council 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.

**Condition 7**

The vehicular accesses, including visibility splay at the junctions of the private drives with the public road shall be provided in accordance with Drawing No. 02/10 bearing the date stamp 06 March 2023, 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.

**Case Officer:** Karen Doyle

**Date:** 1 June 2023

| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 13 March 2019    |
| <b>Date First Advertised</b>   | 25 February 2021 |
| <b>Date Last Advertised</b>  | 27 March 2019    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>2 Cabragh Road, Cabragh, Tyrone, BT70 3AH<br>The Owner / Occupier<br>9 Cabragh Road Cabragh Tyrone BT70 3AH<br>The Owner / Occupier<br>15A , Cabragh Road, Cabragh, Tyrone, BT70 3AH<br>The Owner / Occupier<br>15 Cabragh Road, Cabragh, Tyrone, BT70 3AH<br>The Owner / Occupier<br>220 Ballygawley Road, Dungannon, Tyrone, BT70 1TF<br><br>The Owner / Occupier<br>Cabragh Filling Station, 230 Ballygawley Road, Dungannon, Tyrone, BT70 1TF<br>The Owner / Occupier<br>1 Cabragh Road, Cabragh, Tyrone, BT70 3AH<br>The Owner / Occupier<br>6 Cabragh Road, Cabragh, Tyrone, BT70 3AH<br>The Owner / Occupier<br>5 Cabragh Road, Cabragh, Tyrone, BT70 3AH |                  |
| <b>Date of Last Neighbour Notification</b>   | 17 May 2023      |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b>   |                  |
| <b>Summary of Consultee Responses</b><br><br>NIEA-Substantive: YResponseType: FR<br>Shared Environmental Services-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  |                  |

NI Water - Multiple Units West-Substantive: TBCResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBC  
DFI Roads - Enniskillen Office-10-02-2023.docx  
DFI Roads - Enniskillen Office-Conditions.docx

## **Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 02/8

Site Layout or Block Plan Plan Ref: 02/7

Site Layout or Block Plan Plan Ref: 02/6

Site Layout or Block Plan Plan Ref: 02/5

Site Location Plan Plan Ref: 01/3

Site Location Plan Plan Ref: 01/2

Site Layout or Block Plan Plan Ref: 02/1

Site Layout or Block Plan Plan Ref: 02/4

Site Layout or Block Plan Plan Ref: 03/1

Site Location Plan Plan Ref: 01/1

Site Layout or Block Plan Plan Ref: 02/3

Cross Sections Plan Ref: 05/1

Site Layout or Block Plan Plan Ref: 02/2

Cross Sections Plan Ref: 05

Site Location Plan Plan Ref: 01

Proposed Plans Plan Ref: 04

Site Layout or Block Plan Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

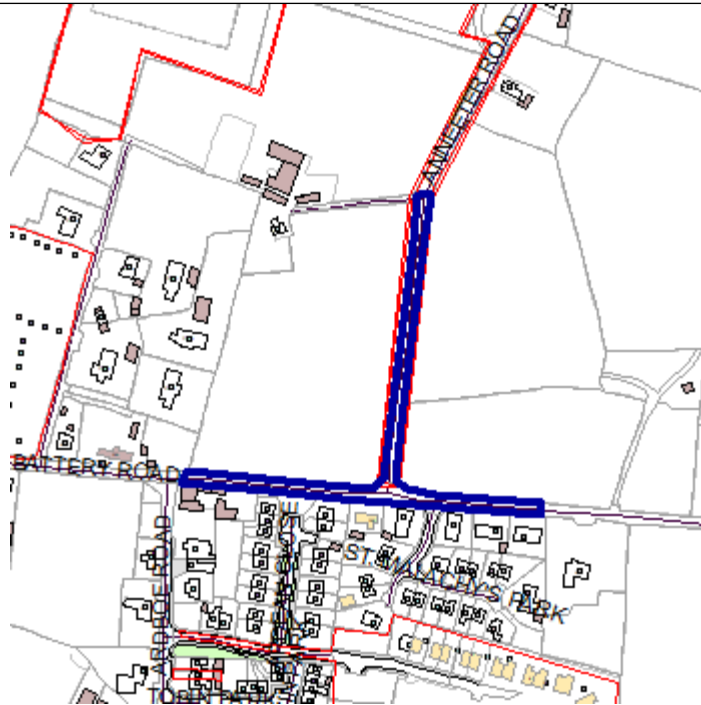
Not Applicable





## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.2  |
| <b>Application ID:</b><br>LA09/2019/0937/F   | <b>Target Date:</b> 2 September 2019  |
| <b>Proposal:</b><br>Proposed amendment to road junction approved under LA09/2015/0881/F to include new footpath along Anneeter Road and Ardean Close | <b>Location:</b><br>Junction Of Anneeter Road & Battery Road<br>Cookstown   |
| <b>Referral Route:</b><br>Approve is recommended   |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>St Malachy's Gac Moortown<br>6 St Malachy's Park<br>Cookstown<br>BT80 0ST                                      | <b>Agent Name and Address:</b><br>Aps Architects LLP<br>4 Mid Ulster Business Park<br>Sandholes Road<br>Cookstown<br>BT80 9LU |
| <b>Executive Summary:</b>  |   |

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

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**Consultations:**

| Consultation Type   | Consultee                      | Response                          |
|---------------------|--------------------------------|-----------------------------------|
|                     |                                | Substantive:<br>YResponseType: FR |
|                     | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|                     | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|                     | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|                     | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR |
|                     | DFI Roads - Enniskillen Office | Substantive: TBC                  |
|                     | DFI Roads - Enniskillen Office | Substantive: TBC                  |
|                     | DFI Roads - Enniskillen Office | Substantive: TBC                  |
|                     | DFI Roads - Enniskillen Office | Substantive: TBC                  |
|                     | DFI Roads - Enniskillen Office | Substantive: TBC                  |
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads approval 17 oct 2022.docx   |

**Representations:**

|                    |   |
|--------------------|---|
| Letters of Support | 0 |
|--------------------|---|

|  |   |
|--|---|
| Letters of Objection   | 2 |
| Letters Non Committal  | 0 |
| Number of Support Petitions and signatures   |   |
| Number of Petitions of Objection and signatures  |   |
| <b>Summary of Issues</b>   |   |
| <p><b>Characteristics of the Site and Area</b></p> <p>The site is located within the settlement limits of Moortown, as depicted within the Cookstown Area Plan, approx. 450m west of Lough Neagh.</p> <p>Moortown comprises two nodes of development. The site is in the larger of the two nodes and comprises the junction of the Battery Road and Anneeter Road; and lands running west and north of the junction along the Battery Road and Anneeter Road, respectively. The site is bound along both sides of the Anneeter Road primarily by a mix of post and wire fencing, hedging and interspersed trees; and along the Battery Road to the north side primarily by a mix of post and wire fencing and low roadside hedging, and to the south side by a mix of fencing, hedging and walls.</p> <p>Most of the housing within Moortown is located immediately south of the site along the Ardboe Road in the larger node with the smaller node just east of the site comprising principally a harbour area on the shores of Lough Neagh known as 'The Battery'. A range of local services and community facilities are dispersed in both nodes. St Malachy's GAC grounds including clubhouse, pitches, and ancillary parking are located just outside the settlement limits of Moortown in the rural countryside approx. 300m north of the junction of the Battery Road and Anneeter Road.</p> |   |
| <p><b>Description of Proposal</b></p> <p>This is a full planning application for the proposed amendment to a road junction (Anneeter Road &amp; Battery Road) approved under LA09/2015/0881/F to include new footpath along Anneeter Road and Battery Road. This proposal will in effect provide a footpath from the Ardboe Road and Battery Road junction known as Lavery's corner within Moortown, along part of the Battery Road and Anneeter Road, to Moortown GAA grounds located just north of the settlement limits.</p>  |   |
| <p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material</p>   |   |

considerations indicate otherwise.

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

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

#### Relevant Planning History

- I/2009/0288/F - Relocation of St Malachys Moortown GAC including 3 no playing fields with floodlighting (on 2 pitches) community building with changing facility, children outdoor playing area and associated parking - Land 135m North of 6 Anneeter Road, Moortown Cookstown - Granted March 2010

- LA09/2015/0881/F - Improvement works for both vehicular and pedestrian usage, superseding that initially approved under application no I/2009/0288/F - The junctions of Anneeter Road and Battery Road and the Ardboe Road and Battery Road Moortown - Granted November 2016

- LA09/2017/0831/F - Proposed Amendment to Condition No.1 of Planning Permission LA09/2015/0881/F to extend the time limit for the completion of the approved works to 24 months from the date of any new approval now granted - The junctions of Anneeter Road and Battery Road and the Ardboe Road and Battery Road Moortown - Granted August 2017

#### Consultees

1. DFI Roads were consulted and had no objections to the proposal subject to standard conditions and informatives. Accordingly, subject to adherence to the conditions stipulated, I am satisfied that that this proposal will comply with the requirements of Planning Policy Statement 3: Access, Movement and Parking.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) - The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. For the reasons detailed below I am content the proposed development should not cause demonstrable harm to interests of acknowledged importance.

Cookstown Area Plan 2010 - The site is inside the settlement limits of Moortown as defined by the Plan. Plan Policy Sett 1 of the Plan sets out criteria that must be met for the favourable consideration of proposals within settlement limits. I am content this proposal meets with this criteria in that the proposal is of a size, scale and nature that is in keeping with the size, character and function of the settlement. It respects the opportunities and constraints of the site and its surroundings. There should be no significant detrimental affect on amenities of neighbouring properties, nor should the proposal give rise to any unacceptable noise issues. There are no natural heritage features significance or built heritage assets of interests on site or in close proximity to the site to be impacted by this proposal. That said, to make provision for a footpath to run along the north side of the Battery Road and West side of the Anneeter Road, the removal of existing hedgerows and trees will be required. These will however be replaced by a hawthorn hedge set back to the rear of the previous hedge and a mix of mature trees. DfI Roads were consulted and had no objections to the proposal subject to standard conditions and informatives. When the works are completed DfI Roads will adopt the proposal under the Private Street Order. Accordingly, subject to adherence to the stipulated conditions and informatives, which can be attached to any subsequent decision, I am content a satisfactory means of access in the interests of road safety and the convenience of road users can be provided. There will be no sewage to dispose as a result of this proposal. No additional infrastructure is proposed. It would not prejudice the comprehensive development of the adjacent lands and it is in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan. The Plan identifies important views to be protected looking northeast away from the road junction the proposed works are to. I am content these views will not be impacted by this proposal. I consider the provision of the proposed footpaths, which in my opinion should enhance pedestrian safety and access around Moortown including to the GAA grounds reduce the need for commuting, would in fact give people time to safely take these views in.

#### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing 2 objections had been received from Ms Isaly the owner occupier of no. 6 Anneeter Road a dwelling with farm building to its north located approx. 180m northwest of the Battery Road and Anneeter Road junction and accessed off the Anneeter Road. Objections include:

- Ms Islay's objected to a roundabout at the Anneeter Road and Battery Road T- junction and footpath along the Anneeter Road and Battery Road at Ardean Close. Ms Islay offered alternatives / solutions to the roundabout and footpaths including: 1) a roundabout at the Battery Road and Ardboe Road T-junction, known as 'Lavery's Corner' to enhance road safety there given the volumes of traffic at it. 2) a footpath along the near side of the road so children from Ardean Close have direct access to it and can walk to the housing estate further along Battery Road on the same side of the road instead of the footpath proposed along Battery Road to Lavery's Corner as children coming from Moortown Ps and the local church would have to cross the busy road to use it, creating a safety breach. 3) a footpath along the remaining 1 ¼ m section of the Aneeter Road as it only has capacity for 1 car to pass at a time and would be more in need given no. of joggers and walkers using it instead of the ¼ m section proposed which is the widest part of the whole 1 ½ m long Anneeter Road where two cars can easily pass, and few people walk. Those attending the GAA grounds commute via car or

bus.

- Ms Islay states her family live and farm limited land at 6 Anneeter Road. That they run a pedigree herd of cattle they intend to increase. This proposal would remove a significant proportion of her acreage leaving her farm barely viable.
- Ms Islay advised when discussing the proposal for a roundabout with owner / occupiers of properties and landowners adjacent the junction she was the only person to have received a neighbour notification letter from the Council.
- No map has been included with the proposal.
- The proposal will remove well-established hedging and trees that are natural habitat to wild life species and creates shelter to the horses and cattle her family graze in the adjacent field.

The objections raised above have been taken into consideration however the opinion remains to recommend the approval of this proposal as it complies with the relevant policy provisions as detailed further above in the main body of the report. Whilst Ms Islay objects to a roundabout, a roundabout does not form any part of this proposal. Only the proposal as submitted can be considered, which subject to standard conditions and informatives DFI Roads have raised no objection to. Accordingly, I am content the proposal should not prejudice road safety or significantly inconvenience the flow of traffic. In fact, I consider the provision of the proposed footpaths should enhance pedestrian safety and access around Moortown including to the GAA grounds to the north of the site and reduce the need for commuting journey to the grounds. This proposal cannot be used to address other road safety issues in Moortown. With regards to the development being over / taking in part of the objectors lands the agent was contacted to confirm that the correct Certificate of ownership accompanying this application was completed or on the back of the objection if they wished to amend the Certificate. The agent advised the correct certificate was completed that the applicant was in ownership of all the lands outlined in red required to carry out the proposed works and a letter with folios to support this was received from Doris and MacMahon Solicitor's. That said with regards ownership / legalities surrounding the development of this site I am content as any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed works. Neighbour Notification has been carried out in line with the Council's statutory duty and notice has been served to identified occupiers on neighbouring land. Identified occupier means the occupier of premises within a 90m radius of the boundary of the application site; and neighbouring land means land which directly adjoins the application site, or which would adjoin it but for an entry or a road less than 20m in width. Detailed drawings did form part of this application. In relation to the removal of hedgerows and trees these are not protected, and any works being carried out, outside of the appropriate times and affecting protected species, would be a potential criminal matter outside the remit of Planning. Furthermore, in the interests of biodiversity I am content replacement hedging and trees are proposed. Whilst shelter to the horses and cattle referred to is the responsibility of the applicant, this planting should when established create shelter.

Recommendation: Approve

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions****Condition 1**

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

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

**Condition 2**

All proposed landscaping as detailed on Drawing No. 02 Rev.05 received 25 MAR 2021, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and biodiversity.

**Condition 3**

The access including visibility splays of 4.5m x 120m and 2.4m x 80m shall be provided in accordance with Drawing No. 02 Rev.05 received 25 MAR 2021, prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 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.

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

**Condition 4**

The Council 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. 02 Rev.05 received 25 MAR 2021.

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.

**Condition 5**

No other 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. 02 Rev.05 received 25 MAR 2021. The Council 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 agreements under Article 3 (4C) and Article 32.

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.

#### Informative 1

Under the The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992 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 DfI Roads to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

The developer, future purchasers and their successors in title should note that DfI Roads will not adopt any 'street' as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 until such time an Article 161 agreement between the developer and NI Water for the construction of foul and storm sewers including any attenuation holding tanks and discharge pipes has been fully implemented and works upon completion approved by NI Water Service.

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

Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from DfI Roads Street Lighting Consultancy, Marlborough House, Central Way, Craigavon, BT64 1AD. The Applicant is advised to contact DfI Roads Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is



available on personal application to the DfI Roads Section Engineer whose address is Deverney Road, Arvalee, Omagh Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road

Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.

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

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

Any person who wishes to place or retain apparatus in a street, and thereafter inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, unless that person has a statutory right to do so, is required to be in possession of a Streets Works Licence. This Licence can be obtained on personal application to the DfI Roads Maintenance Office

**Case Officer:** Emma Richardson

**Date:** 1 June 2023

| ANNEX  |                 |
|--|-----------------|
| <b>Date Valid</b>  | 8 July 2019     |
| <b>Date First Advertised</b>   | 27 April 2021   |
| <b>Date Last Advertised</b>  | 24 July 2019    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>182 Battery Road, Cookstown, Tyrone, BT80 0HS<br>The Owner / Occupier<br>21 St Malachys Park, Ardboe, Cookstown, Tyrone, BT80 0ST<br>The Owner / Occupier<br>1 St Malachys Park, Ardboe, Cookstown, Tyrone, BT80 0ST<br>The Owner / Occupier<br>22 St Malachys Park, Ardboe, Cookstown, Tyrone, BT80 0ST<br>The Owner / Occupier<br>2 Ardboe Road, Cookstown, Tyrone, BT80 0HT<br>The Owner / Occupier<br>186 Battery Road, Cookstown, Tyrone, BT80 0HS<br>The Owner / Occupier<br>6 Anneeter Road, Cookstown, Tyrone, BT80 0HZ<br>The Owner / Occupier<br>23 St Malachys Park, Ardboe, Cookstown, Tyrone, BT80 0ST<br>The Owner / Occupier<br>22 Ardean Close, Ardboe, Cookstown, Tyrone, BT80 0JN<br>The Owner / Occupier<br>23 Ardean Close, Ardboe, Cookstown, Tyrone, BT80 0JN<br><br>The Owner / Occupier<br>185 Battery Road, Cookstown, Tyrone, BT80 0HS |                 |
| <b>Date of Last Neighbour Notification</b>   | 13 April 2021   |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/1995/4054<br>Proposals: Extension/alterations<br>Decision: PDNOAP<br>Decision Date:   |                 |

Ref: I/1995/0440

Proposals: Replacement dwelling

Decision: PG

Decision Date:

Ref: I/1996/0139

Proposals: Replacement dwelling

Decision: PG

Decision Date:

Ref: I/2009/0134/F

Proposals: Care/residential home for the elderly consisting of 45 bedrooms over two levels, with associated gardens and parking space

Decision: PG

Decision Date: 21-JUN-10

Ref: I/1999/0165

Proposals: Proposed Extension and Alterations to Hall

Decision: PG

Decision Date:

Ref: I/2004/1002/F

Proposals: Proposed 16no Semi Detached dwellings & garages and 3no Town Houses

Decision: PG

Decision Date: 06-FEB-06

Ref: I/2009/0332/F

Proposals: Retention of existing constructed site entrance with a reduction in required sight lines

Decision: PG

Decision Date: 29-OCT-09

Ref: I/2004/0851

Proposals: Housing Development

Decision: 211

Decision Date: 26-OCT-04

Ref: I/2003/0259/Q

Proposals: Housing development

Decision: 211

Decision Date:

Ref: I/1997/0082

Proposals: Housing Development (18 no. houses)

Decision: PG

Decision Date:

Ref: I/1996/0127

Proposals: 3 dwellings i.e. one bungalow and two semi-detached

Decision: HISAPP  
Decision Date: 13-MAR-96

Ref: LA09/2015/0353/F  
Proposals: Care/Residential Home for the elderly consisting of 45 bedrooms over 2 levels, with associated gardens and parking space. (Renewal of previous planning permission I/2009/0134/F)  
Decision: PG  
Decision Date: 07-SEP-17

Ref: LA09/2017/0831/F  
Proposals: Proposed Amendment to Condition No.1 of Planning Permission LA09/2015/0881/F to extend the time limit for the completion of the approved works to 2 months from the date of any new approval now granted  
Decision: PG  
Decision Date: 24-AUG-17

Ref: LA09/2015/0881/F  
Proposals: Improvement Works for both Vehicular and Pedestrian Usage, superceeding that initially approved under application no I/2009/0288/F  
Decision: PG  
Decision Date: 01-NOV-16

Ref: I/2007/0885/F  
Proposals: Relocation of St Malachy Moortown GAC including 3 no. playing field with floodlighting (on 2 pitches), community building with changing facility, children outdoor playing area and associated parking  
Decision:  
Decision Date:

Ref: I/2009/0288/F  
Proposals: Relocation of St Malachys Moortown GAC including 3 no playing fields with floodlighting (on 2 pitches) community building with changing facility, children outdoor playing area and associated parking  
Decision: PG  
Decision Date: 18-MAR-10

Ref: LA09/2020/1193/F  
Proposals: Supermarket, self serve fuel station and associated site works (revised plans)  
Decision:  
Decision Date:

Ref: LA09/2019/0937/F  
Proposals: Proposed amendment to road junction approved under LA09/2015/0881/F to include new footpath along Anneeter Road and Ardean Close  
Decision:  
Decision Date:

Ref: I/2009/0422/F

Proposals: Housing and retail development consisting of 36 housing units (10 detached, 12 semi detached, 11 town houses & 3 apartments above retail units) and retail building with supermarket, first floor restaurant, 3 no. retail units, site road and associated site works (Amended site and layout)

Decision: PG

Decision Date: 09-MAY-11

Ref: I/2007/0286/O

Proposals: Housing development

Decision: PG

Decision Date: 18-FEB-09

Ref: I/2013/0020/F

Proposals: Proposed two storey replacement dwelling with garage

Decision: PG

Decision Date: 19-APR-13

Ref: I/1979/0453

Proposals: EXTENSION TO BAR

Decision: PG

Decision Date:

Ref: LA09/2019/0672/DC

Proposals: Discharge of conditions 6 & 7 of planning permission LA09/2015/1023/F.

Decision: AL

Decision Date: 19-JUN-19

### **Summary of Consultee Responses**

-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DFI Roads - Enniskillen Office-Roads approval 17 oct 2022.docx

### Drawing Numbers and Title

Proposed Plans      Plan Ref: 03  
Site Layout or Block Plan   Plan Ref: 02  
Site Location Plan   Plan Ref: 01

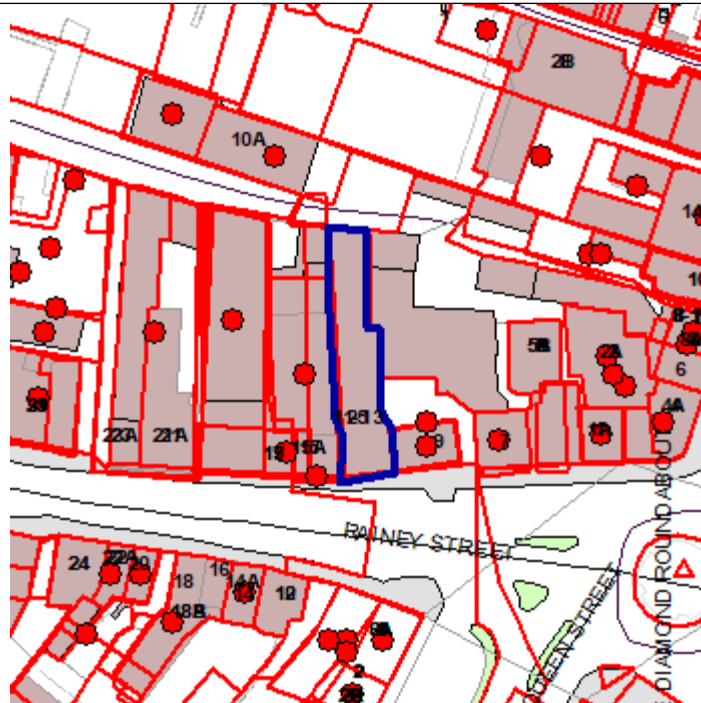
|  |
|--|
| <p><b>Notification to Department (if relevant)</b></p> |
|--|

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.3   |
| <b>Application ID:</b><br>LA09/2020/0368/F   | <b>Target Date:</b> 8 May 2020   |
| <b>Proposal:</b><br>Change of use from a barber shop to a gym.   | <b>Location:</b><br>11-13 Rainey Street<br>Magherafelt<br>BT45 5DA.                              |
| <b>Referral Route:</b><br>Approve is recommended<br><br>2 no. objections submitted   |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Shane Maguire<br>11 Rainey Street<br>Magherafelt   | <b>Agent Name and Address:</b><br>McGurk Architects<br>33 King Street<br>Magherafelt<br>BT45 6AR |
| <b>Executive Summary:</b><br><br>This application is before Planning Committee as there has been 2 no. objections submitted in respect of the proposal. These have been fully considered and do not merit refusal of the application. Approval is recommended as the proposal complies with all relevant policy as detailed further in the report. |  |

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

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**Consultations:**

| Consultation Type | Consultee                               | Response                            |
|-------------------|---|-------------------------------------|
|                   | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                   | Environmental Health Mid Ulster Council | Substantive: TBC                    |
|                   | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                   | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                   | Environmental Health Mid Ulster Council | Substantive: TBC                    |
|                   | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |

**Representations:**

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



## **Summary of Issues**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There have been 2 no. objections to the development, both submitted on behalf of McConnells shoe shop next door. The main concern raised relates to the impact of noise. Further consideration will be given to the objections later in this report.

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

The application site is located at 11-13 Rainey Street, Magherafelt. It is within the development limits of the town, within the Town Centre Boundary and is part of the Primary Retail Core. The site occupies a mid terrace 3 storey premises currently occupied by "Premier Gym". At the time of submission of the application it was occupied by "BT45 Barbers". Immediately to the East is Santander Bank and to the West is McConnells Shoe Shop. There is some on-street parking provision to the front of these properties.

The area, given its Primary Retail Core designation, is characterised by a wide range of retail uses ranging from shops, cafes, banks etc. This area is also recognised as being an area of historical archaeological importance.

## **Description of Proposal**

It is proposed to change the use of this building from a barbers shops to a gym. This change of use has taken place since the submission of this application back in Feb 2020 and so it is a retrospective proposal now.

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

### **Policy Consideration**

#### **Planning History**

H/2014/0217/F - Provision of a take away function to an already existing restaurant with change and conversion of existing bar to an ice-cream parlour. Approved.  
H/2000/0687/F - Change of use from clothes outlet to licenced restaurant. Approved.  
H/2000/0278/F - Change Of Use From Clothes Outlet To Cafe And New Shopfront. Approved.

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

Strategic Planning Policy Statement (SPPS)  
Local Development Plan 2030 - Draft Plan Strategy  
Magherafelt Area Plan 2015  
PPS 3: Access, Movement and Parking

The Magherafelt Area Plan (MAP) 2015 identifies the site as being located within the development limits of Magherafelt which gives favourable consideration to this type of development within the Town Centre and Primary Retail Core. It has no other area plan designations or key site requirements to adhere to. The MAP adds that proposals like this should be determined in accordance with the provisions of the prevailing regional planning policy. As discussed later in this report, I am content that the proposal would not have an adverse impact on the vitality and viability of Magherafelt Town Centre. Overall, I am content that there is no conflict with the MAP

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

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS contains a section, Town Centres and Retailing, where there is a focus on a town centre first approach for retailing and related facilities including employment, leisure and cultural uses. The thrust of the town centre first approach is to locate complimentary uses together within town centres so as to enhance the vitality and viability of town centres, to promote walking due to concentration of services and to promote sustainable development. This leisure facility is located within the designated town centre, so I am of the view that there will be no demonstrable harm caused to the town centre vitality and viability due to the size and scale of the proposal.

This proposal will have minimal impact on the external appearance of the building. Any signage will be considered under a separate application. The proposed works to the inside of the building are related more so with the use change to the proposed gym. Environmental Health have been consulted and initially raised concerns about noise. Similar concerns were also raised by an objector. Following submission of a noise assessment and some further clarification, Environmental Health have recommended conditions to be attached to any decision. On the basis of these conditions to mitigate against any noise issues, I do not have any concern about amenity. It is also important to note that the adjacent properties are commercial and not residential. In terms of parking provision, due to the town centre location of the site, there is no in-curtilage parking. It is accepted that on street parking will be utilised along with Town Centre Car Parks which are located close by.

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

Condition 1

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

Reason: This is a retrospective application

Condition 2

No workout classes, amplified music/PA system shall operate in the premises during night time hours of 23:00 hours to 07:00 hours.

Reason: To prevent noise break-out from the gym to neighbouring premises.

Condition 3

Proprietary noise absorbent floor mats shall be installed by a competent person beneath equipment and weights areas

Reason: To prevent noise break-out from the gym to neighbouring premises.

Condition 4

All gym equipment fitted / attached to internal structural elements (walls/ceilings) shall be resiliently mounted to prevent structure borne noise transfer.

Reason: To prevent noise break-out from the gym to neighbouring premises.

Condition 5

The internal reverberant noise level within the hereby approved gym must not be in excess of 80 dB LAeq.

Reason: To prevent noise break-out from the gym to neighbouring premises.

Condition 6

All doors opening to the gym shall be equipped with self closing devices and shall not be held open other than for the means of ingress and egress.

Reason: To prevent noise break-out from the gym to neighbouring premises.

Condition 7

The noise levels generated by any air conditioning unit shall not exceed 30dB LAeq (5 min) measured at 10m. The noise levels generated by any extraction fan unit(s) shall not exceed 41dB LAeq (5 min) measured at 1m

Reason: To prevent noise break-out from the gym to neighbouring premises.

**Case Officer:** Karla McKinless

**Date:** 12 May 2023

| ANNEX   |                 |
|---|-----------------|
| <b>Date Valid</b>   | 13 March 2020   |
| <b>Date First Advertised</b>  | 24 March 2020   |
| <b>Date Last Advertised</b>   | 24 March 2020   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>9 Rainey Street Magherafelt Londonderry BT45 5DA<br>The Owner / Occupier<br>12 Rainey Street, Magherafelt, Londonderry, BT45 5DA<br>The Owner / Occupier<br>10 Rainey Street, Magherafelt, Londonderry, BT45 5DA<br>The Owner / Occupier<br>4 Rainey Street, Magherafelt, Londonderry, BT45 5DA<br>The Owner / Occupier<br>17 Rainey Street Magherafelt Londonderry BT45 5DA<br>The Owner / Occupier<br>19 Rainey Street Magherafelt Londonderry BT45 5DA<br>The Owner / Occupier<br>15 Rainey Street Magherafelt Londonderry BT45 5DA<br>The Owner / Occupier<br>6 Rainey Street, Magherafelt, Londonderry, BT45 5DA |                 |
| <b>Date of Last Neighbour Notification</b>  | 29 April 2021   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b>  |                 |
| <b>Summary of Consultee Responses</b><br><br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBC<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBC   |                 |

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

**Drawing Numbers and Title**

Proposed Plans      Plan Ref: 02

Site Location Plan   Plan Ref: 01

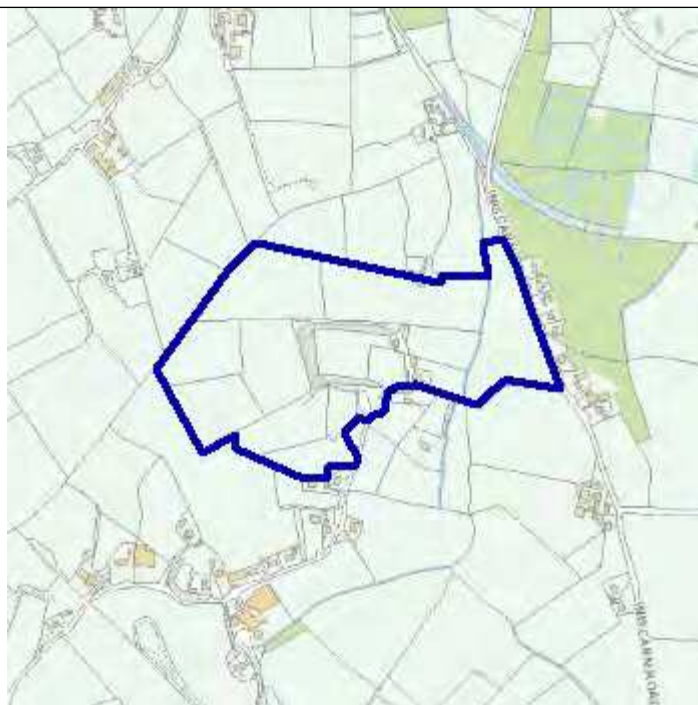
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.4   |
| <b>Application ID:</b><br>LA09/2020/0472/F  | <b>Target Date:</b> 2 June 2020  |
| <b>Proposal:</b><br>Winning and working of minerals (sand and gravel) across and area of c.12 ha, the construction of a new site access and haul route, erection of processing plant and machinery (washing plant), weighbridge and office with restoration to agriculture (Further Info - Noise/Dust Report) | <b>Location:</b><br>Lands To The West Of Iniscarn Road And North Of Crocknamohil Road<br>Draperstown |
| <b>Referral Route:</b><br>Approve is recommended  |  |
| <b>Recommendation:</b> Approve  |  |
| <b>Applicant Name and Address:</b><br>Hollow Park Sand And Gravel Ltd<br>9B Crocknamohil Road<br>Draperstown<br>Magherafelt<br>BT45 7LB   | <b>Agent Name and Address:</b><br>Chris Tinsley<br>10 Saintfield Road<br>Crossgar<br>BT30 9HY        |
| <b>Executive Summary:</b>   |  |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                        | <b>Response</b>                     |
|--------------------------|---|-------------------------------------|
|                          | Historic Environment Division (HED)     | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | NIEA                                    | Substantive:<br>YResponseType: FR   |
|                          | Rivers Agency                           | Substantive:<br>TBCResponseType: FR |
|                          | Environmental Health Mid Ulster Council | Substantive: TBC                    |
|                          | Rivers Agency                           | Substantive: TBC                    |
|                          | Environmental Health Mid Ulster Council | Substantive: TBC                    |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | NIEA                                    | Substantive:                        |



|                         |   |  |
|-------------------------|---|--|
|                         |   | YResponseType: FR  |
|                         | Rivers Agency                           | Substantive:<br>TBCResponseType: FR  |
|                         | NIEA                                    | Substantive: TBC   |
|                         | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR  |
|                         | Rivers Agency                           | Substantive:<br>TBCResponseType: FR  |
|                         | NIEA                                    |  |
|                         | Environmental Health Mid Ulster Council | Substantive: TBC   |
|                         | NIEA                                    | Substantive:<br>YResponseType: FR  |
|                         | Rivers Agency                           | Substantive: TBC   |
|                         | Environmental Health Mid Ulster Council | Substantive: TBC   |
|                         | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR  |
|                         | Environmental Health Mid Ulster Council | Substantive: TBC   |
|                         | DFI Roads - Enniskillen Office          | Substantive: TBC   |
|                         | NIEA                                    | Substantive:<br>YResponseType: FR  |
|                         | NIEA                                    | Substantive:<br>YResponseType: FR  |
|                         | NIEA                                    | Substantive:<br>YResponseType: FR  |
|                         | NIEA                                    | Substantive: TBC   |
|                         | NIEA                                    | Substantive:<br>YResponseType: FR  |
|                         | NIEA                                    | Substantive: TBC   |
|                         | Public Health Agency                    | Substantive: TBC   |
| Statutory Consultee     | Geological Survey NI (DfE)              | E3433 - Sand and gravel extraction at lands south of 41 Killymore Road, Draperstown, Newtownstewart.pdf                  |
| Non Statutory Consultee | Shared Environmental Services           | LA09-2020-0472-F HRA AA 09.03.23.pdf   |
| Statutory Consultee     | Geological Survey NI (DfE)              | E3141 - Sand and gravel extraction at Lands To The West Of Iniscarn Road And North Of Crocknamohil Road, Draperstown.pdf |
| Non Statutory Consultee | Shared Environmental Services           | LA09_2020_0472_F FIR1.pdf  |
| Statutory Consultee     | Shared Environmental Services           | SES response was uploaded on the 09/03/2023  |

|                     |                               |   |
|---------------------|-------------------------------|---|
| Statutory Consultee | Shared Environmental Services | SES Response was uploaded on 09/03/2023   |
| Statutory Consultee | Geological Survey NI (DfE)    | No updates pertaining to the geology of site have been made since the previous have been made to this proposal since the previous consultation. Please refer to consultation response submitted by GSNIO 3/01/2023. |
| Statutory Consultee | Rivers Agency                 | 239904 Final response.pdf   |
| Statutory Consultee | Geological Survey NI (DfE)    |   |
| Statutory Consultee | Rivers Agency                 | 20482 - Final response 21st March 2022.pdf  |

#### **Representations:**

|   |    |
|---|----|
| Letters of Support                              | 0  |
| Letters of Objection                            | 12 |
| Letters Non Committal                           | 0  |
| Number of Support Petitions and signatures      |    |
| Number of Petitions of Objection and signatures |    |

#### **Summary of Issues**

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

The proposal submitted is for Winning and working of minerals (sand and gravel) across and area of c.12 ha, the construction of a new site access and haul route, erection of processing plant and machinery (washing plant), weighbridge and ancillary office, with restoration of the land to agriculture.

The application site is 19.5ha in size and located approx. 3.6kn NW of Desertmartin and 3.8km SE of Draperstown. It is in a rural area of predominantly grazing agricultural land.

The site is located at Lands To The West Of Iniscarn Road And North Of Crocknamohil Road Draperstown. The site area is 19.5 ha. The site is made up of agricultural fields and a former GAA football training pitch. There are a cluster of farm buildings and a dwelling within the site under the control of the applicant. There are residential dwellings located to the south of the site on Crocknamohil Road.

The site is located in a rural setting with agricultural fields to the north and south. To the west of the site is an existing sand and gravel site. There are other mineral sites and quarries within the immediate vicinity.

Site is not located within or adjacent to any designation for the protection of natural or cultural heritage. Sperrins AONB designation at its nearest point is approx. 1kn to the

south. There are no landscape designations at the site and it is not within any existing or proposed areas of constraint of mineral development.

The application has been accompanied with an Environmental Statement.

### **Description of Proposal**

Winning and working of minerals (sand and gravel) across an area of c.12 ha, the construction of a new site access and haul route, erection of processing plant and machinery (washing plant), weighbridge and office with restoration to agriculture.

A new access is proposed to be created in the NE part of the site along Iniscarn Road. This access will allow for 2 way movement in and out of the site, with HGV's turning left of the site.

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

#### **Policy Consideration**

Planning permission is sought for the winning and working of materials (sand and gravel)

A number of other planning permissions exist in the area for extraction of sand & gravel. H/2014/0019/F, H/2006/0213/F, H/2009/0130/F, H/2006/0618/F, H/2003/1054/F.

#### **Phasing Stages**

There are 7 phases proposed and a plan for restoration

PHASE 1 will see removal of mineral from the area to west of existing football pitch the extraction area will be stripped of overburden which will be used to create a north-eastern, eastern and southern screening bunds, restricting views from here. The remaining overburden will be temporarily stored in area south of Phase 1 extraction area. This stockpile will be screened from views by the south by a screening bund. Material will be removed from an area comprised the eastern end of the football pitch. This area will form a silt pond required for the stage of wash water of settlement of silt fines.

PHASE 2 will see work moving northwards from Phase 1. This area will be stripped of overburden, topsoil and subsoil, which will be stored in the southern part of the site in temporary storage piles. Overburden will be added to temporary piles created during Phase 1 and a separate topsoil pile will be created. By this Phase the screening bunds will have 'greened up' and will screen working areas North and NW, limiting views here.

PHASE 3 - A retaining bund will be created on the NW of Phase 2 extraction area to allow another silt pond to be created. During Phase 3 progressive restoration of the site will commence with material from the temporary stockpiles used to restore the NW faces

developed during Phase 2. The faces will be backfilled, as a result of this overburden storage pile and subsoil piles in the south will decrease in size.

PHASE 4- extraction will continue to more south and southeastern areas. As works progress the NW slope will continue to be restored, with the material from the temporary overburden stockpile in the south of the site will be used as part of the restoration. The back filled slopes in Phase 3 will have been 'greened up' .

PHASE 5 - work will progress in SE direction. In addition to overburden removed from the extraction area of this phase, material will be removed from the silt pond created. Both the overburden and material removed from silt ponds will be used to restore SW faces. Silt will be removed from silt pond in the north part of the site and stored in SW part, which will be used in next phase of restoration.

PHASE 6 - The remainder of SE part of the site will be worked with extraction to the north towards the central part of the site. This will remove the silt pond from Phase 2 this will allow additional storage capacity to replace that lost via removal of the pond. Topsoil and overburden removed from SE will be used in restoration of the southern face.

PHASE 7 - Extraction will progress north and eastwards with removal of silt pond from Phase 1. The silt pond will be drained and the silt material used in the restoration of the south and north faces. Material used to create north bund will be stored in northern part of the site and used for restoration on the northern face and supplemented with remaining topsoil stored in western part of Phase 6. The stockpiled material used to create the screening bunds in Phase 1 will be used to restore the remaining faces.

## RESTORATION

The development will see the site progressively restored from Phase 3 onwards. It allows the site to be restored to agricultural use. It will create an improvement in local biodiversity, allowing for habitation creation and enhancing the overall appearance of the site.

Assessment and Policy consideration  
Magherafelt Area Plan 2015

## MINERALS

Extraction of sand and gravel within Magherafelt occurs at a number of locations. RDS includes the following guidelines; to maintain a working countryside with a strong mixed use rural economy and to make use of minerals for economic development in a sustainable manner.

The site lies beyond any defined area of constraint of mineral development and is not affected by Policy MN1 - hydrocarbon exploration.

## Draft Plan Strategy.

The Council's Draft Plan Strategy 2030 states that Minerals development represents a key challenge in Mid-Ulster in that we must decide how to facilitate appropriate minerals development whilst also protecting our important landscapes, nature, conservation and heritage interests. At Par 14.2 Minerals are recognised as being important in terms of

resources for the District. Par 14.5 acknowledges that minerals deposits are also found in many of our AONB where visual impact has the potential to be greater. However this site does not fall under any designations.

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

## SPPS

### MINERALS

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

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

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

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

## A Planning Strategy for Rural Northern Ireland

### MINERALS

MIN 1- Environmental Protection - to assess the need for mineral resource against the

need to protect and conserve the environment.

Economic data for the district shows MUDC is significantly more dependent on the construction and manufacturing sectors than the rest of NI, by almost twice as much. The minerals industry has a very important impact in the district and on local economy, with employment in the area dependent on minerals won and worked to provide the aggregates and in turn facilitate manufacturing and construction. This is a key employer in the area.

Minerals can only be won and worked where they are found. MUDC is the largest producer of sand and gravel within NI, providing 75% of the sand and gravel produced. This development will have a direct contribution to the local economy via direct local employment but also on regional employment within construction and manufacturing.

In terms of the protecting and conservation of the environment against these needs, an ecological impact assessment has been carried out and submitted and consulted on. It concludes subject to the proposed mitigation and restoration schemes, the development would not result in significant effects upon ecological receptors. A flood risk and drainage assessment concludes there will be significant impact on the water environment.

It has been demonstrated that policy MIN1 has been met.

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

It is recognised throughout the local area there are extensive sand and gravel workings (both active and restored) and the area is heavily characterised by them, making them a large feature of the immediate and surrounding area.

The site itself is defined by mature species hedgerows. There are 2 applicant owned dwellings, access yard, and several associated outbuildings located within the application area. Part of the site includes a former GAA pitch which use has been abandoned and it appears to have reverted back to grazing pasture.

The subject site is located within regional landscape character area 7 - Sperrins and Area 40- Upper Moyola Valley.

Site inspections of the critical viewpoints of the site have been carried out which has been assisted by a landscape and visual assessment submitted by the agent. The assessment notes a number of viewpoints within 2km of the site, at each stage of the process and predicts the impact on selected visual receptors, which range from minor to negligible, meaning little or no change to the visual impact of the area.

On either approach travelling towards the site, other working and restored quarries can be easily viewed, highlighting this type of development has become part of the character of the surrounding area. It is an undulating landscape, and from Iniscarn Road, Crocknamohill Road and the junction of the two roads, due to the topography and intervening vegetation, views are very limited of the site.

Through a combination of significant screening, phased stripping and extraction and progressive restoration, the overall landscape and visual impacts will be kept at a minimum at the proposed site. Once extraction is complete and restoration fully

implemented the landscape will remain unchanged and the proposed development would not result in a significant effect upon sensitive receptors in terms of visual amenity.

Typical impacts will be greatest during the initial phase which relates predominantly to machine mobilisation, overburden stripping, processing plant and the creation of proposed screening measures including structure planting. Once established these mitigation measures will reduce impacts to levels considered to be under the significant level.

In line with MIN2, the proposal will not result in a significant detrimental visual impact in the area, during the various phases of development or when restored.

MIN 3 - Areas of constraint - the site is not located within any existing or proposed so this criterion does not apply.

MIN 4 - does not apply as the proposal doesn't proposed extraction of any valuable minerals.

MIN 5 - does not apply as the proposal would not prejudice future exploitation of valuable mineral resources.

MIN 6 - safety and amenity - to have particular regard to the safety and amenity of the occupants of the development in close proximity to mineral workings.

Due to the mineral type, no blasting is required. There are residential properties located primarily to the south and east of the site. A noise impact assessment has been submitted and Env Health consulted. It is concluded that subject to the mitigation measures proposed and conditions, that the proposed development would not result in a significant effect upon the residents in the area.

In term of dust, a dust management plan was submitted and a condition added by EH to ensure a full detailed plan is submitted for approval to reduce impact on neighbors.

In terms of safety, the development has been designed by suitably qualified engineers and it has been prepared to comply with relevant health & safety legislation.

MIN 7 - Traffic - to take into account the safety and convenience of roads users and the amenity of persons living on the roads close to the site of the proposed operations. The impact of the development has been assessed by consultants in the traffic assessment report and detailed the Env Statement. DFI Roads were consulted and have provided conditions to be attached to any approval.

The proposal involves an access which avoids the narrow Crocknamohill Road, with an access point proposed directly onto Iniscarn Road. This access allows for 2 way traffic movement in and out of the site, with all HGV's turning left to exit the site to minimise impacts.

MIN 8 - Restoration - to require minerals workings to be restored at the earliest convenience. A restoration scheme is proposed for the site which will see it restored to agricultural use. The scheme will include woodland and hedgerow planting. Stripped soils will carefully be stored and protected and used as part of the restoration.

Restoration will commence in Phase 3. Following final extraction, the final and full restoration will be carried out as shown in the restoration Plan.

PPS2 - Natural Heritage  
NIEA & Ecology

The proposal is hydrologically linked to Lough Neagh and Lough Beg of ASSI, SPA and Ramsar site. No protected or designated areas exist within the site.

An ecological impact assessment was carried out, and part of this included Habitat Survey, Bird survey, badger Survey, Bat survey and mammal survey. The site contains hedgerows which are a NI priority species and breeding birds.

Only badgers may be affected, no other priority habitats will be directly affected.

Mitigation/compensation measures have been proposed which will reduce the potential for overall residual adverse impacts.

Following consultation NIEA and SES offer no objections. NED are satisfied all concerns have been addressed in the submitted reports and relevant conditions have been provided. The proposal complies with PPS2.

PPS 8 - Open Space , sport and recreation.

Policy OS 1 Protection of Open Space

The Council will not permit development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance. There is a disused GAA pitch with goalposts towards the centre of the site. The Council have been advised that it had been used approx. 25 years by a local football team as a training pitch before they moved to a dedicated, permanent facility and it hasn't been used as a pitch since then. It has been continuously used since then for agricultural and horse grazing and due to the significant time it was last used as a pitch it would not be considered as exiting open space. Therefore on this basis it would not conflict with PPS8 and not result in any loss of open space.

PPS15 - Planning and flood risk.

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

Following comments made in an objection letter regarding drainage on the haul road, Additional info was requested by DFI Rivers in relation to this and the agent provided further details for Rivers to comment on.

Rivers have replied on 14/04/23 with no objections. NIEA Water M'ment unit have also considered the impacts on the surface water environment and are content with the proposal.

PPS6 - HED were consulted and have considered the impacts of the proposal. The site is located to a number of site and monuments including a Rath and medieval farmstead enclosure. HED provided no objection subject to conditions relating to archaeological issues.

Consideration of objections ;



8No objections were received on this application. The main issues of concern raised a number of matters which I will address in turn;

- o Roads issues - The road cannot sustain this type of traffic increase and type of vehicle. Children could be in danger walking to bus stop along the road. Meeting traffic on the road dangerous. Passing bays shown are outside the red line of the application, will the lorries all turn as they are supposed to and how to monitor this?

DFI Roads were consulted and have provided conditions including that a road safety audit will be carried out.

- o Noise disturbance (lorries and Quarry noise)

EH have considered these issues and have offered no objections subject to conditions.

- o Sperrins are a natural beauty area, this will adversely effect the setting and habitats and impact on tourism.

The site is not located within any specific protected area and

NIEA and SES were consulted and have no objections subject to conditions.

- o Cumulative Impact of this on top of the other 3 nearby quarries

In terms of cumulative noise and traffic, these issues have been already addressed.

Cumulative visual impact has also been assessed and due to the amount of existing quarries this proposal will not cause any more significant visual harm as it is an area which is already characterised by this type of development. It is not my view that the balance is tipped towards the visual amenity of this area being detrimentally harmed.

Whilst other sand and gravel quarries are dotted around the wider area, sufficient topographical differences and landscape features reduce any overwhelming sense of loss of rural character that would justify a refusal of the application.

- o Health- physical and mental conditions will be worsened.

Public Health were consulted on these issues and stated that such facilities as this have a theoretical potential to cause adverse health effects from but not limited to exposure to particular matter and other air pollutants, dust and noise. PH is not statutory body in the consideration of this matter and not in a position to make further comment, consideration will be made with regards to any subsequent pollution, prevention and control permit application submitted for the installation.

- o Water pollution

- o Negative effect on property values.

This is not a planning consideration.

- o Dust and noise - can't open windows , hanging out washing etc

EH have considered the submitted noise and dust reports and have conditions to protect the amenity of nearby receptors.

- o Quarry plan not aware of community needs as they are not from here.

As part of their application, the agents submitted a pre-application community consultation report. They carried out a public community consultation event in Terrace Hotel, Magherafelt on 26th Oct 2017 and residents had been informed of this event by letter from the agent. Approx 30 people attended and discussions were had and questions asked, it was agreed a second event would be held as a drop in on 25th Sept 2019 so more technical questions asked could be answered etc. 11 People attended this second event and the application and EIA process was explained. The main issues to come out of the events related to noise and traffic and the agents explained they had previously consulted with these Statutory bodies to ensure the least impact on neighbours. In my view there was sufficient engagement made by the agents and the feedback received was used to refine the proposal and minimise potential impact to the

local community.

- o CTY1 of PPS21 - why can this development not be located within the settlement. The relevant policy assessment has been carried out in the body of the report.

- o Views will be destroyed of those houses close by.

There is no right to a view. However the amenity of these houses has been taken into account and not felt to be detrimentally impacted on.

- o Culverting of a watercourse

- o Is method shown of removing silt from the ponds?

In terms of this DFI Rivers have considered the proposal and the objections and have no objection based on PPS15. Additional info was requested in relation to the drainage for the Haul road and the agent provided further details for Rivers to comment on, and they have objections, NIEA also were previously consulted with no issue.

After re-neighbour notifications on 29/03/23, a further objection was received, no new issues were raised in this letter rather previous issues were reiterated. The issues raised have been fully considered and the consultees have come back with no objections, and while there is sympathy for the resident, the area is characterised by this type of development and policy has been met. Statutory date for neighbours to reply by was 12.04.2023.

In conclusion based on the assessment of the relevant policies, taking local objection into account and the responses of consultees, I recommend an approval subject to the following conditions.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

Reason: Time limit.

2.No quarrying activities or site operations, including the operation of any equipment or machinery shall take place outside of the following hours:

0700 to 1900 hours Monday to Friday,

0700 to 1300 hours on Saturdays

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

Reason: To protect neighbouring residential amenity from excessive noise.

3.The level of noise emitted from the approved site shall not exceed 45 dB(A) LAeq, 1hour (free field) as measured at any noise sensitive dwelling in the vicinity of the quarry.

Reason: To protect neighbouring residential amenity from excessive noise.

4. Works shown as Phases 2-7 on drawings 10, 11, 12, 13, 14 & 15 (all date stamped 7th April 2020) shall not commence until the 6 metre earth bunds (as shown on Drawing Number 09 Date Stamped 7th April 2020) and the 2.5 metre earth bund (as shown on Drawing Number HP02 Date Stamped 7th April 2020) are completed as per the drawings.

Reason: To protect neighbouring residential amenity from excessive noise.

5.There shall be no rock hammering or blasting of rock with explosives anywhere within the approved site.

Reason: To protect neighbouring residential amenity from excessive noise.

6.All crushing and screening plant shall only be permitted to operate within the area shown crosshatched in black labelled "Plant Site" in Drawing Number 09 (Date 7th April 2020).

Reason: To protect neighbouring residential amenity from excessive noise.

7The works shown in Phase 1 on Drawing Number 09 date stamped 7th April 2020 shall be completed prior to any works noted within Phases 2-7 being started. Thereafter, works shall take place in the order shown and as per the phases shown on Drawings 9, 10, 11, 12, 13, 14 & 15 (all date stamped 7th April 2020).

Reason: To protect neighbouring residential amenity from excessive noise.

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

Reason: To protect neighbouring residential amenity from excessive noise.

9. The development hereby permitted shall not become operational until a Dust Management Plan is submitted to and agreed in writing with Mid Ulster District Council.

Reason: To protect neighbouring residential amenity from dust emissions.

10. Prior to any works or extraction commencing, a final CEMP must be submitted by the appointed contractor for agreement with the Council. The final CEMP must be site specific and include all necessary mitigation measures for the construction and operational phases of the development to avoid any pollutant egress to the watercourse to the east of the site that connects to Lough Neagh and Lough Beg SPA/Ramsar site. The CEMP should include a site drainage management plan, water quality monitoring plan, env emergency plan, and details of mitigation to protect priority species. The approved final CEMP shall be adhered to and implemented in full throughout the construction phase in accordance with the approved details, unless otherwise agreed in writing by the Council.

Reason: To ensure the project will not have an adverse effect on the integrity of any European site and to protect NI priority habitats and species and to ensure implementation of mitigation measures.

10a No development activity, including ground preparation or vegetation clearance, shall take place until a Badger Mitigation Plan (BMP) has been submitted and approved in writing to MUDC. The approved BMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved BMP unless otherwise approved by the Council in writing. The BMP shall include the following;

- o Details of updated surveys for badgers;
- o Provision of 25m buffers from all development activity to all retained badger setts;
- o Details of wildlife corridors to allow movement of badgers to and from setts and or foraging areas;
- o Details of appropriate fencing to protect badgers and their setts/wildlife corridors;
- o Details of appropriate measures to protect badgers from harm during the construction and operational phases;

o Details of the appointment of a competent ecologist to oversee the implementation of badger mitigation measures during the construction phase, including their roles, responsibilities and timing of visits.

Reason; To protect badgers and their setts.

10b No vegetation clearance/removal of hedgerows, trees or shrubs/demolition of buildings or structures shall take place between March 1 and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active birds nests immediately before clearance and provided written confirmation that no nest are present/birds will be harmed and there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of commencing works.

Reason To protect breeding birds.

10c An exposed bank of sand shall remain unworked and open for use by sand martins for nesting throughout the duration of quarrying operations.

Reason: to ensure no loss of nesting habitat for sand martins throughout the duration of quarrying operations.

#### DFI CONDITIONS

11. The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 18 bearing the date stamp 16 February 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

12. No other development hereby permitted shall become operational until the road improvement works including the Draperstown Road / Iniscarn Road junction realignment and the passing layby provision on the Iniscarn Road have been fully completed in accordance with the approved plans. (Drawing Numbers 19, 20 21, & 22)

REASON: To ensure that the road works considered necessary to provide a proper, safe and convenient means of access to the site are carried out at the appropriate time.

13. A Road Safety Audit Stage 2 shall be carried out for the junction realignment Works at the Draperstown Road / Iniscarn Road junction prior to any Works commencing on the public road network (as generally detailed under Dwg No 21 & 22 bearing the date stamp 26 March 2021) and subsequently a Stage 3 and Stage 4 Road Safety Audits completed in accordance with the Design Manual for Roads and Bridges, Standard GG119 with any recommendations/remedial works shall be carried out in agreement with DFI Roads Authority.

REASON: In the interest of road safety.

14. A detailed programme of works and any associated traffic management proposals shall be submitted to and agreed by DFI Roads, prior to the commencement of any element of road works.

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

15. Prior to the commencement of any Works the applicant shall submit to the Department one, single, composite video record of the haulage route along Iniscarn Road as identified in the Traffic Management Plan. Such video record should allow establishment of the condition of the local road network. A further composite video record of the same haulage) route to be carried out after the completion of enabling works and prior to operation, to establish the condition of the local road network.

REASON: In the interest of road safety.

16. Before mineral extraction commences, the first 20 metres of the access road measured from the nearest edge of the carriageway, shall be hard surfaced with concrete or asphalt.

REASON: In the interests of the safety and convenience of road users.

16. The development hereby permitted shall not become operational until effective vehicle wheel washing facilities have been installed and brought into operation for the lifetime of the development approved.

REASON: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

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

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

18. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by MUDC in consultation with HED. The POW shall provide for;

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

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

19. No site works of any nature or development shall take place other than in accordance with the programme of works approved under condition 18.

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

20. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of works approved under condition 18. These measures shall be implemented and a final archaeological report shall be submitted to MUDC within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with MUDC.

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

21. The proposed area of extraction shall take place in accordance with plan 18 dated 07 April 2020, no extraction shall take place outside this area.

Reason: To control the extent of development.

22. Within six months of the exhaustion of permitted reserves the excavated areas shall be levelled, graded and re-spread with over burden and top soil in accordance with stamped approved drawings No 18 date stamped 07 April 2020. The restored surface shall be sown with grass in the first available planting season following restoration.

Reason: In the interest of visual amenity.

**Case Officer:** Emma McCullagh

**Date:** 9 May 2023



| ANNEX  |                 |
|--|-----------------|
| <b>Date Valid</b>  | 7 April 2020    |
| <b>Date First Advertised</b>   | 27 October 2020 |
| <b>Date Last Advertised</b>  | 26 May 2020     |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner / Occupier<br>103 Iniscarn Road, Desertmartin, Magherafelt, BT45 5NJ<br>The Owner / Occupier<br>2 Crocknamohil Road, Desertmartin, Magherafelt, BT45 5NL<br>The Owner / Occupier<br>4 Crocknamohil Road, Desertmartin, Magherafelt, BT45 5NL<br>The Owner / Occupier<br>3B Crocknamohil Road, Desertmartin, Magherafelt, BT45 5NL<br>The Owner / Occupier<br>5A Crocknamohil Road, Desertmartin, Magherafelt, BT45 5NL<br>The Owner / Occupier<br>103A Iniscarn Road, Desertmartin, Magherafelt, BT45 5NJ<br><br>The Owner / Occupier<br>101 Iniscarn Road, Desertmartin, Magherafelt, BT45 5NJ<br>The Owner / Occupier<br>107 Iniscarn Road, Desertmartin, Magherafelt, BT45 5NJ<br>The Owner / Occupier<br>3A Crocknamohil Road, Desertmartin, Magherafelt, BT45 5NL<br>The Owner / Occupier<br>111 Iniscarn Road, Desertmartin, Magherafelt, BT45 5NJ<br>The Owner / Occupier<br>105 Iniscarn Road, Desertmartin, Magherafelt, BT45 5NJ |                 |
| <b>Date of Last Neighbour Notification</b>   | 29 March 2023   |

|   |                 |
|---|-----------------|
| <b>Date of EIA Determination</b>  | 5 May 2020      |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b>  |                 |
| <b>Summary of Consultee Responses</b>   |                 |
| <p> Historic Environment Division (HED)-Substantive: YResponseType: FR<br/> DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br/> Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br/> NIEA-Substantive: YResponseType: FR<br/> Rivers Agency-Substantive: TBCResponseType: FR<br/> Environmental Health Mid Ulster Council-Substantive: TBC<br/> Rivers Agency-Substantive: TBC<br/> Environmental Health Mid Ulster Council-Substantive: TBC<br/> DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br/> Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br/> NIEA-Substantive: YResponseType: FR<br/> Rivers Agency-Substantive: TBCResponseType: FR<br/> NIEA-Substantive: TBC<br/> DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br/> Rivers Agency-Substantive: TBCResponseType: FR<br/> NIEA-Substantive: TBC<br/> Environmental Health Mid Ulster Council-Substantive: TBC<br/> NIEA-Substantive: YResponseType: FR<br/> Rivers Agency-Substantive: TBC<br/> Environmental Health Mid Ulster Council-Substantive: TBC<br/> DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br/> Environmental Health Mid Ulster Council-Substantive: TBC<br/> DFI Roads - Enniskillen Office-Substantive: TBC<br/> NIEA-Substantive: YResponseType: FR<br/> NIEA-Substantive: YResponseType: FR<br/> NIEA-Substantive: YResponseType: FR<br/> NIEA-Substantive: TBC<br/> NIEA-Substantive: YResponseType: FR<br/> NIEA-Substantive: TBC<br/> Public Health Agency-Substantive: TBC<br/> Geological Survey NI (DfE)-E3433 - Sand and gravel extraction at lands south of 41 Killymore Road, Draperstown, Newtownstewart.pdf<br/> Shared Environmental Services-LA09-2020-0472-F HRA AA 09.03.23.pdf<br/> Geological Survey NI (DfE)-E3141 - Sand and gravel extraction at Lands To The West Of Iniscarn Road And North Of Crocknamohil Road, Draperstown.pdf<br/> Shared Environmental Services-LA09_2020_0472_F FIR1.pdf<br/> Shared Environmental Services-SES response was uploaded on the 09/03/2023 </p> |                 |

Shared Environmental Services-SES Response was uploaded on 09/03/2023  
Geological Survey NI (DfE)-No updates pertaining to the geology of site have been made since the previous have been made to this proposal since the previous consultation. Please refer to consultation response submitted by GSNi0 3/01/2023.  
Rivers Agency-239904 Final response.pdf  
Geological Survey NI (DfE)-  
Rivers Agency-20482 - Final response 21st March 2022.pdf

**Drawing Numbers and Title**

Roads Details      Plan Ref: 23

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.5  |
| <b>Application ID:</b><br>LA09/2020/0780/O   | <b>Target Date:</b> 25 August 2020  |
| <b>Proposal:</b><br>Proposed furniture storage/warehouse facility  | <b>Location:</b><br>Site 80M West Of 37 Charlemont Street<br>Moy<br>Dungannon                                   |
| <b>Referral Route:</b><br>Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse  |   |
| <b>Applicant Name and Address:</b><br>Moy Furniture Centre Ltd<br>3 Main Street<br>Charlemont<br>Moy<br>BT71 7SL | <b>Agent Name and Address:</b><br>McKeown & Shields Associates Ltd<br>1 Annagher Road<br>Coalisland<br>BT71 4NE |
| <b>Executive Summary:</b>  |   |

| <b>Case Officer Report</b>   |   |   |
|--|---|---|
| <b>Site Location Plan</b>  |   |   |
| <p>This material is based upon Crown Copyright and is reproduced with the permission of Land &amp; Property Services under delegated authority NIMA CS&amp;LA581 from the Controller of Her Majesty's Stationary Office © Crown copyright and database rights.</p> |   |   |
| <b>Consultations:</b>  |   |   |
| <b>Consultation Type</b>   | <b>Consultee</b>                        | <b>Response</b>                                 |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR             |
|  | Rivers Agency                           | Substantive:<br>YResponseType: FR               |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | Rivers Agency                           | Substantive:<br>YResponseType: FR               |
|  | Rivers Agency                           | Substantive:<br>YResponseType: FR               |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | Rivers Agency                           | Substantive:<br>YResponseType: FR               |
|  | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR             |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | Rivers Agency                           | Substantive:<br>TBCResponseType: FR             |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR               |
|  | Rivers Agency                           | Substantive:<br>YResponseType: FR               |
|  | DFI Roads - Enniskillen Office          | Substantive: TBC                                |
| Statutory Consultee  | DFI Roads - Enniskillen Office          | 18-10-2022.docx                                 |
| Statutory Consultee  | DFI Roads - Enniskillen Office          | 15-02-2023<br>Conditions.docx                   |
| Non Statutory Consultee  | Rivers Agency                           | 227498 - Final Response -<br>7th April 2023.pdf |

|   |                                |  |
|---|--------------------------------|--|
| Statutory Consultee   | DFI Roads - Enniskillen Office | 12-04-2023<br>Conditions.docx                    |
| Non Statutory Consultee   | Rivers Agency                  | 161865 - Final Response -<br>22nd March 2023.pdf |
| <b>Representations:</b>   |                                |  |
| Letters of Support  | 0                              |  |
| Letters of Objection  | 14                             |  |
| Letters Non Committal   | 0                              |  |
| Number of Support Petitions and signatures  |                                |  |
| Number of Petitions of Objection and signatures   |                                |  |
| <b>Summary of Issues</b>  |                                |  |
| <p><b>Characteristics of the Site and Area</b></p> <p>The site is located at lands approx. 80M West Of 37 Charlemont Street, Moy. The lands are within the settlement of Moy and have no other zonings or designations within the Dungannon and South Tyrone Area Plan. The site sits outside of Moy Conservation Area.</p> <p>The site appears vacant at present and is overgrown grassland. It is accessed off Charlemont Street and a gravel laneway which curls along the NE boundary of the site accessing a dwelling (no.37) to the rear. Part of this access lies within the flood plain. The River Blackwater runs directly to the rear of the site . The surrounding area includes a mix of uses as found within Moy Settlement. Notably Eurospar is to the east of the site and there is residential and other commercial businesses are adjacent to the site also.</p> |                                |  |
| <p><b>Description of Proposal</b></p> <p>The proposal seeks full planning permission for the erection of a furniture storage/warehouse facility.</p>  |                                |  |
| <p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>SPSS<br/>Dungannon and South Tyrone Area Plan 2010</p>   |                                |  |

Planning Policy Statement 1 - General Principles  
Planning Policy Statement 3 - Access, Movement and Parking  
Planning Policy Statement 4 - Planning and Economic Development  
Planning Policy Statement 15 - Flooding

#### Objections

There have been over 10 representations received from 'Inaltus', 'Carson McDowell', 'MRA' and McCloy consulting, all of whom are acting on behalf of Hemel Ltd, the concerned owner of a neighbouring property. These objections raise a number of concerns in great detail, a summary of these concerns is detailed below;

- Parking
- Land raising, increased ground levels distorting flooding areas
- Flooding
- Access arrangements
- Visibility splays
- Road safety
- DfI roads comments set dangerous precedent
- o Layout hasn't change yet road comment changed
- Inconsistency in drawing and information submitted by agent
- Deficiencies in the drainage assessment and the Flood Risk Assessment
- Safe access not achievable without road widening (HGVs)
- Service Management Plan not accurate.
- History
- Not an exception to FLD 1

#### Consideration of objections

##### Parking-

The first issue raised was that the drawings showed parking for 2 HGVs and 10 cars however, application for stated 2 staff cars and 2 goods vehicles needed. The subsequent report states that there will be two staff cars and a rigid 8.2m truck entering daily as well as a larger artic truck entering once a month.

##### Increased ground levels-

The next issue is relating to increased ground levels, and distorting flood areas. DfI Rivers noted that alterations to the ground levels have occurred, and these alterations to the site topography mean that ground levels could not be validated. The applicant has stated that these level changes occurred through agricultural activity and they intended to return the levels to original to be consistent with the LiDAR levels of March 2010.

##### Flooding-

Following a challenge to Flood Maps (NI) at this site, DfI Rivers edited its hydraulic model to investigate, and ultimately verify, and accept that the flood plain extents shown on Flood Maps (NI) could be more accurately defined. The results of the more accurate mapping show that although the proposed warehouse may not be within the flood plain a large proportion of the development, as defined by the red line, is within the flood plain. DfI Rivers advises that, based on the most up to date modelling information on predicted flood risk available to the Department, the climate change flood maps, indicate that the vast majority of the site lies within the 1 in 100 year climate change fluvial flood plain. DfI Rivers considers that, in accordance with the precautionary approach, the

development proposal is at risk of potential flooding in the climate change scenario and, unless the planning authority considers it appropriate to apply the 'Exceptions' principle contained within FLD 1, that the proposal would be incompatible with the overall aim and thrust of regional strategic planning policy in relation to flood risk, i.e. to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.

#### Access arrangements/Visibility splays/Road Safety

The objector raised issues surrounding the access and road safety in a number of objections and the applicant has had numerous attempts rectify the issues. The main concern is that the tracking and swept paths continue to show that arriving HGV lorries will not be able to enter the site without crossing on exit lanes, this will cause a number of safety hazard points. In addition this access is not public road and the application site does not have right of way over the entry and exit lanes. The drawing submitted by the applicant as well as the rebutted drawings by the objector show that without road widening, 2 way access by a HGV is not viable without compromising road safety and it will also compromise the free flow of traffic along the A29. In order for a HGV to enter the site there will be considerable safety concerns for vehicles exiting the site and the main road will be brought to a standstill. The below pic is just an example of the area (shown in red) where an HGV will encroach on exiting traffic lanes when entering the site from the Armagh side.

#### DFI Comments-

The objector states that the most recent response from DFI Roads cannot be considered a substantive response from a statutory consultee. They also state that the access arrangements have been continually shown to be unsafe for HGVs, the main road will be brought to a standstill and the drawings are inaccurate in terms of the layout and pathways. The proposed access is not accurate and also not deliverable. Their concern is that whilst in earlier responses, DFI roads position was that HGV entrance would have significant conflict with existing road users and required amendments, however in the last response, without an acceptable change to the layout, DFI Roads have pushed the burden of accepting the plan on the council. They also point out that it has never been demonstrated that a constructed access can accommodate HGVs. They also believe that DFI Roads have not carried out a thorough consideration of the Service Management Plan but have abdicated the responsibility onto the council.

#### Inconsistency and deficiencies in submitted information –

The objector states that if a vehicle cannot enter the site without crossing the white line then it is not acceptable, in addition nothing has been submitted to demonstrate that this is not the case, therefore nothing has been provided that could have caused the DFI roads stance change. They feel that it is irrational for DFI Roads to change the stance based on the Service Management Plan. This SMP states that there will be one HGV delivery per month. The objector feels that this would be wholly irrational given the use of the building as a furniture store, the size of the building and that it would also be impossible to condition or enforce. It is my opinion that the council cannot accept the response of DFI roads in this instance when it has been brought to our attention that is demonstrably wrong and would be wholly unenforceable.



#### History-

The objector has raised precedent concerns, stating that the applicant previously sought planning permission for a Storage/warehouse in association with the furniture business, this building is now used for retail. This, however, is not a material consideration in this case as the proposal can only be assessed as described.

#### PPS15 – Not an exception to FLD 1-

The main theme from the objector has been flooding issues, in particular the location of the site within the flood plain. Within the objection received from McCloy consulting, the issue over the principle of development was raised and in particular whether the proposal is deemed an exception to policy FLD1 which would allow development within the flood plain. The applicant contends that the building is not within the floodplain, DFI rivers have acknowledged that the floodplain can be more accurately shown on FMNI and as such the building is within the flood plain. In addition the applicant also contends that the area of the site pertaining to the ancillary structures i.e. the access, the turning areas and the parking are not development requiring to be an exception. It is our opinion that even was the building not within the floodplain the other works described above do constitute development therefore the proposal will require to be deemed as an exception to FLD 1 to be permitted.

#### Assessment of policy and other material considerations

The SPSS states that town centres are important hubs and as such it seeks to encourage development at an appropriate scale in order to enhance the attractiveness of town centres. The vibrancy of the town centre needs to be protected in order to support and sustain vibrant town centres.

PPS 4 (Planning and Economic Development) is relevant in the consideration of this proposal.

According to PED 1 (Economic Development in Settlements) a development proposal for class B4 storage will be permitted in an area specifically allocated for such purposes in a development plan. In addition a Class B4 development will also be permitted in an existing or proposed industrial/ employment area where it can be demonstrated: that the proposal is compatible with the predominant industrial/ employment use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution in the industrial/ employment resource both in the locality and the plan area generally. Elsewhere in cities and towns such proposals will be determined on their individual merits.

In addition according to PPS4 a proposal for economic development will be required to meet ALL the following:

a) it is compatible with surrounding land uses; This proposed storage shed is to be ancillary to the use of Moy Furniture Centre Ltd which is just a short distance to the South and as such would be compatible with the character of the area.

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

- The proposal is quite a large building, however, if approved it could be conditioned to be used for ancillary storage use and therefore have a minimal impact on the

surrounding residents.

c) it does not adversely affect features of the natural or built heritage;  
- there are no features of the natural or built heritage within close proximity to the proposal site.

d) it is not located in an area at flood risk and will not cause or exacerbate flooding;  
- part of the site lies within the flood plain, this will be discussed in detail below.

e) it does not create a noise nuisance;  
- storage of furniture would be expected to cause minimal noise nuisance.

f) it is capable of dealing satisfactorily with any emission or effluent;  
- there should be no emission or effluent produced by this particular proposal.

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;

- DfI were asked to comment on the application including a TAF and a service management plan.

Over a number of consultations with Roads the main concerns were surrounding the access onto the Charlemont Road. DfI Roads wanted a lane dropped at the access point to one in and only one out, this would allow the swept path of larger vehicles. In the service management plan the applicant then suggested there would only be one visit a month by a small 8.2 metre HGV. This has been deemed inaccurate by the objector and DfI Roads has left the onus on the council to decide if this information is accepted. On the basis of the submitted information by both the applicant and the objector as well as the DfI roads responses, it is my opinion that the current road infrastructure cannot safely accommodate the proposal. (these points have also been discussed in depth in the consideration of the objections above)

h) adequate access arrangements, parking and manoeuvring areas are provided;  
- the same issues as above.

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;  
-not relevant for the proposed storage shed.

j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;  
- this information can be considered at reserved matters stage.

k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;  
- this can be considered at reserved matters stage. The proposed building is however set well back from the road and is accessed of an existing laneway.

l) is designed to deter crime and promote personal safety; and  
- this is an outline proposal therefore no design has been submitted at this stage.

m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.  
- not relevant to this proposal.

#### PPS3 – Access Movement and Parking

DFI Roads have been consulted at the outset and numerous times thereafter to comment on amended information from both the applicant and the objector. This has been discussed in detail in the above consideration of objections.

There has been some confusion over the responses received from roads and the objector has highlighted discrepancies in these responses. In particular, at the beginning DFI roads had stated that their position was that HGV entrance would have significant conflict with existing road users and required amendments, however in the last response, without an acceptable change to the layout, DFI Roads have pushed the burden of accepting the plan on the council.

The applicant submitted a Transport Assessment Form, as well as a Service Management Plan in support of the application.

Planning Policy Statement 3 is a material consideration in this application and in particular;

#### Policy AMP 1 Creating an Accessible Environment

This policy states that the layout of development will be required to; create a convenient movement along pathways and an unhindered approach to buildings; as well as; facilitate pedestrian movement within and between land uses; In this case the layout appears to show HGVs cannot enter the site with crossing over existing footpaths and therefore may be contrary to the above policy.

Policy AMP 2 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:

a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and

b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

In this case the objector has demonstrated that HGVs cannot enter the site when approaching from the left without crossing the exiting lanes and therefore prejudicing road safety.

It is my opinion that the proposal conflicts with PPS3 AMP 1 and AMP 2.

#### PPS 15 – planning and flood risk

Planning policy statement 15 – Planning and flood risk states that development will not be permitted within the 1 in 100 year fluvial flood plain unless the applicant can demonstrate that the proposal constitutes an exception to policy.

Dfi Rivers were consulted at the outset of this application and again a number of times

through the processing of it, regarding further information received from both the applicant and the objectors. In their most recent response they stated that; following a challenge to Flood Maps (NI) at this site, DfI Rivers edited its hydraulic model to investigate, and ultimately verify, and accept that the flood plain extents shown on Flood Maps (NI) could be more accurately defined. The results of the more accurate determination of the flood plain can be seen in Figure below. It is clear that a large proportion of the development, as defined by the red line, is within the flood plain.

Despite the findings depicted in the above map, the fluvial flood plain indicated on Flood Maps (NI) currently remains the only publicly available version of flood plain mapping produced by DfI.

DfI Rivers considers the application of the more accurate determination of the flood plain to planning policy to be consistent with the 'Precautionary Approach' advocated in the SPPS and PPS 15.

In summary DfI Rivers advises that, based on the most up to date modelling information on flood risk available to the Department, the climate change flood maps, indicate that the vast majority of the site lies within the 1 in 100 year climate change fluvial flood plain. The predicted 1 in 100 year climate change fluvial flood level at this location is 15.88 mOD.

DfI Rivers considers that, in accordance with the precautionary approach, the development proposal is at risk of potential flooding in the climate change scenario and, unless the planning authority considers it appropriate to apply the 'Exceptions' principle contained within FLD 1, that the proposal would be incompatible with the overall aim and thrust of regional strategic planning policy in relation to flood risk, i.e. to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere.

In conclusion it is clear that development will not be permitted on this site unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

However, the applicant to this point has not put forward any argument as to why this application should be an exception, rather, contends that the actual building is not within the floodplain (DfI Rivers current and only publicly available version of the flood plain mapping). In addition the applicant also contends that the area of the site pertaining to the ancillary structures i.e. the access, the turning areas and the parking are not development requiring to be an exception.

It is our opinion that even was the building not within the floodplain the other works described above do constitute development therefore the proposal will require to be deemed as an exception to FLD 1 to be permitted. In this case we do not deem it to be an exception and therefore the application is contrary to PPS 15 FLD 1.

**Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to Policy FLD1 of Planning Policy Statement 15 - Planning and Flood Risk in that the proposal is located within a floodplain and it has not been demonstrated that it falls within one of the exceptions for development within a flood plain, nor is the proposal of overriding regional importance.

### Reason 2

The proposal is contrary to AMP 2 of Planning Policy Statement 3, access movement and parking, in that it would, if permitted, result in the intensification of use of a substandard access onto a Main Traffic Route (Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

**Case Officer:** Peter Hughes

**Date:** 26 May 2023

| ANNEX   |              |
|---|--------------|
| <b>Date Valid</b>   | 30 June 2020 |
| <b>Date First Advertised</b>  | 16 July 2020 |
| <b>Date Last Advertised</b>   | 14 July 2020 |
| <b>Details of Neighbour Notification</b> (all addresses)  |              |
| <p>The Owner / Occupier<br/> 31 Charlemont Street, Moy, Tyrone, BT71 7SL<br/> The Owner / Occupier<br/> 39 Charlemont Street, Moy, Tyrone, BT71 7SL<br/> The Owner / Occupier<br/> 35 Charlemont Street, Moy, Tyrone, BT71 7SL<br/> The Owner / Occupier<br/> 45 Charlemont Street, Moy, Tyrone, BT71 7SL<br/> The Owner / Occupier<br/> 37 Charlemont Street, Moy, Tyrone, BT71 7SL</p> <p>The Owner / Occupier<br/> 12 The Quays Moy Tyrone BT71 7TG<br/> The Owner / Occupier<br/> 13 The Quays Moy Tyrone BT71 7TG<br/> The Owner / Occupier<br/> 14 The Quays Moy Tyrone BT71 7TG<br/> The Owner / Occupier<br/> 40A Charlemont Street Moy Tyrone BT71 7SL<br/> The Owner / Occupier<br/> 40C Charlemont Street Moy Tyrone BT71 7SL<br/> The Owner / Occupier<br/> 19 Charlemont Street Dungannon Tyrone BT70 1HE<br/> The Owner / Occupier<br/> 21 Charlemont Street Dungannon Tyrone BT70 1HE<br/> The Owner / Occupier<br/> 23 Charlemont Street Dungannon Tyrone BT70 1HE<br/> The Owner / Occupier<br/> 25 Charlemont Street Dungannon Tyrone BT70 1HE<br/> The Owner / Occupier<br/> 1 The Quays Moy Tyrone BT71 7TG<br/> The Owner / Occupier<br/> 36 Charlemont Street Moy Tyrone BT71 7SL<br/> The Owner / Occupier</p> |              |

18 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
6 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
40 Charlemont Street Moy Tyrone BT71 7SL  
The Owner / Occupier  
15 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
17 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
40B Charlemont Street Moy Tyrone BT71 7SL  
The Owner / Occupier  
16 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
15 Charlemont Street Moy Tyrone BT71 7SL  
The Owner / Occupier  
17 Charlemont Street Moy Tyrone BT71 7SL  
The Owner / Occupier  
26 Charlemont Street Moy Tyrone BT71 7SL  
The Owner / Occupier  
11 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
10 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
9 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
8 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
7 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
2 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
5 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
4 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
3 The Quays Moy Tyrone BT71 7TG  
The Owner / Occupier  
27 Charlemont Street Moy Tyrone BT71 7SL

|   |                 |
|---|-----------------|
|   |                 |
| <b>Date of Last Neighbour Notification</b>  | 27 July 2021    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b>  |                 |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>Rivers Agency-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Rivers Agency-Substantive: YResponseType: FR<br>Rivers Agency-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Rivers Agency-Substantive: YResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Rivers Agency-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Rivers Agency-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: TBC<br>DFI Roads - Enniskillen Office-18-10-2022.docx<br>DFI Roads - Enniskillen Office-15-02-2023 Conditions.docx<br>Rivers Agency-227498 - Final Response - 7th April 2023.pdf<br>DFI Roads - Enniskillen Office-12-04-2023 Conditions.docx<br>Rivers Agency-161865 - Final Response - 22nd March 2023.pdf |                 |



## Drawing Numbers and Title

Site Location Plan Plan Ref: 1F

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 1G

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.6   |
| <b>Application ID:</b><br>LA09/2020/0966/F   | <b>Target Date:</b> 5 October 2020   |
| <b>Proposal:</b><br>Housing development of 26 No Two storey dwellings (20 No semi-detached dwellings, 5 No Townhouses and 1 No Detached dwelling), site road and associated site works | <b>Location:</b><br>Lands 20M West Of 180 Battery Road Moortown                                      |
| <b>Referral Route:</b><br>Approve is recommended   |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Loughview Developments<br>76 Main Street<br>Pomeroy  | <b>Agent Name and Address:</b><br>Building Design Solutions<br>76 Main Street<br>Pomeroy<br>BT70 2QP |
| <b>Executive Summary:</b>  |  |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                        | <b>Response</b>                     |
|--------------------------|---|-------------------------------------|
|                          | NIEA                                    | Substantive:<br>YResponseType: FR   |
|                          | Shared Environmental Services           | Substantive:<br>TBCResponseType: FR |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | NI Water - Multiple Units West          | Substantive:<br>TBCResponseType: FR |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | Rivers Agency                           | Substantive:<br>TBCResponseType: FR |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | NIEA                                    | Substantive:<br>YResponseType: FR   |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: PR |

|                     |   |  |
|---------------------|---|--|
| Statutory Consultee | DFI Roads - Enniskillen Office          | Response Template.docx   |
| Statutory Consultee | DFI Roads - Enniskillen Office          | DFI Roads comments as per reply dated 14/11/2022. are still relevant.<br><br>gerry               |
| Statutory Consultee | DFI Roads - Enniskillen Office          |  |
| Statutory Consultee | DFI Roads - Enniskillen Office          | Response Template - 7 dec 2022.docx  |
| Statutory Consultee | DFI Roads - Enniskillen Office          |  |
| Statutory Consultee | Rivers Agency                           |  |
| Statutory Consultee | NI Water - Multiple Units West          |  |
| Statutory Consultee | Shared Environmental Services           |  |
| Statutory Consultee | NIEA                                    |  |
| Statutory Consultee | Environmental Health Mid Ulster Council |  |
| Statutory Consultee | DFI Roads - Enniskillen Office          | DFI are awaiting revised PSD drawings. Please reconsult when drawings are received.<br><br>Gerry |

#### **Representations:**

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

#### **Summary of Issues**

##### Summary of Issues

Objections have been received to the planning application with the following issues of concern raised:

- Density of development is too high given the character of the area; The Cookstown Area Plan imposes a limit of 20 units on any new residential developments in Moortown; The scale of the proposal will undermine the settlement hierarchy in the District and main growth should be directed to main hubs;  
When considering the context of the settlement of Moortown, including two other housing developments c.160m from the application site, I do not consider the proposed density is too high. Although the Cookstown Area Plan states that residential developments in excess of twenty units will not normally be permitted, this does not

preclude developments in excess of 20 units; The density of development is considered acceptable at this location within the settlement limits of Moortown.

- The proposal is contrary to the addendum of PPS 7 in that it does not respect the character of an established residential area;

I will deal with this later in the assessment of planning policy, however to note briefly in response it is considered the application is not in contradiction with PPS 7

- There is a farm immediately to the west of the application site and an approval will prejudice the future farming operations that have been established;

There are other single dwellings in close proximity to the application site and there are no known complaints having been raised by the existing residents to the agricultural operations at this address.

- Air quality, including odour has not been considered on the proposed dwellings and could give rise to odour complaints;

An Air Quality Impact Assessment was submitted by the applicant in July 2021. It concluded the maximum ground level odour concentration is predicted to be primarily confined to the immediate environs of the existing cattle sheds. Under the proposed layout the maximum 98th percentile of 1-hour ground level odour concentration at the worst effected residential property with no interest in the operation of the farm, is in accordance with the target limit value of 3ouE/m<sup>3</sup> when taken as an average of the 5-year period or within any individual 1-year period. Having considered the report and the associated design of the dwellings, EHO offer no objection to the proposed application.

- Potential noise impact has not been fully considered and these could harm the residential amenity of the proposed dwellings;

Noise sources impacting the individual external amenity areas of each dwelling has been assessed in accordance with BS4142:2014. It was found that the predicted noise levels at these receptor locations were below the background noise level, and therefore as per BS4142, the impact was deemed to be low. Installing double glazing to each façade of the proposed dwellings and the implementation of a mechanical ventilation and heat recovery system will ensure that internal noise levels should not exceed those as stipulated within BS8233. Having reviewed the Noise Assessment, EHO have not offered any reasons for refusal.

- A 2m raised earth bund will not mitigate against the potential impact and the exact basal area is not indicated on the proposed plan and therefore cannot be properly considered. The proposed bund will interfere with the 5m wayleave required to access the culverted watercourse and therefore will not be delivered;

Having reviewed the plans, I do not find this to be the case. The 5m wayleave has been shown clear of the proposed bund and within the ownership of the applicant.

- An increase in flooding in the area arising as a result of an increase in hardstanding; Rivers Agency have not raised this as a concern.

- Impact on residential amenity of the residents of no 178b Battery Road;

Having considered both odour and noise previously, I do not consider this is to a warranted concern.

- Possible increase in flooding from the proposed development;  
Rivers Agency have not raised this as a concern.

- The proposal is contrary to PED 8 of PPS 4 as the objector considers it is incompatible with the adjacent agricultural use;  
I will address this in detail later in the report, however it is not consider this is the case.

- A Noise Assessment, Air Quality/Odour Assessment and Traffic Assessment should be submitted to address any potential conflicts with adjacent land uses.  
A Noise Assessment and Air Quality Impact Assessment were both submitted and considered by EHO. A Transport Assessment Form was submitted with the application.

- Storm drainage runs through the site;  
This has not been identified by Rivers Agency. The Drainage Assessment, subject to a Sch 6 consent was accepted by Rivers Agency. The DA addresses how the proposed surface water attenuation design has demonstrated that the required storage for a 100 year exceedance storm event could be installed within the site without having to revise the layout of the proposed development.

- The proposal constitutes backland development and will harm the residents of no 178b Battery Road, Coagh  
This is not true. The application site fronts onto Battery Road and extends the entirety of the field within the settlement limits. There are two dwellings to the immediate rear of the application site, both are within the settlement limits of Moortown and both are accessed off a separate laneway along with a number of other dwellings.

Neighbours and objectors were renotified of the amended plans on 5 April and no further letters of objection have been submitted on the amended drawings.

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

The application site is located within the development limits of Moortown as identified in the Cookstown Area Plan. The site is a large agricultural field and is relatively flat. To the immediate west of the site is an operational farm, of which there is a small petrol filling station on the opposite side of the Battery Road. To the north is a single dwelling and there are a number of single dwellings along the eastern boundary. The site fronts onto the Battery Road to the south with a single dwelling and an agricultural field on the opposite side of the road.

### **Description of Proposal**

This is an application for a housing development of 26 No Two storey dwellings (20 No semi-detached dwellings, 5 No Townhouses and 1 No Detached dwelling), site road and associated site works.

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

### **Policy Consideration**

Strategic Planning Policy Statement

Cookstown Area Plan 2010

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 4 - Planning and Economic Development

Planning Policy Statement 7 - Quality Residential Environments

Planning Policy Statement 15 - Planning and Flood Risk

This application was withdrawn from the Planning Committee Agenda in April 2023 as neighbours and objectors were not notified of amended plans. This procedure has been carried out and with no further objections raised the report is being presented without change as follows.

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

The application is situated on white lands as identified in the Cookstown Area Plan 2010. In the CAP it states that local demand for housing within the village is likely to be high. Comprehensive development will normally be permitted provided the scale, layout and detailed design of the development are compatible with the scale and character of the settlement. Accordingly, residential developments in excess of twenty units will not normally be permitted. However, this does not preclude developments in excess of 20 units and I will turn to PPS 7 for more direction on this issue. PPS 7 is clear when it states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. There is a list of criteria that all proposals for residential development will be expected to conform with.

The development is located within the development limits of Moortown and is situated on a relatively flat site that falls gently away from south to north. The layout is comprised of one detached dwelling, 20 semidetached dwellings, some of which are dual frontage dwellings on corner sites and 5 townhouses situated to the rear of the application site. The design of the dwellings are considered acceptable in the context of the area. With an operational farm to the west of the application site there has been an agreement the area of open space can be located in the south western portion of the application site to allow a greater distance between the farm buildings and the new dwellings. This will benefit from informal surveillance from a number of dwellings in the development and the internal road network that runs alongside the area of open space.

There are 4 dwellings which do not have 70 square metres of private garden space,



however all are in excess of 40 square metres and the average of the overall layout is well in excess of 70 square metres. Along the western boundary with the operational farm is a stream and a 5 metre working strip has been shown along this boundary as required by DfI Rivers. There is also a wide strip of landscaping proposed to soften and eventually mitigate any adverse visual impact of the agricultural buildings. PPS 7 requires the provision of a minimum of 10% open space and the proposed area of open space is slightly in excess of this. There are no features of archaeological or built heritage or landscape features to be incorporated into the layout. Given the number of units and the location in the limits of Moortown I do not consider it necessary for the provision to be made for local neighbourhood facilities.

Following the submission of a number of amended drawings, at the request of DfI Roads, the layout is now considered acceptable in terms of parking and road layout. There are no public rights of way across the site and the site is close to identified. The local area is poorly served by public transport and there is a transport service to the surrounding secondary schools.

With regards to any potential conflict with adjacent land uses a concern has been raised by the owner of the operational farm. There are a number of residential properties in close proximity to the existing agricultural buildings. To date there are no known complaints of odour or noise by those residents to our Environmental Health Department. Given the intervening vegetation, the additional landscaping and earth bund, together with the separation distances this is not considered to be a concern.

Environmental Health were consulted during the course of the application. An Odour Impact Assessment has been received and on the basis of dwellings having been moved further away from the operational farm, I do not consider there to be any unacceptable adverse effect on existing properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance.

Consultations were issued as part of the application process.

Roads - No concerns with amended layout subject to a number of conditions

Rivers - No concerns subject to a Sch 6 consent being conditioned

NIW - Confirmed there is available capacity

SES - No concerns subject to a condition

NIEA - No concerns raised.

In conclusion I recommend an approval of the application subject to the conditions below.

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

Approve is recommended

#### **Approval Conditions**

Condition 1

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

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

Condition 2

The existing natural screenings as shown along the western boundary on drawing no 04/2, date stamp received 26 October 2022, shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: : To safeguard the amenities of the new occupiers and in the interests of visual amenity.

Condition 3

The development hereby permitted shall not commence until the developer has received a written agreement from Rivers Agency for consent to discharge under Schedule 6 of the Drainage (NI) Order 1973.

Reason: In the interests of public safety.

Condition 4

A suitable buffer of at least 10 metres must be maintained between the locations of all construction refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoli etc and adjacent partially culverted watercourse.

Reason: To protect the hydrologically connected features of Lough Neagh and Lough BEg SPA/Ramsar from potential construction pollution.

Condition 5

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council 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 10/4 bearing the date stamp 26 October 2022.

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.

Condition 6

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 occupied until the works necessary for the improvement of a public road have been completed in accordance with details outlined in blue on Drawing No 10/4 bearing the date stamp 26 October 2022. The Council 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) and Article 32.

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.

#### Condition 7

The visibility splays of 4.5m x 90m to the east and 4.5m x 80m to the west at the junction of the proposed access road with the public road shall be provided in accordance with Drawing No 10/4 bearing the date stamp 26 October 2022 prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 8

The gradient of the access to the dwellings hereby permitted 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.

#### Condition 9

No dwellings 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 the development.

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

#### Condition 10

Prior to the commencement of any part of the development hereby approved the developer shall submit to the Council and receive approval in writing a landscape scheme for the overall layout. The landscape scheme shall comprise planting details including species, size at time of planting, siting and planting distances with a programme of planting. The scheme shall also include a Management and Maintenance schedule which includes the long-term objectives, performance indicators and management responsibilities for all landscaped areas.

Reason: To ensure there is a satisfactory standard of open space provided and maintained in perpetuity in accordance with the provisions of Policy OS 2 of Planning Policy Statement 8.

#### Condition 11

All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out in accordance with a programme to be agreed with the Council which should be approved prior to the commencement of any part of the development hereby approved.

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

**Condition 12**

No dwelling hereby approved shall be occupied until the 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. These areas shall be permanently retained as landscaped areas/open space.

Reason: To ensure that open space is provided, maintained and managed in accordance with Planning Policy Statement 7 and Planning Policy Statement 8.

**Informative 1**

The occupants of the new dwellings should be aware of a potential loss of amenity on occasion from noise, dust, odour and potentially vermin on occasion as a result of being located in close proximity to a working farm.

**Case Officer:** Karen Doyle

**Date:** 1 June 2023

| ANNEX  |                 |
|--|-----------------|
| <b>Date Valid</b>  | 10 August 2020  |
| <b>Date First Advertised</b>   | 17 January 2023 |
| <b>Date Last Advertised</b>  | 25 August 2020  |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>175 Battery Road, Cookstown, Tyrone, BT80 0HS<br><br>The Owner / Occupier<br>178B Battery Road Cookstown Tyrone BT80 0HS<br>The Owner / Occupier<br>178A Battery Road Cookstown Tyrone BT80 0HS<br>The Owner / Occupier<br>176A Battery Road Cookstown Tyrone BT80 0HS<br>The Owner / Occupier<br>174 Battery Road Cookstown Tyrone BT80 0HS<br>The Owner / Occupier<br>171 Battery Road, Cookstown, Tyrone, BT80 0HS  |                 |
| <b>Date of Last Neighbour Notification</b>   | 5 April 2023    |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b>   |                 |
| <b>Summary of Consultee Responses</b><br><br>NIEA-Substantive: YResponseType: FR<br>Shared Environmental Services-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>NI Water - Multiple Units West-Substantive: TBCResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>Rivers Agency-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>NIEA-Substantive: YResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR |                 |

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: PR  
DFI Roads - Enniskillen Office-Response Template.docx  
DFI Roads - Enniskillen Office-DFI Roads comments as per reply dated 14/11/2022. are still relevant.

gerry

DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-Response Template - 7 dec 2022.docx  
DFI Roads - Enniskillen Office-  
Rivers Agency-  
NI Water - Multiple Units West-  
Shared Environmental Services-  
NIEA-  
Environmental Health Mid Ulster Council-  
DFI Roads - Enniskillen Office-DFI are awaiting revised PSD drawings. Please reconsult when drawings are received.

Gerry

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

Site Layout or Block Plan Plan Ref: 2549-d-014 A  
Site Layout or Block Plan Plan Ref: 10 REV 1  
Elevations and Floor PlansPlan Ref: 12  
Road Access Plan Plan Ref: 2549-D-014(B)  
Proposed Plans Plan Ref: 07  
Site Location Plan Plan Ref: 01  
Proposed Plans Plan Ref: 05  
Proposed Plans Plan Ref: 06  
Site Appraisal or Analysis Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03  
Proposed Plans Plan Ref: 04  
Road Access Plan Plan Ref: 11  
Site Layout or Block Plan Plan Ref: 10

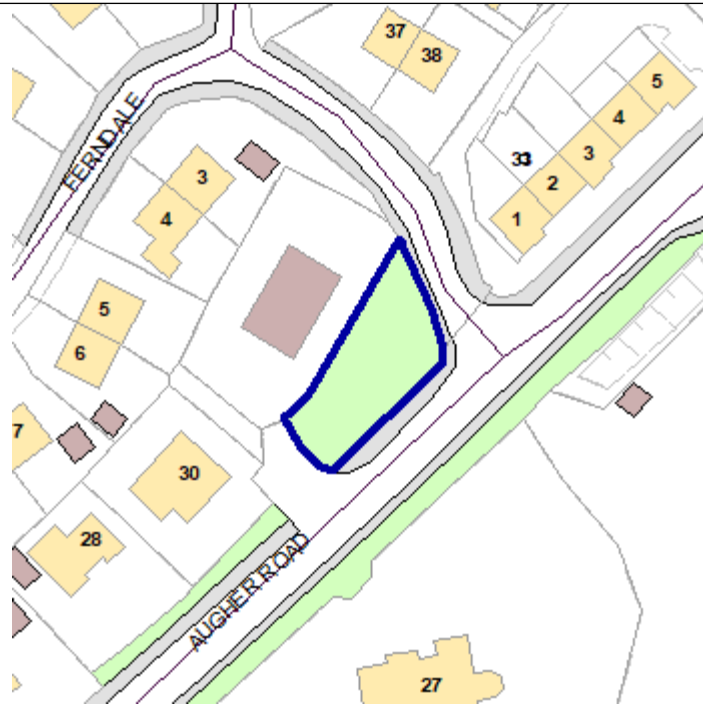
#### **Notification to Department (if relevant)**

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.7   |
| <b>Application ID:</b><br>LA09/2020/1423/F  | <b>Target Date:</b> 8 January 2021   |
| <b>Proposal:</b><br>Proposed 1no. two bedroom apartments<br>and 2no. one bedroom apartments   | <b>Location:</b><br>28M Ne Of 30 Augher Road<br>Clogher<br>BT76 0AD                          |
| <b>Referral Route:</b><br>Refuse is recommended   |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>RMS Civils<br>10 Beaghbeg Road<br>Cookstown<br>BT80 9PE | <b>Agent Name and Address:</b><br>CQ Architects<br>23 Dunamore Road<br>Cookstown<br>BT80 9NR |
| <b>Executive Summary:</b>   |  |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                        | <b>Response</b>                     |
|--------------------------|---|-------------------------------------|
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | NI Water - Multiple Units West          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR |
|                          | NI Water - Multiple Units West          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | NI Water - Multiple Units West          | Substantive:<br>YResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive: TBC                    |
|                          | NI Water - Multiple Units West          | Substantive:                        |



|                         |   |   |
|-------------------------|---|---|
|                         |   | YResponseType: FR   |
|                         | DFI Roads - Enniskillen Office          | Substantive: TBC  |
|                         | Environmental Health Mid Ulster Council | Substantive: TBC  |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | 23-11-2022.docx   |
| Statutory Consultee     | NI Water - Multiple Units West          | LA09-2020-1423-F.pdf  |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | Planning Response3 LA09-20-1423.pdfPlanning Response LA09-22-1646.pdf |
| Statutory Consultee     | DFI Roads - Enniskillen Office          |   |
| Statutory Consultee     | NI Water - Multiple Units West          |   |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | 09-03-2023 Conditions.docx  |

### Representations:

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

### Summary of Issues

This apartment scheme fails to meet the policy requirements of OS 1 in PPS 8, QD 1 in PPS 7 and LC1 in the Addendum to PPS7.

### Characteristics of the Site and Area

This application site is a rectangular portion of land which sits parallel and adjacent to the Augher Road in Clogher. It sits in the northern part and within the development limits of Clogher village and is whiteland in the Dungannon and South Tyrone Area Plan (DSTAP).

The area surrounding this site is typically residential, with the housing development at Ferndale to the west of the site comprising 34 properties, a mixture of semi-detached two storeys at the entrance and one and a half storey dwellings for the remainder. The residential dwellings to the north east of the site fronting onto the main road comprises a row of 5 terraced townhouses known as Crossowen Way. Beyond this to the north is an equipped playground at Mc Crea Park and Clogher Day Care Centre abuts this to the north. To the south of the site is a row of detached dormer bungalows which each have garden areas to the front.

The site measures approximately 0.04 hectares and is currently an area of open space. It rises slightly from the footpath to the rear of the site in a north westerly direction. The north eastern boundary of the site is defined on the ground by low kerbing that runs alongside the public footpath leading to the residential development of Ferndale to the north west. This footpath also continues along the south eastern boundary which is undefined on the ground and is parallel to the public road allowing pedestrian access to

the centre of the village to the south. The south western boundary of the site is also low kerbing which contains the area of open space and abuts the tarmaced shared entrance to the BT Exchange and the dwelling at No 30 Augher Road. The north western boundary at the rear of the site comprises some trees and vegetation, abutting the BT exchange which is a single storey building with in a secure gated compound. There are 2 street lights along the site's boundary, 2 water meter posts, a telegraph pole, a tree as well as a concrete lid allowing access to underground services within the site area.

#### Planning History

M/2000/0727/PA - Installation of 1 No. new 0.3m dish antenna onto existing 15m high telecommunications steel column. - Clogher Tenements, Augher Road, Clogher - Granted

M/1984/0599 - Private Housing Development - Clogher Tenements, Clogher - Granted

M/1978/0607-Q Type Telephone Exchange - Clogher Tenements, Augher Road, Clogher - Granted

#### **Description of Proposal**

This application seeks full planning permission for 1no. two-bedroom apartments and 2no. one-bedroom apartments on land 28 metres North East of No 30 Augher Road Clogher.

#### Consultations and Representations

NI Water were consulted on the initial proposal of 6 apartments and said there was no available capacity at the Clogher Wastewater Treatment Works (WwTW) and if the applicant wishes to proceed, they should contact NIW to discuss options such as a permanent wastewater facility at their own expense, which may or may not be adopted by NIW in the future. They state there is an existing sewer and watermain crossing the site and say no construction is to be made, trees planted or other obstruction made within 3 metres (or 1.5 times the depth whichever is greater) of sewers, or 4 metres (or 1.5 times the depth whichever is greater) of watermains <350mm diameter or 8 metres of watermains of 350mm diameter or greater. A diversion may be necessary in order to prevent disturbance/ damage to existing sewers/watermains and in the interest of public safety, therefore consultation with NIW is required at an early design stage.

NI Water said a high-level assessment of the public surface water sewer has indicated potential network capacity issues which establishes significant risks of detrimental effect to the environment and on existing properties. Therefore, NI Water is recommending connections to the public surface water drainage system are curtailed. NI Water have also said the site is located within a development consultation zone in proximity to a Waste Water Treatment Works (WWTW) or Regional Pumping Station and there is a possibility of nuisance from odour and /or noise Policy WM5 relates to Development in the Vicinity of Waste Management Facilities and states permission will only be granted

where it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility and it would not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment. As this application site is located wholly or partially within 400m odour consultation zone boundary of Clogher WWTW which is located to the north west of this site, NIW have requested a Development Encroachment Assessment is undertaken required in order to ensure any potential residents are not impacted by any NI Water facility. However, as there are already numerous residential properties that have been long established on this intervening area which lies within the consultation zone, I do not feel it is necessary as part of this development proposal. This site is located at the edge of the consultation zone and if there are any odour or noise issues regarding the existing works, these would be reported to the Council's Environmental Health section who would investigate any nuisance. NI Water has reiterated their concerns as above when the scheme was reduced to 4 apartments.

The Council's Environmental Health section were consulted on the initial scheme and requested information on the method of sewage disposal as there was no capacity at the WWTW. Information on the type of manufacturing plant, its capacity and location were requested. Following the reduction of the scheme and the inclusion of a private treatment plant, the Environmental Health section has no objections to this proposal subject to a number of conditions regarding the plant's location and the agreeing of a Maintenance Agreement prior to the occupation of any of the apartments approved.

DfI Roads were consulted and a number of amendments were requested regarding the initial development proposed of 6 apartments. They were concerned due to overdevelopment and the scheme was not in compliance with Creating Places;

- There should be no parking or accesses as close to adjacent junction (Ferndale)
- Parking spaces are too short
- Double in-curtilage parking and turning is required when so close to Ferndale
- No accesses can come off the radii into Ferndale
- There can be no reversing onto a major distributor road
- Sightlines out of Ferndale will be jeopardised

Amended drawings were submitted and DfI Roads still had concerns as the proposal was accessing onto the A4 Protected Route which is contrary to AMP 3 - Access to Protected Routes under Other Protected Routes -within Settlement Limits in PPS 3. There was also a shortfall of 3 spaces less than the 8 required in Creating Places.

Revised drawings were submitted and there were still a number of issues regarding the proposal which had then been reduced to 4 apartments which needed to be overcome;

- Existing sight lines of 4.5m x 112m from the access to Ferndale towards Clogher must be shown and clear of any obstacles.

- 2.4m x 81m sight lines at access onto the Augher Road at the "BT" access.
- Access to development shall be via the "BT" access with the site's access point being as close to the telephone exchange entrance gates as possible with sight lines of 2.0m x 33m, in order to allow vehicles to clear the Augher Road before turning into the site.
- Development to have double in curtilage parking and turning.
- Auto Track service vehicle entering, turning and exiting the site in forward gear must be provided as the apartments are not to be serviced from either the access into Ferndale or the Augher Road.

- A footway link from the site access to the existing footway on the Augher Road must be included.

Following the submission of amended drawings, DfI Roads still had a number of concerns regarding service vehicle movements, showing location of existing street furniture, telephone poles, street lights etc, the existing BT access and sight lines as well as the provision of 11 parking spaces. The 5th revision of drawings still had issues DfI roads needed amended regarding how all the sight lines were depicted on the drawings and the insertion of DfI Roads notes onto the drawing. In March 2023 DfI Roads commented they are now satisfied with this proposal subject to conditions regarding the provision of visibility splays in perpetuity.

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

### **Policy Consideration**

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

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

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. As the site lies within the settlement limit of Clogher as defined in the above plan, SETT 1 is the relevant policy. I am content that if this proposal complies with the provisions of PPS 7, it will also comply with SETT 1.

Policy QD1 - Quality in New Residential Development in PPS7 - Quality Residential Environments is a material consideration for this type of development where all proposals for residential development will be expected to conform to a list of criteria. Clogher is a linear shaped village where settlement has developed along the Dungannon to Enniskillen A4 Primary Route. As can be seen from the Planning History above, this

site was previously included as part of the initial Ferndale residential development applications. As there has never been any development on this parcel of land, it appears to have been incorporated as an area of public open space associated with and at the entrance to Ferndale development. However due to the length of time that has passed since these were granted planning permission, I was not able to access the files to see what this particular site was to be utilised as.

The premise of residential development is generally acceptable on this site due to its location within the development limits of Clogher, subject to it meeting certain criteria of the relevant policy. The area surrounding this site is a mixture of residential and public utilities with the BT Exchange adjacent to the north. This site currently serves as a visual feature at the entrance to the residential development of Ferndale. I do not feel this application respects the surrounding context of the site as it is on an area of existing open space. Orthophotography can confirm that as far back as 2004 this site was a grassed area of open space and at times in the north eastern corner where the access to Ferndale is located was planted with flowers which would have been planted and maintained by the Council. This proposal although not impacted by any archaeological or built heritage features, it would result in the area of open space and the vegetated boundary which currently screens the BT Exchange being permanently lost. Development on this site would be wide open to the footpath and road as it would lack any degree of enclosure.

The small-scale nature of this proposal does not require the developer to provide public open space and there is some amenity space provided for bin storage for each apartment underneath the external steps to the first-floor apartment close to the north eastern boundary of the site. This proposal does not provide any landscaped areas nor does it introduce any planting to soften the visual impact of the development and assist in its integration with the surrounding area. The proposed development due to its small size does not need to provide local neighbourhood facilities as part of this planning application. The location of this site within the settlement limits of Clogher mean it benefits from existing footpaths which would meet the needs of people whose mobility is impaired while also being close to conveniently access public transport.

DfI Roads were consulted and regarding the initial proposal they were concerned it was overdevelopment of the site as there was not adequate space for parking or manoeuvring facilities. As discussed in detail above the access to the proposed development was changed and altered a number of times. As the density of the development was reduced, the amount of parking spaces required was lessened also. However, there were still issues regarding service vehicle movements, the location of existing street furniture features (telephone poles, street lights) and the existing BT access. Following more amendments to the proposal, DfI Roads were now satisfied there is adequate and appropriate provision for parking. The concept of new apartment development is not an established feature in Clogher, where most apartments are located above ground floor shops along the Main Street of the village. Although the scheme has reduced from 6 units to 3 units, the introduction of apartment development on this application site could be seen as a cramming project, particularly as the site is currently visually an open green area. The hardstanding parking area for the proposed apartments is out of character in this area also, as the adjacent Crossowen Way has parking provided to the rear of the properties. The finishes proposed for this

development are suitable in this area, the type of residential development not so much and could be considered out of keeping with the surrounding area.

There are no residential properties which may be adversely impacted by this proposal in terms of overlooking, loss of light, overshadowing, noise or other disturbance. The BT Exchange to the north of the site is not manned constantly and workers to and from this building are on an ad hoc basis when needed. I wouldn't have any concerns regarding crime or personal safety in relation to this development due to its location on the side of a busy road adjacent to public footpaths which benefit from public lighting.

Policy LC1 in the Addendum to PPS7 - Safeguarding Established Residential Areas aims to Protect Local Character, Environmental Quality and Residential Amenity. The density of the apartment development proposed in this application is 75 units per hectare. When compared to the nearby densities of 24 per hectare at Ferndale and 31 per hectare at Crossowen Way, it is clear to see the proposed development is of a notably higher density and not in keeping with the existing average density type in this part of Clogher. The introduction of a 1 and 2 bed apartment development combined with its construction on an area of open space in my opinion is not in keeping with the overall character and environmental quality of the existing area. Annex A sets out the space requirements for this type of development and these proposed apartments do meet these standards.

Planning Policy Statement 8 deals with the provision of Open Space, Sport and Outdoor Recreation in planning applications. Policy OS 1 - Protection of Open Space states that development which would result in the loss of existing open space will not be permitted and the presumption against the loss of existing space applies irrespective of its physical condition and appearance. Annex A in PPS 8 defines open space as all open space of public value which acts as a visual amenity.

With regards to this application site, the applicant having completed Certificate A in the P1 form claims ownership of the site. Irrespective of ownership, this site can still be seen to provide benefits to the public and it does not extinguish the status of this site as an amenity green space which is afforded protection under PPS 8. As has been stated above, this site was included as part of the original planning application for Ferndale residential development and has never been built on, it has always been an informal open space area which at times was partially planted with flowers at certain times of the year. It acts as a welcoming green space at the entrance to Ferndale and is also a welcome visual break in the streetscape with the trees and vegetation to the rear of the site acting as a buffer screening the BT Exchange building from public view. It is my opinion this visual amenity makes a positive contribution to the attractiveness and character of this part of Clogher village. Although this land is not zoned in DSTAP, nonetheless it constitutes open space of public value for the purposes of PPS 8 and consequently, this residential development e proposal would involve the loss of existing open space.

Policy OS1 does go on to state that an exception to the presumption against the loss of open space will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh its loss. This has not been demonstrated by the developer and this proposal does not compensate for the loss of this feature. I consider it would negatively impact the area by depleting the environmental quality and is thereby contrary to OS 1 in PPS 8.

An Environmental Impact Screening Determination was not necessary for this application as it falls below the threshold of Category 10 - Infrastructure Projects part (B) Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017. This proposed development although being an urban development project does not have an area which exceeds 0.5 ha.

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 (NI) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

This application was advertised in the local press and 4 letters were sent to residents neighbouring this site. There were no objections received about this proposal.

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. There were 13 neighbouring properties which were notified and there were no objections received.

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

Refuse is recommended

The design of this proposed apartment scheme would not be considered a high-quality scheme due to overdevelopment of the site and the high density of the scheme which is not consistent with that found in this part of Clogher village. The significant loss of informal open space would be particularly detrimental to the character of the surrounding area due to the highly conspicuous location of the site along the main road. Therefore, I recommend this proposal is refused in that it fails to comply with the policy provisions of PPS 8 and PPS 7.

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to Policy OS1 and PPS 8, Open Space Sport and Outdoor Recreation in that the proposal will lead to a loss of existing public open space in Clogher.

##### **Reason 2**

The proposal is contrary Policy QD 1 of PPS 7 Quality Residential Environments in that the development does not respect the surrounding context and landscape features are not protected.

##### **Reason 3**

The proposal is contrary to Policy LC1 in the Addendum to PPS7 - Safeguarding Established Residential Areas in that the proposed density is significantly higher and the pattern of development is not in character or of an environmental quality than that found in the established residential area.

|                                   |
|-----------------------------------|
|                                   |
| <b>Case Officer:</b> Cathy Hughes |
| <b>Date:</b> 25 May 2023          |



| <b>ANNEX</b>   |                  |
|--|------------------|
| <b>Date Valid</b>  | 13 November 2020 |
| <b>Date First Advertised</b>   | 14 October 2021  |
| <b>Date Last Advertised</b>  | 1 December 2020  |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner / Occupier<br>30 Augher Road Clogher Tyrone BT76 0AD<br>The Owner / Occupier<br>3 Ferndale, Clogher, Tyrone, BT76 0AS<br>The Owner / Occupier<br>4 Ferndale, Clogher, Tyrone, BT76 0AS<br>The Owner / Occupier<br>27 Augher Road, Clogher, Tyrone, BT76 0AD<br>The Owner / Occupier<br>1 Crossowen Way Clogher Tyrone BT76 0AX<br>The Owner / Occupier<br>5 Crossowen Way, Clogher, Tyrone, BT76 0AX<br>The Owner / Occupier<br>28 Augher Road, Clogher, Tyrone, BT76 0AD<br>The Owner / Occupier<br>4 Crossowen Way, Clogher, Tyrone, BT76 0AX<br>The Owner / Occupier<br>26 Augher Road, Clogher, Tyrone, BT76 0AD<br>The Owner / Occupier<br>3 Crossowen Way, Clogher, Tyrone, BT76 0AX<br>The Owner / Occupier<br>25 Augher Road, Clogher, Tyrone, BT76 0AD<br>The Owner / Occupier<br>2 Crossowen Way, Clogher, Tyrone, BT76 0AX<br>The Owner / Occupier<br>24 Augher Road, Clogher, Tyrone, BT76 0AD |                  |
| <b>Date of Last Neighbour Notification</b>   | 7 September 2022 |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |

## **Planning History**

Ref: M/1974/0352

Proposals: ERECTION OF 33 DWELLING HOUSES

Decision: PG

Decision Date:

Ref: M/2000/0727/PA

Proposals: Installation of 1 No. new 0.3m dish antenna onto existing 15m high telecommunications steel column.

Decision: 53

Decision Date: 24-JUL-00

Ref: M/1974/035201

Proposals: ERECTION OF 33 DWELLING HOUSES

Decision: PG

Decision Date:

Ref: LA09/2020/1423/F

Proposals: Proposed 1no. two bedroom apartments and 2no. one bedroom apartments

Decision:

Decision Date:

Ref: M/1978/060701

Proposals: `Q' TYPE TELEPHONE EXCHANGE

Decision: PG

Decision Date:

Ref: M/1978/0607

Proposals: Q/TYPE TELEPHONE EXCHANGE

Decision: PG

Decision Date:

Ref: M/1984/599A

Proposals: PRIVATE HOUSING DEVELOPMENT - PHASE 1

Decision: PG

Decision Date:

Ref: M/1984/0599A

Proposals: PRIVATE HOUSING DEVELOPMENT - PHASE 1

Decision: PG

Decision Date:

Ref: M/1984/0599

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: PG

Decision Date:

## Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
NI Water - Multiple Units West-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
NI Water - Multiple Units West-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
NI Water - Multiple Units West-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBC  
NI Water - Multiple Units West-Substantive: YResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBC  
DFI Roads - Enniskillen Office-23-11-2022.docx  
NI Water - Multiple Units West-LA09-2020-1423-F.pdf  
Environmental Health Mid Ulster Council-Planning Response3 LA09-20-1423.pdf  
Planning Response LA09-22-1646.pdf  
DFI Roads - Enniskillen Office-  
NI Water - Multiple Units West-  
DFI Roads - Enniskillen Office-09-03-2023 Conditions.docx

## Drawing Numbers and Title

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

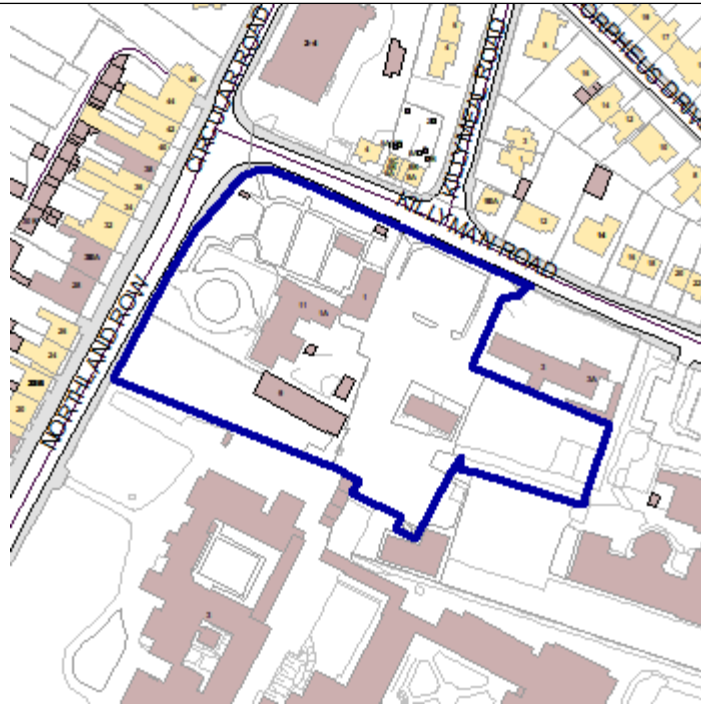
## Notification to Department (if relevant)

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

|  |  |
|--|--|
| <b>Summary</b>   |  |
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.8   |
| <b>Application ID:</b><br>LA09/2021/0205/F   | <b>Target Date:</b> 10 September 2021  |
| <b>Proposal:</b><br>Proposed mixed use redevelopment of former convent building & school to include:<br>-Public, community & interpretive spaces<br>-Event space including a restaurant/function room<br>-Parish office, archive store & library facility<br>-General office space<br>-Existing chapel to be retained for occasional mass services<br>-Nursery & Creche facility<br>-Ancillary spaces & redevelopment of surrounding curtilage to provide gardens, interpretive space & car parking plus waste water treatment plant (revised description) | <b>Location:</b><br>Sisters Of Mercy Convent<br>9 Northland Row<br>Dungannon BT71 6AY.         |
| <b>Referral Route:</b><br>Approve is recommended   |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Drumglass Parish Trust Fund Charity<br>Number: 104193  | <b>Agent Name and Address:</b><br>Manor Architects<br>30A High Street<br>Moneymore<br>BT45 7PD |
| <b>Executive Summary:</b>  |  |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                        | <b>Response</b>  |
|--------------------------|---|--|
| Non Statutory Consultee  | NI Water - Strategic Applications       | Substantive:<br>TBCResponseType: FR  |
| Non Statutory Consultee  | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR  |
| Statutory Consultee      | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR  |
| Statutory Consultee      | DFI Roads - Enniskillen Office          | Substantive: TBC   |
| Statutory Consultee      | Historic Environment Division (HED)     |  |
| Non Statutory Consultee  | Environmental Health Mid Ulster Council | LA09 21 0205 F Sisters Of Mercy Convent 9 Northland Row Dungannon BT71 6AY.doc |
| Statutory Consultee      | Environmental Health Mid Ulster Council |  |

**Representations:**

|                                 |   |
|---------------------------------|---|
| Letters of Support              | 0 |
| Letters of Objection            | 0 |
| Letters Non Committal           | 0 |
| Number of Support Petitions and |   |

|   |  |
|---|--|
| signatures  |  |
| Number of Petitions of Objection and signatures   |  |
| <b>Summary of Issues</b>  |  |
| <p><b>Characteristics of the Site and Area</b></p> <p>The site is located within the settlement limits but just outside the town centre boundary of Dungannon. Part of the site is within the Conservation Area. Currently on the site is Convent of Mercy, a large 19th Century building, former parish hall, former school building, former 2 storey office building, mobile classroom, Northland Row carpark with 48 spaces and Killyman Road carpark with 144 spaces.</p> <p>There are a mix of commercial and residential properties in the immediate area. Northland Row is a protected route.</p>  |  |
| <p><b>Description of Proposal</b></p> <p>Proposed mixed use redevelopment of former convent building &amp; school to include:</p> <ul style="list-style-type: none"> <li>-Public, community &amp; interpretive spaces</li> <li>-Event space including a restaurant/function room</li> <li>-Parish office, archive store &amp; library facility</li> <li>-General office space</li> <li>-Existing chapel to be retained for occasional mass services</li> <li>-Nursery &amp; Creche facility</li> <li>-Ancillary spaces &amp; redevelopment of surrounding curtilage to provide gardens, interpretive space &amp; car parking plus waste water treatment plant</li> </ul> <p>Linked to application LA09/2021/1559/LBC</p>  |  |
| <p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>Proposal involves;</p> <p>Mixed use development of former Convent of Mercy building &amp; school to include public, community &amp; interpretive spaces, event space, parish office, store and library facility, existing chapel to be retained for occasional mass use.</p> <p>Extension to Convent of Mercy to provide rest/cafe.</p> <p>Demolition of 2 storey office block.</p> <p>Former school building converted to Nursery/creche.</p> <p>Former Parish hall to be demolished to make space for coach and cycle parking.</p> <p>Existing mobile classroom to be demolished to provide landscape/parking area.</p> <p>Existing carparking with landscaped areas.</p> <p>New enclosed play area outside and store and an outside soft play area.</p> <p>Redevelopment of surrounding curtilage with car parking and interpretive spaces,</p> |  |

gardens will be altered and enhanced with planting and landscaping.

Currently the existing building is largely unused, except for music class, committee meetings and a Man's shed. The proposal involves restoring and repairing as much of the existing fabric of this historic building as possible. The scheme respects the existing built heritage but makes it practical for modern use and ensuring its sustainability.

The redevelopment of the site as a whole will improve the setting of this historical heritage asset.

#### Planning Assessment -

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

The site falls just outside the town limits of Dungannon and part of the site lies within Northland Conservation Area. HED were consulted and their comments detailed below. In terms of Plan Policy COM 1 - Community Uses the proposal meets the criteria set out. There is no significant detrimental impact on amenity. There is no impact on conservation interests. The proposal is in keeping with the size and scale of the surrounding area. There are satisfactory access, parking and sewerage arrangements in place.

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

#### PPS6

The application site is located within the historic town of Dungannon and is located close to the site of Dungannon Castle Hill.

The Convent of Mercy is a listed Grade B1 Building and associated application LA09/2021/1559/LBC has also been recommended for approval. HED were consulted on the full proposal and have considered the impacts of the proposal on this site and are content it satisfies PPS6 policy requirements subject to conditions for the agreement and implementation of a developer funded programme of archaeological works.

#### PPS3

A supporting statement was submitted in response to DFI consultation responses. They had stated the existing car parks are heavily used and the proposal would see a reduction in car parking spaces. The existing car parking provision is made up of 48 spaces in Northland Row car park and 96 spaces in Killyman car park. In response the agent noted that the parish rent the existing car park to Cavanagh Kelly accountants for use by both their offices, so there will be increase in vehicle trips with the

redevelopment.

The proposed site plan will provide the full allocation of parking standards required by DFI, of 105 spaces, 1 coach space and 1 HGV space. Also there will be 10 cycle spaces, to encourage reliance on cars and the site is bounded by 2 arterial bus routes making this an accessible way to travel to the site.

Following re-consultation, DFI have recommended conditions to be attached to any approval.

NI Water & Env Health raised concerns in relation to waste water and sewerage disposal in that sufficient capacity is not presently available for the proposed development.

Following discussion, amended plans have been provided indicating a Private Waste Water Treatment Plant, with specifications, operation and maintenance details and EH were re-consulted for comments. It will be located in a proposed parking area.

EH having considered the location of the WWTW and are satisfied it is located at least 7m from any habitable building. Provided the WWTW is properly installed and maintained there should be minimal impact from odour or noise on amenity and EH have no objections. A pre-commencement condition will be attached to any approval to ensure the onus is on the developer to get agreement from NI Water on the proposed WWTW.

Approval is recommended with conditions

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

o No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

- o The identification and evaluation of archaeological remains within the site;
- o Mitigation of the impacts of development through licensed excavation recording or by preservation of remains in-situ;
- o Post-excavation analysis sufficient to prepare an archaeological report, to



publication standard if necessary; and

- o Preparation of the digital, documentary and material archive for deposition.

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

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

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

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

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

The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with drawing 02/01 bearing the stamp 16 March 2022 prior to the operation of any other development hereby permitted. The area within the visibility plays 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.

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

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

No development should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW). Should adoption of the proposed temporary treatment plant not be feasible by Northern Ireland Water (NI Water), then an adequate and effective maintenance programme shall be put in place for a period not less than 20 years. The programme should be submitted and agreed for approval by Mid Ulster District Council prior to the construction of any of the dwellings hereby approved.

Reason: To safeguard residential amenity and public health.

The sewerage treatment plant shall be located as per Drawing No. 02 Rev 01 bearing date stamp 3rd Oct 2022 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved. The plant shall be maintained by the developer until such times as it is adopted by NI Water or is no longer necessary to

serve the development.

Reason: To protect nearby residential amenity from noise and odour.

An adequate maintenance programme for the temporary package sewage treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the package sewage treatment plant until such times as the necessary upgrade of the Waste Water Treatment Works has been completed, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise and odour

Landscaping should be carried out in accordance with stamped approved plan 02rev01 dated 23 Oct 2022. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of Mid Ulster District Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster District Council gives its written consent to any variation.

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

**Case Officer:** Emma McCullagh

**Date:** 18 April 2023

| ANNEX   |                  |
|---|------------------|
| <b>Date Valid</b>   | 12 February 2021 |
| <b>Date First Advertised</b>  | 10 November 2022 |
| <b>Date Last Advertised</b>   | 23 February 2021 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>40 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>42 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>Buddy Bear Trust Conductive School, Killyman Road, Dungannon, BT71 6DE.<br>The Owner / Occupier<br>Office, 20 Northland Row, Dungannon, Tyrone, BT71 6BL<br>The Owner / Occupier<br>Flat 1, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW<br>The Owner / Occupier<br>Office, 16 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>St Patricks Church, 1 Circular Road, Dungannon, BT71 6BE<br>The Owner / Occupier<br>38 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>Courthouse Villas, 2 Killyman Road, Dungannon, Tyrone, BT71 6DW<br>The Owner / Occupier<br>Convent Of Mercy, 11 Northland Row, Dungannon, Tyrone, BT71 6AR<br>The Owner / Occupier<br>Basement, 14 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>Apartment 2 , 28A Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>Apartment 1, 28A Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>46 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>44 Northland Row, Dungannon, Tyrone, BT71 6AP<br>The Owner / Occupier<br>Flat 3 (1ST Floor), Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW<br>The Owner / Occupier<br>Flat 2, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW<br>The Owner / Occupier<br>Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW<br>The Owner / Occupier<br>Flat 4 (1ST Floor), Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW<br>The Owner / Occupier |                  |

Flat 5, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW  
The Owner / Occupier

Flat 6, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW  
The Owner / Occupier

Flat 7, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW  
The Owner / Occupier

Flat 8, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW  
The Owner / Occupier

Flat 9, Northland House, 2 Northland Row, Dungannon, Tyrone, BT71 6AW  
The Owner / Occupier

Ground Floor, 14 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

30A Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

30 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

36 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

26 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

14A Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

10 Northland Row, Dungannon, Tyrone, BT71 6AT  
The Owner / Occupier

24 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

22D Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

28 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

22B Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

St Patricks Primary School, 11 Killyman Road, Dungannon, Tyrone, BT71 6DE  
The Owner / Occupier

9 Killyman Road Dungannon Tyrone BT71 6DE  
The Owner / Occupier

12 Northland Row, Dungannon, Tyrone, BT71 6AT  
The Owner / Occupier

32 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

22A Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

22 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

18 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

34 Northland Row, Dungannon, Tyrone, BT71 6AP  
The Owner / Occupier

|  |                 |
|--|-----------------|
| 22C Northland Row, Dungannon, Tyrone, BT71 6AP   |                 |
| <b>Date of Last Neighbour Notification</b>   | 25 October 2021 |
| <b>Date of EIA Determination</b>   | 12 March 2021   |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b>   |                 |
| <b>Summary of Consultee Responses</b><br><br>NI Water - Strategic Applications-Substantive: TBCResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: TBC<br>Historic Environment Division (HED)-<br>Environmental Health Mid Ulster Council-LA09 21 0205 F Sisters Of Mercy Convent 9<br>Northland Row Dungannon BT71 6AY.doc<br>Environmental Health Mid Ulster Council- |                 |

**Drawing Numbers and Title**

Existing Floor Plans Plan Ref: 14  
Existing Floor Plans Plan Ref: 13  
Existing Floor Plans Plan Ref: 12  
Existing Elevations Plan Ref: 11  
Existing Elevations Plan Ref: 10  
Elevations and Floor Plans Plan Ref: 09  
Elevations and Floor Plans Plan Ref: 08  
Proposed Elevations Plan Ref: 7  
Proposed Elevations Plan Ref: 06  
Proposed Floor Plans Plan Ref: 05  
Proposed Floor Plans Plan Ref: 04  
Existing Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01  
Proposed Elevations Plan Ref: 16  
Proposed Elevations Plan Ref: 15  
Proposed Elevations Plan Ref: 07 rev 1  
Proposed Elevations Plan Ref: 06 rev 1  
Proposed Floor Plans Plan Ref: 05 rev 1  
Proposed Floor Plans Plan Ref: 041 rev 1  
Site Layout or Block Plan Plan Ref: 02 rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.9  |
| <b>Application ID:</b><br>LA09/2021/1396/O  | <b>Target Date:</b> 18 November 2021  |
| <b>Proposal:</b><br>Proposed site for housing development.  | <b>Location:</b><br>34 Main Street<br>Tullyhogue<br>Cookstown.  |
| <b>Referral Route:</b><br>Refuse is recommended   |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Calvert Development Ltd<br>5A Stewart Avenue<br>Portadown<br>BT63 5DA | <b>Agent Name and Address:</b><br>Terry Murphy<br>4 Mid Ulster Business Park<br>Sandholes Road<br>Cookstown<br>BT80 9LU |
| <b>Executive Summary:</b>   |   |

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

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**Consultations:**

| Consultation Type       | Consultee                               | Response   |
|-------------------------|---|--|
|                         | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR                          |
|                         | Environmental Health Mid Ulster Council | Substantive: TBC   |
|                         | NI Water - Multiple Units West          | Substantive:<br>TBCResponseType: FR                        |
|                         | DFI Roads - Enniskillen Office          | Substantive: TBC   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council |  |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | Planning response (2).pdf                                  |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Roads Consultation outline approval.docxRS1 Form a (1).doc |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | Planning response (3).pdf                                  |

**Representations:**

|                       |   |
|-----------------------|---|
| Letters of Support    | 0 |
| Letters of Objection  | 0 |
| Letters Non Committal | 0 |



|  |  |
|--|--|
| Number of Support Petitions and signatures   |  |
| Number of Petitions of Objection and signatures  |  |
| <b>Summary of Issues</b><br><br>No representations have been received in respect of this application.  |  |
| <b>Characteristics of the Site and Area</b><br><br>The site is currently occupied by a small vacant two storey dwelling located on a street frontage site within the settlement of Tullyhogue. The existing dwelling located at the front of the site is within an area of townscape character. The site is enclosed by a 1.5m high trimmed hedgerow to the rear of the public footpath and extending along both the northern and southern boundaries. There is a small field to the rear of the dwelling, which rises up gently towards the eastern boundary which is defined by a hedgerow with mature trees.<br>The site backs onto O'Neill Park to the south, which is a Public Authority housing development of two storey terraced dwellings. To the north of the site is an agricultural merchants business which supplies animal feeds and fertilisers. The site sits approximately 3-4m above the agricultural merchants yard which has a large shed extending along the boundary with 2 large meal silos at the eastern gable end. |  |
| <b>Description of Proposal</b><br><br>This is an outline application for a proposed site for housing development. A concept plan has been submitted and indicates a total of five dwellings. One detached dwelling is located at the Main Street frontage, facing onto the public road, with two pairs of semi-detached dwellings located further back on the site. A single access road extends along the northern boundary, next to the Hewitt's farm feeds business, to a turning head with four semi-detached dwellings at the end. These four dwellings back onto the public housing development of O'Neill Park.   |  |
| <b>Planning Assessment of Policy and Other Material Considerations</b><br><br><u><b>Policy Consideration</b></u><br><br>Planning History<br>There is no previous planning history on the application site.<br><br>The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining  |  |

weight.

The proposal is in accordance with the Cookstown Area Plan 2010 insofar as the site lies within the settlement development limit of Tullyhogue. The dwelling at the front of the site is located within an area of townscape character whilst the remainder of the site has no specific designation and is considered to be whiteland.

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

SPPS - Strategic Planning Policy Statement for NI

PPS 7 Quality Residential Environments

PPS 3 - Access, Movement and Parking

PPS 4 - Planning and Economic Development

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.

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

As this is an outline application the concept plan is being treated as a proposed block plan and is therefore being assessed against these criteria as follows:-

- (a) The proposal meets the first of these criteria in that it respects the surrounding context in terms of layout as the density of the proposed site is for 5 dwellings on a site of 0.26 ha giving a density of 19.2 dwelling per hectare. This density sits comfortably within the surrounding developments which range from 10.5 dwellings per hectare at Kings Park, to 26.7 dwellings per hectare at Berkely Mews with O'Neill Park having a higher density of 36.3 dwelling per hectare.
- (b) There are no features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;
- (c) This layout shows a notional layout for 5 dwellings, therefore there is no requirement for the provision of public open space. This arrangement has the potential to provide for all dwellings to have adequate private amenity space.
- (d) As the site is close to and within walking distance of the centre of Tullyhogue, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has good access onto the Main Street and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access

public transport routes and the public network system;

(f) Adequate provision can be made for all sites to have in-curtilage parking.

(g) As this is an outline application, the design of the development in terms of form, materials and detailing has not been considered in detail. However, this can be conditioned and considered at Reserved Matters stage.

(h) Given the existing surrounding land uses, and in particular the animal feeds merchants yard located immediately to the north of the proposed site, the proposal has the potential to create a conflict with adjacent land uses. Environmental Health highlighted concerns regarding noise from the nearby agricultural merchants on the proposed development. The applicant duly submitted a noise impact assessment, however, this only served to reinforce Environmental Health's concerns about the suitability of the proposed development. Environmental Health advised that should the proposed development receive planning approval, and a justified noise complaint be received by a future occupant, EHD would have to consider enforcement action for statutory nuisance under Clean Neighbourhoods and Environment Act (NI) 2011. EHD concluded that due to these concerns it is their opinion that the proposed development is an incompatible land use for this location.

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

PPS 4 - Planning and Economic Development: Policy PED 8 Development incompatible with Economic Development Uses states that 'A proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused'.

As there is the potential, as advised by EHD, that the existing animal feed merchants business may give rise to noise complaints from the occupiers of the new dwellings, which may result in enforcement action being taken against that business, the proposed development is deemed incompatible with the existing economic use and is therefore contrary to policy.

#### Consultee responses

DfI Roads advised that following the submission of amendments, that they have no objections.

NIW advised that there are network capacity issues as the receiving foul sewerage network has reached capacity. This issue can be dealt with by use of a negative condition restricting any development until a method of satisfactorily dealing with the sewage has been submitted and agreed with Council in association with NIW.

As detailed above, Environmental Health have advised that the site is located immediately adjacent to an animal feed merchants business. The acoustic consultant has compared the noise level at existing dwellings within the vicinity of this proposal and with that of future dwellings within this proposed development. The consultancy have also given consideration to current noise complaint levels within the area. Environmental Health Department would comment that this does not give guarantees that future complaints will not be received nor mitigate the level of noise predicted at this proposed development.

Based on the information available and the noise levels predicted, EHD continue to have

concerns about the suitability of this proposal. Should the proposed development receive planning approval and a justified complaint be received by a future occupant, with the noise levels predicted in the Noise Impact Assessment, Environmental Health would have to consider enforcement action for statutory nuisance under Clean Neighbourhoods and Environmental Act (NI) 2011. EHD would conclude that due to these concerns we feel this proposal is an incompatible land use for this location.

#### Recommendation

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

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy QD1 of Planning Policy Statement 7 Quality Residential Environments in that the development as proposed fails to provide a quality residential environment by reason of creating a conflict with an adjacent land use where the proposed dwellings may suffer from noise nuisance.

##### Reason 2

The proposal is contrary to Policy PED 8 of Planning Policy Statement 4 Planning and Economic Development in that the development as proposed is considered to be incompatible with the adjacent economic use and which may prejudice its future operation, by way of noise complaints.

**Case Officer:** Malachy McCrystal

**Date:** 25 May 2023

| <b>ANNEX</b>  |                   |
|---|-------------------|
| <b>Date Valid</b>   | 23 September 2021 |
| <b>Date First Advertised</b>  | 5 October 2021    |
| <b>Date Last Advertised</b>   | 5 October 2021    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>28 Main Street Tullyhogue Cookstown Tyrone BT80 8UA<br>The Owner / Occupier<br>14 O'Neill Park, Tullyhogue, Cookstown, Tyrone, BT80 8UE<br>The Owner / Occupier<br>3 Berkley Square Tullyhogue Cookstown Tyrone BT80 8UD<br>The Owner / Occupier<br>2 Berkley Square Cookstown Tyrone BT80 8UD<br>The Owner / Occupier<br>54 O'Neill Park Tullyhogue Cookstown Tyrone BT80 8UE<br>The Owner / Occupier<br>4 Berkley Square Tullyhogue Cookstown Tyrone BT80 8UD<br>The Owner / Occupier<br>36 O'Neill Park, Tullyhogue, Cookstown, Tyrone, BT80 8UE |                   |
| <b>Date of Last Neighbour Notification</b>  | 13 January 2022   |
| <b>Date of EIA Determination</b>  |                   |
| <b>ES Requested</b>   | <events screen>   |
| <b><u>Planning History</u></b>  |                   |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Environmental Health Mid Ulster Council-Substantive: TBC<br>NI Water - Multiple Units West-Substantive: TBCResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: TBC<br>Environmental Health Mid Ulster Council-<br>Environmental Health Mid Ulster Council-Planning response (2).pdf<br>DFI Roads - Enniskillen Office-Roads Consultation outline approval.docxRS1 Form a (1).doc<br>Environmental Health Mid Ulster Council-Planning response (3).pdf   |                   |

|  |
|--|
|  |
| <b>Drawing Numbers and Title</b>   |
| Road Access Plan Plan Ref: 04<br>Site Appraisal or Analysis Plan Ref: 02<br>Housing Concept Plan Plan Ref: 03<br>Site Location Plan Plan Ref: 01 |
| <b>Notification to Department (if relevant)</b>  |
| Not Applicable   |

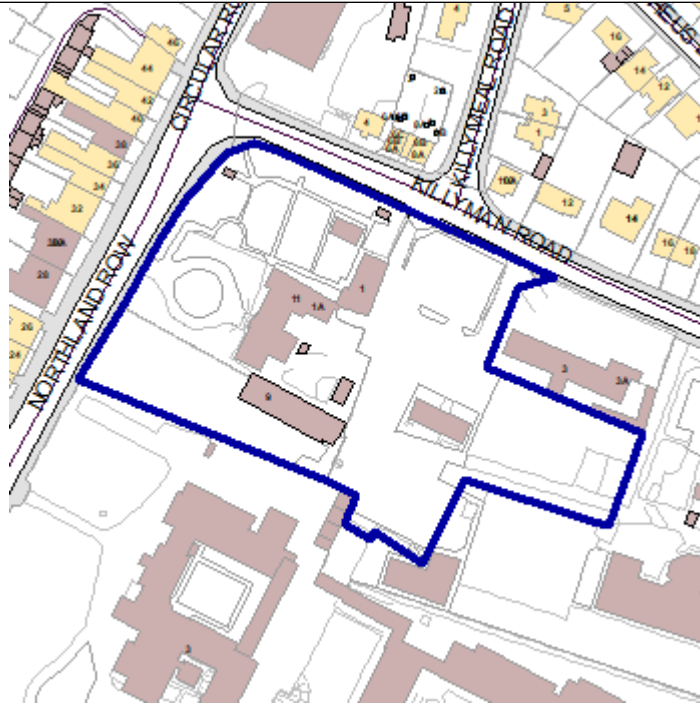


## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.10  |
| <b>Application ID:</b><br>LA09/2021/1559/LBC   | <b>Target Date:</b> 21 December 2021   |
| <b>Proposal:</b><br>Proposed mixed use redevelopment of former convent building and school, to include Public ,community and interpretive spaces<br>Event Space, including a restaurant/ function room<br>Parish office, archive store and library facility<br>general office space<br>Existing chapel to be retained for occasional mass services<br>Nursery and creche facility<br>Ancillary spaces and redevelopment of surrounding curtilage to provide gardens, interpretive space and car park | <b>Location:</b><br>Sisters Of Mercy Convent<br>9 Northland Row<br>Dungannon                   |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Drumglass Parish Church Fund<br>St Patrick's Parish Office<br>4 Killyman Road<br>Dungannon   | <b>Agent Name and Address:</b><br>Manor Architects<br>30A High Street<br>Moneymore<br>BT45 7PD |
| <b>Executive Summary:</b>  |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                           | Response                            |
|---------------------|-------------------------------------|-------------------------------------|
| Statutory Consultee | Historic Environment Division (HED) | Substantive:<br>TBCResponseType: PR |
| Statutory Consultee | Historic Environment Division (HED) |                                     |
| Statutory Consultee | Historic Environment Division (HED) |                                     |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area



The site is located within the settlement limits but just outside the town centre boundary of Dungannon. Part of the site is within the Conservation Area. Currently on the site is Convent of Mercy, a large 19th Century building, former parish hall, former school building, former 2 storey office building, mobile classroom, Northland Row carpark with 48 spaces and Killyman Road carpark with 144 spaces. There are a mix of commercial and residential properties in the immediate area. Northland Row is a protected route.

### **Description of Proposal**

Proposed mixed use redevelopment of former convent building & school to include:- Public, community & interpretive spaces-Event space including a restaurant/function room-Parish office, archive store & library facility-General office space-Existing chapel to be retained for occasional mass services-Nursery & Creche facility-Ancillary spaces & redevelopment of surrounding curtilage to provide gardens, interpretive space & car parking plus waste water treatment plant (revised description)

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

#### **Policy Consideration**

The application is for Listed Building Consent in relation to 'Convent of Mercy, Northland Row, Dungannon'. The building is Grade B1 listed and is of special architectural and historic interest and is protected by section 80 of Planning Act (NI) 2011. Historic Env Division, HED (historic buildings) have considered the impacts of the proposal against Policy BH8 and BH11 of PPS6 - Archeology, and the Built Heritage, and on the basis of the plans submitted and the additional information, advise they are content subject to conditions. Approval is recommended and is linked to full application LA09/2021/0205/F.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

#### **Condition 2**

New render, mortar and plaster applied to solid masonry walls shall be lime based with no cement-based additives. Plaster shall be finished with limewash. Natural breathable paints may be used as an alternative where specifically agreed.

All salvageable material shall be retained and reused, using as much of the original material as possible. Including fixtures and fittings such as fireplaces shown in the condition report

Where replacement windows are deemed necessary, a prototype of each different window

shall be provided for approval in writing by the council in conjunction with HED prior to removal of existing.

Prior to commencement of landscaping provide detailed proposals and samples of all finish

materials and lighting fixture to be agreed in writing with the Council in conjunction with Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

**Signature(s):** Emma McCullagh

**Date:** 21 April 2023

|   |                  |
|---|------------------|
| <b>ANNEX</b>  |                  |
| <b>Date Valid</b>   | 26 October 2021  |
| <b>Date First Advertised</b>  | 11 November 2021 |
| <b>Date Last Advertised</b>   | 9 November 2021  |
| <b>Details of Neighbour Notification</b> (all addresses)  |                  |
|   |                  |
| <b>Date of Last Neighbour Notification</b>  |                  |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | <events screen>  |
| <b><u>Planning History</u></b>  |                  |
|   |                  |
| <b>Summary of Consultee Responses</b>   |                  |
| <p>Historic Environment Division (HED)-Substantive: TBCResponseType: PR</p> <p>Historic Environment Division (HED)-</p> <p>Historic Environment Division (HED)-</p> |                  |

**Drawing Numbers and Title**

|                           |              |
|---------------------------|--------------|
| Existing Plans            | Plan Ref: 14 |
| Existing Plans            | Plan Ref: 13 |
| Existing Plans            | Plan Ref: 12 |
| Existing Plans            | Plan Ref: 11 |
| Existing Plans            | Plan Ref: 10 |
| Existing Plans            | Plan Ref: 09 |
| Proposed Elevations       | Plan Ref: 08 |
| Proposed Elevations       | Plan Ref: 07 |
| Proposed Elevations       | Plan Ref: 06 |
| Proposed Elevations       | Plan Ref: 05 |
| Proposed Floor Plans      | Plan Ref: 04 |
| Proposed Floor Plans      | Plan Ref: 03 |
| Site Layout or Block Plan | Plan Ref: 02 |
| Site Location Plan        | Plan Ref: 01 |

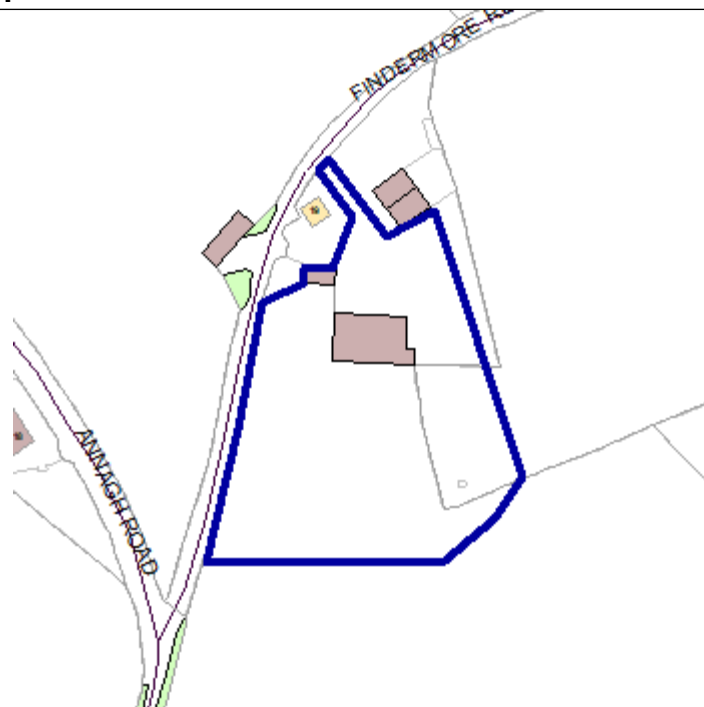
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.11   |
| <b>Application ID:</b><br>LA09/2021/1653/F  | <b>Target Date:</b> 11 January 2022   |
| <b>Proposal:</b><br>Extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping | <b>Location:</b><br>Immediately East Of 19 Annagh Road<br>Lungs<br>Clogher<br>Co Tyrone<br>BT76 0UX               |
| <b>Referral Route:</b><br>Refuse is recommended<br><br>This proposal is contrary to PPS 4 Planning and Economic Development and refusal is recommended.   |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Malcolm Keys<br>Malcolm Keys Transport<br>22 Annagh Road<br>Clogher   | <b>Agent Name and Address:</b><br>John O'Brien<br>Ardvarna<br>7 Derreens Road<br>Arney<br>Bellanaleck<br>BT92 2BY |
| <b>Executive Summary:</b>   |   |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                        | <b>Response</b>   |
|--------------------------|---|---|
|                          | Historic Environment Division (HED)     | Substantive:<br>YResponseType: FR   |
|                          | Rivers Agency                           | Substantive:<br>YResponseType: FR   |
|                          | Environmental Health Mid Ulster Council | Substantive:<br>TBCResponseType: FR   |
|                          | DFI Roads - Enniskillen Office          | Substantive:<br>YResponseType: FR   |
|                          | Health & Safety Executive For NI        | Substantive:<br>TBCResponseType: FR   |
|                          | Historic Environment Division (HED)     | Substantive:<br>TBCResponseType: PR   |
| Non Statutory Consultee  | Environmental Health Mid Ulster Council |   |
| Non Statutory Consultee  | Environmental Health Mid Ulster Council | LA09-21-1653 F<br>Immediately East Of 19<br>Annagh Road Lungs<br>Clogher Co Tyrone BT76<br>0UX 010223.doc |
| Non Statutory            | Environmental Health Mid Ulster         | LA09-21-1653 F  |

|   |   |  |
|---|---|--|
| Consultee   | Council                                 | Immediately East Of 19 Annagh Road Lungs<br>Clogher Co Tyrone BT76 0UX.doc |
|   | Environmental Health Mid Ulster Council |  |
| <b>Representations:</b>   |   |  |
| Letters of Support  | 1                                       |  |
| Letters of Objection  | 0                                       |  |
| Letters Non Committal   | 0                                       |  |
| Number of Support Petitions and signatures  |   |  |
| Number of Petitions of Objection and signatures   |   |  |
| <b>Summary of Issues</b>  |   |  |
| <b>Characteristics of the Site and Area</b>   |   |  |
| <p>This application site occupies a flat portion of land immediately East Of 19 Annagh Road Lungs, Clogher. It is located in the countryside in an Area of Constraint on Mineral Development as defined in the Dungannon and South Tyrone Area Plan. Clogher village sits 3.5 kilometres to the east and Fivemiletown is 6.5 kilometres to the south west, with the site siting approximately 1 kilometre north of the A4 Ballagh Rd which connects the two settlements above. The surrounding area is mostly flat agricultural land with some dispersed dwellings and farm holdings. Lungs Gospel Hall sits less than 100 metres from the site to the west.</p> <p>Currently the site is occupied by the applicant's business - Malcolm Keys Transport and is accessed via an entrance to the north of No 19 Annagh Road. This is a two-storey roadside dwelling which sits on a small plot with a single ancillary outbuilding and its curtilage is almost entirely surrounded by this application site. The approved underground gas pipe above runs just outside and parallel to the northern boundary of this site.</p> <p>This site measures 0.94 hectares and accommodates a number of buildings and a large yard area. The main workshop is a rectangular shaped building which has concrete walls to the lower portion with green cladding to the upper walls and roof, with 3 large roller shutter doors on the northern elevation. Two pre fab structures are sited perpendicular to this workshop and are utilised as offices. The eastern portion of the site is mostly yard area appears to be utilised for car parking. Lorries were parked to the rear of the workshop at the time of the site inspection. The eastern boundary of the site is mostly defined by a metal crash barrier which defines the curtilage of the site, separating it from the agricultural land beyond. The southern boundary is defined by a post and wire fence and this southern portion of the site has been recently cleared and partially gravelled. The western roadside boundary is comprised of a low hedgerow which is interspersed with telegraph poles and at No 19 Annagh Rd is defined by a low white wash stone wall and then undefined as it nears the ungated entrance to the site.</p> |   |  |

## Planning History

- o LA09/2020/0267/F - Demolition of part of lorry workshop, extension of lorry workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping - Immediately East Of 19 Annagh Road, Lungs, Clogher - Withdrawn.
- o LA09/2020/1494/LDE - Lorry workshop, parking yard and associated offices - Immediately East of 19 Annagh Road Lungs Clogher - Approval - 24.03.2021.
- o M/2006/0190/O - Proposed dwelling and domestic garage - Approx 60m S of 19 Annagh Rd Clogher - Granted 7th July 2006
- o M/2000/1042/O - Site for dwelling & domestic garage - Approx 50m S of 19 Annagh Road Clogher - Granted 17th January 2001
- o M/1993/0415 - Site for new dwelling and domestic garage - Approx. 50m S of 19 Annagh Rd Clogher - Granted 15th November 1996

## Description of Proposal

This application seeks full planning permission for the extension of facilities, provision of new workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping at Malcolm Keys Transport, located immediately East of 19 Annagh Rd Lungs Clogher. This application proposes a separate building located to the rear and of the existing workshop which is to be retained. A new entrance is proposed close to the south western corner of the site where a new tarmacked access goes the width of the site to where it would culminate in a lorry turning area at the eastern part of the site. New car parking areas finished in brick are proposed either side of the entrance and a new lorry parking area to the south of this new access along the southern boundary of the site. There is also additional lorry parking proposed along the eastern site boundary.

## Consultations and Representations

HSENI are a statutory consultee for certain developments within the consultation distance (CD) of major hazard installations. They were consulted due to the proximity of this site to the Gas to the West pipeline which sits to the north of the site and based on the 10 - 15 metres distance and after consulting PADHI, they would 'not advise against' this proposal. The pipeline operator advised they will monitor the progress of this proposed development through helicopter flyovers and weekly route drives. These surveillance activities will ensure nothing changes and that any proposed works will not pose risk to the pipeline which is about 10-15 metres away from it.

HSENI also advised contacting the pipeline operator before deciding the application for the following reasons;

- 1) It is the pipeline operator who holds the up-to-date technical information on the design and construction of the pipeline.



2) The operator may have a legal interest (easement, wayleave etc) in the vicinity of the pipeline. This may restrain certain developments within a certain proximity of the pipeline. 3) The standards to which the pipeline is designed and operate may restrict occupied buildings, structures of major traffic routes within a certain proximity of the pipeline. Consequently, there may be a need for the developer to modify the development or for the operator to modify the pipeline, or its operation, if the development proceeds.

While processing application LA09/2020/0267/F the agent submitted information showing the pipeline wayleave and that the proposed development will not encroach on it. The case officer also liaised with Shane Rafferty of 'Mutual-Energy' who in July 2020 said they would have no objections with the development proposed, but we will work more closely with the landowner come the time of construction to ensure the works are executed safely in the vicinity of the pipeline.

DfI Rivers stated this proposal does not fall within the floodplain, however they requested a Drainage Assessment be submitted as part of this proposal. This was not submitted however could be attached as a pre commencement requirement to any permission granted, prior to any development commencing.

DfI Roads have no concerns recommending conditions regarding the provision of 2.4 metres by 45 metres visibility splays which involves the removal of telegraph poles and the permanent construction of the hard surfaced areas be attached to any permission.

HED were consulted due to the presence of a large scheduled monument (TYR 058:013) which sits approximately 200 metres to the west of the site. They suggested a landscape buffer of an earthen bank and native species planting to be established along the eastern boundary of the site. This would aid integration of any new development and thus not having an adverse impact upon the setting of this scheduled monument. Following the submission of revised drawings, HED consider this landscaping and boundary treatment to be sufficient. They now consider the proposed development would have minimal impact on the setting of the above-mentioned schedule and it is therefore in compliance with PPS 6.

Mid Ulster Council's Environmental Health section were consulted and requested a Noise Impact Assessment be carried out due to the proximity of this site to No 19 Annagh Road. They referred to the NIA which was previously submitted as part of the withdrawn application and their comments on that which highlighted discrepancies in the report and therefore needed attention. Upon submission of an amended NIA produced by CD Consulting, Environmental Health still have a number of concerns as noted below and would have concerns regarding the suitability of this development proposal.

- The separation distances stated within Table 1 are incorrect and of particular concern is the distance stated from NSR 1 to the proposed shed which we measure to be approximately 45 metres.
- The consultancy has stated that the equipment will be used intermittently and allowance is made for this in calculations by applying an on-time correction, however, no provision for intermittency has been applied to the rating level. Given that the consultancy has used a +6 dB penalty for impulsivity which equates to the noise being clearly perceptible at the closest noise receptor then a + 3dB penalty should be applied for intermittency which will also be perceptible at the closest noise sensitive receptor.

- Allowing for a separation distance of 45 metres, and applying the necessary penalties above, then the rating level at NSR 1 equates to 41.5 dB(A) which is +7 dB above the typical background noise level (35 dB(A)) and indicative of significant adverse impact.

Environmental Health were again consulted with revised information to address their concerns above. They accept CD Consulting's rationale for the acoustic feature correction, however they still have an issue with the separation distances used within the noise impact assessment. The consultancy has measured the separation distance being from the middle of the proposed site to the façade of the nearest noise sensitive receptors which overestimates separation distances. Furthermore, using the façades of noise sensitive receptors fails to consider the actual impact of amenity space such as gardens, where noise from daytime industrial/commercial activities would be mostly experienced. Environmental Health have calculated this to impact the Consultancies predictions by + 4 dB resulting in an excess of noise from this proposal over background noise by +4.2 db. BS 4142: 2014 - Methods for rating and assessing industrial and commercial sound states that "a difference of around +5 dB is likely to be an indication of an adverse impact, depending on context."

Environmental Health are clear this is an intensification of an existing business and this proposal will be situated 40 metres from third party amenity space. Should permission be granted for this development, they suggest conditions in order to protect nearby residential amenity. These conditions concern operational hours, not exceeding noise limits referred to in the NIA, specific noise insulation levels on the new shed and all doors to be automated and remain closed except during ingress or egress of goods or materials.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

This application was advertised in the local press and 2 neighbours were notified, in line with the Council's statutory. There were no objections to this proposal and there were two letters of support from local MLAs Deborah Erskine and Tom Elliot who welcomed this proposal stating this family run and operated business is a huge benefit to the local economy and this extension would create many construction jobs and investment in the local rural area. There was a letter of support for this proposal received from 10 businesses in the area ranging from industries producing animal feed, mechanics garage, a hardware store, engineering and veterinary services. They mention the positive impact this proposal would have on the local economy and the provision of rural employment in supporting rural communities and the supply chains involved with the business.

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

## **Policy Consideration**

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

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

The Dungannon and South Tyrone Area Plan (DSTAP) is the relevant plan for this site, which sits outside of any settlement. Plan Policy IND 1- Industry and Mixed Business Use states that planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses within these areas where the proposed development meets the key site requirements identified in Part 3 of the Plan. As this application site is located outside of any settlement designated in DSTAP and outside any zoned areas of Industry and Mixed Business Use identified, by reason of its location this proposal is in conflict with the Plan.

The SPPS affirms the planning system has a key role in achieving a vibrant economy and aims to facilitate economic development needs in ways consistent with the protection of the environment and the principles of sustainable development. The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner. Para 6.88 of the SPPS states in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must be restricted.

Exceptions to this general principle may be justified in the following circumstances;

- o A small-scale new build economic development project may be permissible outside a village or small settlement where there is no suitable site within the settlement. An edge of settlement location will be favoured over a location elsewhere in the rural area, subject to normal planning considerations.
- o A proposal for major or regionally significant economic development, where a countryside location is necessary because of size or site-specific requirements. Such proposals should be able to demonstrate a significant contribution to the regional

economy and be otherwise acceptable, particularly in terms of their environmental and transport impacts. An edge of town location should normally be favoured over a location elsewhere in the rural area.

All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development. The SPPS retains the policy provisions of PPS 3, PPS 4, PPS 6 and PPS 21, all of which are applicable to this proposed development.

Policy CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside outlines a range of types of development which in principle are considered to be acceptable in the countryside. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations. One type of development outlined in PPS21 which in principle is considered acceptable in the countryside is industry and business uses in accordance with PPS 4 Economic Development.

Policy PED 2 - Economic Development in the Countryside in PPS 4 sets out the circumstances where proposals for economic development uses in the countryside will be permitted with all other proposals only permitted in exceptional circumstances.

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

Policy PED 3 - Expansion of an Established Economic Development Use in the Countryside in PPS 4 sets out when proposals for expansion will be allowed, where;

- the scale and nature of the proposal does not harm the rural character or appearance of the local area.
- there is no major increase in the site area of the enterprise.

Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development. Any extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have.

A proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances where it is demonstrated that:

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

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

When assessing this development proposed, it is necessary to note the history on this

site.

Application LA09/2020/0267/F was submitted in February 2020 and proposed an extension which wrapped around the existing workshop building on two sides. This extension proposed an increase of approximately 561 metres squared to create a building with a footprint of 933 sq. metres. This extension to the existing building which had a footprint of 372 sq. metres.

Through the processing of this application, the agent was made aware that it was deemed excessive and was considered too large on this site. The agent then proceeded to submit amended drawings showing an even bigger building which was now proposed as a separate building to the south of the existing building and of a bigger scale and this is the proposal which is subject of this application. Through the processing of the previous application, the agent was made aware that the smaller building was not of an appropriate scale and would be regarded as a major expansion. The submission of this application was made knowing the smaller scheme was of an excessive scale and was not considered acceptable on this site.

Orthophographs taken in July 2017 and when compared to that which was taken in January 2020 clearly show the extent of the expansion to the business on the ground. The extension proposed in this application is a detached building to the rear of the existing workshop which is to be retained. This workshop has a footprint of over 320 sq. metres and has a ridge height of 8.2 metres FGL. The proposed new building measures 25.8 metres wide and 28.75 metres long, with a ridge height of 11 metres FGL. This is some 3 metres higher than the large building which is already existing on the site and proposes an additional footprint of over 740 sq. metres.

I have concerns regarding the scale and massing of this proposed building. It is large rectangular block with a flat roof which only accentuates its dominance on this site. The front elevation is south facing and due to an absence of vegetation to the south of this site, there would be long ranging views of this elevation. The side of the proposed building which faces onto the public road has only 2 pedestrian doors and 4 windows on this western elevation which are lost on huge non-descript façade.

It is evident from the ortho photos that this proposed expansion is a huge increase to the enterprise. The agent slightly amended what was initially submitted as is shown above and provided a 12 degree roof with a ridge height of 10.9 metres FGL. This very slightly reduced the block appearance of the proposed building by the introduction of a pitched roof, however I would still consider this proposal to be an excessive extension and introduction into this rural landscape with no real justification as to why a building of this size cannot be located in another more appropriate location. The agent was again asked to reduce the size of this scheme and stated there is little point in such major investment in a building which would not be fit for purpose and could not futureproof the business. I am also concerned the scale and nature of this proposed extension would detrimentally harm the rural character and the appearance of the local area and therefore it is contrary to PED 3 in PPS 4.

In PED 3 it does state that a proposal for the major expansion of an existing industrial enterprise that would not meet the required policy provisions will only be permitted in exceptional circumstances. In justification for this development, the agent in the supporting statement has stated there is a need for expansion in order to provide a

controlled environment for diagnostic machinery which would enable a sterile space on site to conduct PSV testing. An overhead crane is required for this as pits would be unsuitable and this expansion would lead to an increase of 20% in employees at this site by 12 more staff. The applicant resides at No 5 Bolies Road which sits less than 1.5 kilometres to the north west of this site. He has 3 companies which employ on average 100 people. M Keys Farms Ltd and Castlebrook Farms Ltd are engaged in intensive pig farming while M Keys Transport Ltd is involved in the haulage industry. The agent states the site has an industrial appearance with inadequate parking facilities and access and believes landscaping will allow integration and "the existing unsightly industrial building will be obscured by the new building."

Although there has been some support for this application from a local MLA, I am not convinced it has been demonstrated that this proposed extension should be an exceptional circumstance. The agent has noted the other businesses the applicant operates; however it did not examine or explain why these other sites or other alternative locations were not suitable nor how the relocation of the business would not be possible. Although I do believe this existing business provides employment in the local area by currently having 12 members of staff, I am not convinced an increase in 8 staff members would be considered to be significant contribution to the local economy and it to be considered as an exception to policy as in my opinion it would still greatly undermine the rural character of the area.

All proposals for economic development must also comply with the provisions of PED 9 General Criteria for Economic Development. It states that 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 this application site is located in the rural countryside with a community building of Lungs Gospel Hall close by, I am not overly concerned given the existing use on this application site. The site is occupied by M Keys Transport Ltd and the approved CLUD verifies this use on the site also.

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

There have been no objections to this application and the site abuts an existing dwelling at NO 19 Annagh Road which raised concerns with Environmental Health and the quality of their residential amenity. The initial Noise Impact Assessment was not considered acceptable by the Environmental Health section of the Council and is discussed in detail above. They concluded that although they had concerns, if any eventual issues concerning noise pollution do arise, they can be dealt with through the Environmental Health reporting system and this can be reaffirmed by imposing conditions regarding any complaints.

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

HED had concerns regarding the nearby monument but are now satisfied the proposed landscaping would ensure there will be no harmful impact to this heritage feature.

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

As discussed above, this site is not located within any designated flood plain but due to

the size of the proposal DfL Rivers requested a Drainage Assessment be submitted as part of this proposal. This was not submitted during the processing of this application; however this requirement could be attached as a pre commencement condition to any permission granted on this site.

(e) it does not create a noise nuisance;

Environmental Health were consulted had concerns regarding the Noise Impact Assessment. This is assessed in detail above and they have recommended conditions be attached to any permission if granted.

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

The agent in the P1 form has stated this proposal would utilise a package plant, details of which can be submitted and assessed prior to any development commencing on site if planning permission is granted.

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

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

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

I believe this new access to the site would improve road safety as the existing access does not benefit from clear splays for visibility when leaving the existing premises. DfL Roads are satisfied with the provisions set out as part of this proposal and offer no objection, subject to conditions regarding the provision of visibility splays and hardstanding. There are no footpaths for this site to link to due to its location in the countryside and given that most movement to this site would be vehicular, these are not considered necessary.

(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, the proposed building will create an additional floorspace of almost 750 sq. metres and when combined with that existing on the site, the buildings would have over 1,000 sq. metres floorspace. This would more than triple the existing floorspace as well as the extended curtilage which has more than doubled the initial size of the business on the site. The existing workshop building on site is already 8 metres in height and the agent refers to it in their statement as "the existing unsightly industrial building will be obscured by the new building." It is not my recommendation that in order to obscure an "unsightly building" is to construct a much bigger one over 3 metres higher beside it to obscure it. It is my opinion that these large increases and scales are excessive and out of keeping on this rural site.

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

The agent provided a landscaping scheme which has shown the provision of a grassed area on a parcel of land between the road and the rear of the existing and proposed

buildings. The planting of 5 - 8 metre wide earthen mounds along the eastern and southern boundary of the site, as well as along the western roadside boundary are proposed . Another bund will separate the car parking area from the lorry parking area also in the south of the site. These will provide some form of enclosure with a mixture of trees planted above the mounds. A d-rail fence is proposed along the roadside boundary

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

I am content the site will be securely enclosed in the interests of the business.

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

The applicant proposes some landscaping around the boundaries of this site. However given the scale and mass of the building proposed, no amount of landscaping could integrate a building of these proportions on this site, as was also made clear for the previous application which proposed a smaller building.

### **Summary of Recommendation:**

Refuse is recommended

It must be brought to the Members attention that during the assessment of a smaller building on this application site under LA09/2020/0267/F there was much correspondence and engagement with the agent. They were notified a number of times of the concerns regarding the size and scale of the proposed extension and a reduced scheme was recommended may be considered more acceptable on this site. This advice was not taken on board and instead a larger extension comprising a new separate building was proposed in the form of this current application under consideration.

Due to the excessive scale and mass of this proposed building, I do not feel it can in any way integrate into a rural area, and when combined with what is already existing on this site would be detrimental to the countryside. This proposal fails to meet the policy requirements of PPS 4 - specifically PED 3, PED 5 and parts j and m of PED 9.

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development PED 3, in that the development would, if permitted, have an adverse impact on the environment by virtue of the significant increase in the site area of the enterprise and its lack of visual integration into the rural landscape.

#### **Reason 2**

The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development PED 5, in that it has not been satisfactorily demonstrated that the size and site specific requirements of the proposal needs a countryside location.

#### **Reason 3**



The proposal is contrary to the Department's Planning Policy Statement 4, Planning and Economic Development PED 9, in that it has not been satisfactorily demonstrated the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity or that there are satisfactory measures to assist integration into the landscape.

**Case Officer:** Cathy Hughes

**Date:** 26 May 2023

| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 16 November 2021 |
| <b>Date First Advertised</b>   | 2 December 2021  |
| <b>Date Last Advertised</b>  | 30 November 2021 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>19 Annagh Road Clogher Tyrone BT76 0UX   |                  |
| <b>Date of Last Neighbour Notification</b>   | 14 December 2021 |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2020/0267/F<br>Proposals: Demolition of part of lorry workshop, extension of lorry workshop, provision of new access to public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping<br>Decision:<br>Decision Date:<br><br>Ref: M/1998/0395<br>Proposals: 450mm Underground Pipelines<br>Decision: PG<br>Decision Date: 18-JUL-98<br><br>Ref: M/1998/0321<br>Proposals: Laying of Underground 500mm Diameter and 450mm Diameter Pipelines<br>Decision: PG<br>Decision Date: 18-JUL-98<br><br>Ref: LA09/2020/1494/LDE<br>Proposals: Lorry workshop, parking yard and associated offices<br>Decision: PG<br>Decision Date: 24-MAR-21<br><br>Ref: LA09/2021/1653/F<br>Proposals: Extension of facilities, provision of new workshop, provision of new access to |                  |

public road to replace existing substandard access, provision of adequate parking, associated site works and landscaping

Decision:

Decision Date:

Ref: M/1993/0415

Proposals: Site For New Dwelling And Domestic Garage

Decision: PG

Decision Date:

Ref: M/2006/0190/O

Proposals: Proposed dwelling and domestic garage

Decision: PG

Decision Date: 07-JUL-06

Ref: M/2000/1042/O

Proposals: Site for dwelling & domestic garage

Decision: PG

Decision Date: 29-JAN-01

### **Summary of Consultee Responses**

Historic Environment Division (HED)-Substantive: YResponseType: FR

Rivers Agency-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

Health & Safety Executive For NI-Substantive: TBCResponseType: FR

Historic Environment Division (HED)-Substantive: TBCResponseType: PR

Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-LA09-21-1653 F Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX 010223.doc

Environmental Health Mid Ulster Council-LA09-21-1653 F Immediately East Of 19 Annagh Road Lungs Clogher Co Tyrone BT76 0UX.doc

Environmental Health Mid Ulster Council-

### **Drawing Numbers and Title**

Proposed Elevations

Landscape Proposals

Proposed Elevations      Plan Ref: 04

Landscaping Plan      Plan Ref: 03

Proposed Floor Plans      Plan Ref: 02

Site Location Plan      Plan Ref: 01

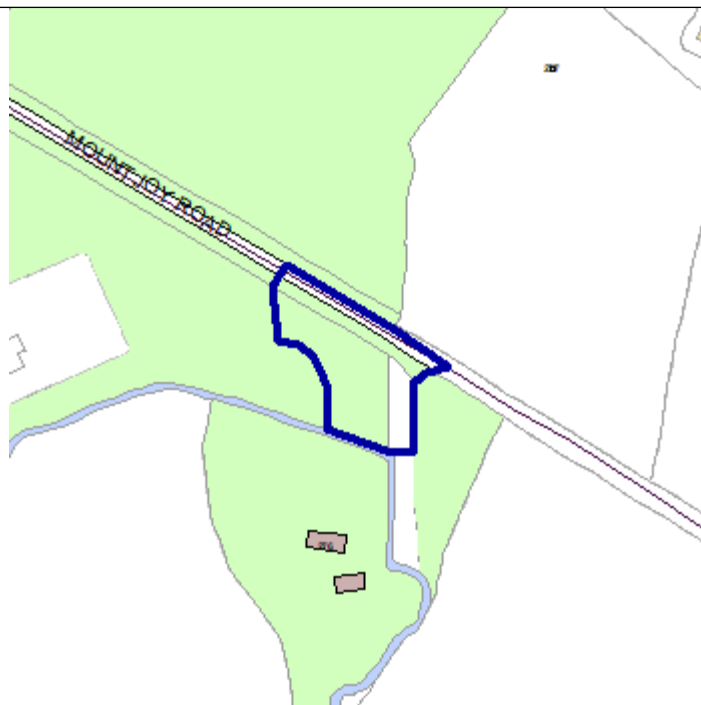
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.12  |
| <b>Application ID:</b><br>LA09/2021/1708/F   | <b>Target Date:</b> 25 January 2022  |
| <b>Proposal:</b><br>Proposed access to 276 Mountjoy Road,<br>Stewartstown, Dungannon.                                | <b>Location:</b><br>276 Mountjoy Road<br>Stewartstown<br>Dungannon BT71 5AE.                   |
| <b>Referral Route:</b><br>Approve is recommended<br><br>Objections received  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mr Stephen Hughes<br>46 Hillhead Road<br>Stewartstown<br>Dungannon<br>BT71 5HY | <b>Agent Name and Address:</b><br>Barry Canavan<br>110 Mountjoy Road<br>Coalisland<br>BT71 5DY |
| <b>Executive Summary:</b>  |  |

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

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**Consultations:**

| <b>Consultation Type</b> | <b>Consultee</b>                    | <b>Response</b>                   |
|--------------------------|-------------------------------------|-----------------------------------|
|                          | DFI Roads - Enniskillen Office      | Substantive:<br>YResponseType: FR |
|                          | Rivers Agency                       | Substantive:<br>YResponseType: FR |
|                          | Historic Environment Division (HED) | Substantive:<br>YResponseType: FR |
|                          | Historic Environment Division (HED) | Substantive: TBC                  |
|                          | Historic Environment Division (HED) | Substantive: TBC                  |
|                          | Rivers Agency                       | Substantive: TBC                  |
| Statutory Consultee      | Rivers Agency                       | 823856 - Final Response.pdf       |
| Statutory Consultee      | Historic Environment Division (HED) |                                   |
| Statutory Consultee      | Rivers Agency                       |                                   |
| Statutory Consultee      | Rivers Agency                       | 41523 - Final Response.pdf        |

**Representations:**

|                      |   |
|----------------------|---|
| Letters of Support   | 0 |
| Letters of Objection | 2 |

|   |   |
|---|---|
| Letters Non Committal   | 0 |
| Number of Support Petitions and signatures  |   |
| Number of Petitions of Objection and signatures   |   |
| <b>Summary of Issues</b>  |   |
| <p><b>Characteristics of the Site and Area</b></p> <p>The site is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 4km northeast of Stewartstown and 4km west of Lough Neagh.</p> <p>The site is an irregular shaped plot located adjacent the Mountjoy Road, a minor rural road. The eastern edge of the site comprises an existing vehicular access off the Mountjoy Road and the first half of a gravelled lane serving a vacant two storey dwelling located on a gravelled yard just south of the site, no. 276 Mountjoy Road.</p> <p>The western majority of the site comprises a small corpse of trees on lands immediately adjacent the access and lane. A small watercourse runs vertically through the site between the lane and the small corpse of trees. A small watercourse also runs along the southern boundary of the site.</p> <p>Views of the site are from the Mountjoy Road over a short distance on both approaches and passing along it's roadside frontage. Views are minimised by the site's location along a small stretch of road enclosed to both sides by trees.</p> <p>The surrounding area is characterised primarily by agricultural lands interspersed with detached dwellings, ancillary buildings and farm groups.</p> |   |
| <b>Description of Proposal</b>  |   |
| <p>This is a full planning application for a new access to serve no. 276 Mountjoy Road Stewartstown, a vacant two storey dwelling.</p>  |   |
| <b>Planning Assessment of Policy and Other Material Considerations</b>  |   |
| <p><b><u>Policy Consideration</u></b></p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p>The following documents provide the primary policy context for the determination of this application:</p>  |   |

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Development Control Advice Note 15: Vehicular Standards
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

#### Relevant Planning History

- I/2003/0374/O - Replacement 2 storey dwelling and garage - 276 Mountjoy Road Stewartstown - Granted 18th August 2003
- I/2006/0990/RM - Replacement dwelling and Garage - 276 Mountjoy Road Stewartstown - Granted 15th August 2007

No. 276 Mountjoy Road Stewartstown, the vacant two storey dwelling located on a gravelled yard just south of the site, as detailed above has previously been approved for a 2 storey replacement dwelling under outline and reserved matters applications I/2003/0374/O and I/2006/0990/RM. Given the replacement nature of the proposal these permissions did not require the upgrade of the existing access serving the dwelling off the public Mountjoy Road however an informative was attached to each permission stating that Roads Service had pointed out the access was substandard and that in the applicant's interest and that of other road users measures should be taken to provide acceptability.

#### Consultees

1. DFI Roads were consulted and had no objections to the proposal subject to standard conditions and informatives. Accordingly, subject to adherence to the conditions stipulated, I am satisfied that that this proposal will comply with the requirements of Planning Policy Statement 3: Access, Movement and Parking.

2. Historic Environment Division (HED) were consulted at the outset of this application as the site is located adjacent 'Stuart Hall' a Listed Building and its curtilage; and designated Historic Park, Garden and Demesne.

- HED (Historic Monuments) initially noted this is a new access point and lane within the registered area where historically there wasn't one and they were concerned it would have an adverse impact upon the trees in the shelter belt and erode this key feature of the original design concept and layout of Stuart Hall. As such they asked for more information to justifying the need for this access and potential damage to the trees to clarify if the proposal is acceptable under Policy BH6 of PPS6 and SPPS. The agent



subsequently submitted additional information on the 24 OCT 2022 to detail the new access is required as the existing access is not up to standard regarding the visibility to the RHS when exiting the site onto the public road. That this has led to ongoing issues with the owner of the adjoining lands regarding facing the hedge over the last 20 years during which the PSNI has been involved. That the new access, located further west of the existing access and the neighbour's lands, would resolve the issues. A 'Tree Survey and Report', 'Arboricultural Impact Statement' regarding the trees in the shelter belt and a revised site layout (02 Rev.01) to show the trees in the shelter belt incorporated were also received on the 24 OCT 2022. HED (Historic Monuments) were reconsulted for further comment on the additional information received and accept that the proposed development can be made acceptable under policy.

- HED (Historic Buildings) initially advised the proposal may satisfy policy requirements subject to further information on the design of the proposed gates and pillars to include elevations with materials and finishes noted. Historic Buildings requested the gates and pillars be informal and simple in terms of design and sympathetic in terms of materials to ensure they are in keeping with the surrounding rural context. The agent subsequently submitted a revised site layout (02 Rev.01) on the received 24 OCT 2022 to show a gravel driveway with timber gate and posts to respect the estate. HED (Historic Buildings) were reconsulted for further comment on the additional information received and responded to advise they were content with the proposal. That the gate and pillars detailed are informal and simple in terms of design and sympathetic in terms of materials, which ensures they are in keeping with the surrounding rural context. That the proposal is situated within the historic demesne of Stuart Hall which contains the listed courtyard, walled garden, gate and gate screens. The proposal is low key and sympathetic in their setting and does not dilute the understanding of the site. That these comments are made in relation to the requirements of the Strategic Planning Policy Statement for Northern Ireland (SPPS) paragraph 6.12 (setting) and of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) Policy BH11 (Development affecting the Setting of a Listed Building)

3. Rivers Agency were consulted at the outset of this application as flood maps indicated the site is located within an area of fluvial and pluvial flooding. Rivers Agency raised flooding concerns in their initial response as such the agent submitted a Flood Risk Assessment on the 24 OCT 2022 and further to some issues by Rivers Agency in relation to the FRA the agent submitted supplementary information from Jonathan Bradshaw of JKB Consulting on the 12 JAN 2023 to clarify the issues raised. Rivers Agency subsequently responded to this proposal as follows under Planning Policy Statement (PPS)15 (Revised) Planning and Flood Risk, Policy:

- FLD 1 Development in Fluvial (River) and Coastal Flood Plains - It is a matter for the Planning Authority to decide whether or not the application is an 'Exception' as defined in FLD 1. The FRA demonstrates that the proposed access road is partially within the Q100 floodplain with a modelled Q100 level of 45.378mOD at that location. This level is determined to rise to 45.413mOD when taking into account climate change. DfI Rivers are in agreement with these levels. The FRA states 'It is proposed that the access road will be constructed to existing ground levels within the floodplain and that therefore there will be no infilling of the proposed development. As a result, the impact on the flood plain would be negligible'. The FRA also states 'there is currently an existing laneway which

the applicant uses to access the site. This may be inundated to a depth of 323mm based on a present day 1% AEP flood level of 45.378mOD. The existing ground where the proposed road is located is higher than the exiting access lane therefore the risk is not increased above the current status quo'. DfI Rivers has no reason to doubt the technical findings in the FRA. It should be brought to the attention of the applicant that the responsibility for justifying the Assessment and implementation of the proposed flood risk measures rests with the developer and his/her professional advisors.

- FLD 2 Protection of Flood Defence and Drainage Infrastructure - An undesignated watercourse flows along the east and south boundaries of the site. Policy requires a 5m maintenance strip along the watercourses be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times.

- FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains - The site lies within an area of predicted pluvial flooding. Although a Drainage Assessment is not required by the policy the developer should still be advised to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere.

- FLD 4 Artificial Modification of Watercourses - The proposal indicates 2 culverts are proposed over existing watercourses. Rivers Acknowledges the Schedule 6 consent granted in relation to the culverting however advises artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for the Planning Authority.

Having taken account of Rivers Agency response above I consider this proposal an 'Exception' within Policy FLD 1 as it is minor development to provide an up to standard access to the dwelling just south of the site onto the public road. This dwelling is currently served by a substandard access. As per Rivers Agency comments it should not give rise to flooding subject to a condition that the access is constructed in accordance with the levels as shown on Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022 and there be no raising or infilling of the ground within the site outlined in red. In relation to Policy FLD 2 it should not impact the existing access to the watercourses detailed for maintenance purposes. In relation to Policy FLD 3 the developer can be advised via informative to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere. Finally, I am content as is the case here, Policy FLD 4 allows for the culverting of a short length of a watercourse necessary to provide access to a development site or part thereof.

Cookstown Area Plan 2010 - The site is located in the open countryside as defined by the Plan. Development in the countryside is controlled under the provisions of the Strategic Planning Policy Statement for Northern Ireland and Planning Policy Statement 21 Sustainable Development in the countryside.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) - The SPPS provides a regional framework of planning policy that will be taken account of in the

preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

**Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside**  
PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. It highlights all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. That access arrangements must be in accordance with the Departments published guidance.

As outlined previously the applicant seeks the new access to the dwelling located to the south of the site, previously granted for replacement (see Planning History), as its current access is not up to standard regarding the visibility to the RHS / east when exiting the site onto the public road. That this has led to ongoing issues with the owner of the adjoining lands regarding facing the hedge. That the new access, located further west of the existing access and the neighbour's lands, would resolve the issues.

Having consulted with HED (see 'Consultees' further above) I am content that the new access including lane off the Mountjoy Road should integrate into the site, the historic demesne of Stuart Hall and surrounding landscape without significant detriment to the character of the area in accordance with Policies CTY 13 of CTY 14 of PPS 21 and to adhere to the policy provisions of PPS 6. I would agree with HED Building's response that the gate and pillars proposed are informal and simple in terms of design and sympathetic in terms of materials, which ensures they are in keeping with the surrounding rural context. That the proposal is low key and sympathetic in their setting and does not dilute the understanding of the site. Whilst I note a small no. of trees will be required to be removed and two further lopped by 2m to facilitate the proposed access and ancillary lane through the small corpse of trees on site, I am content this will have minimal visual impact when viewed from the public road as all of these trees are located well within the corpse with the exception of one tree to be removed along the roadside to provide the initial access point. In addition to the above having consulted with DfI Roads and Rivers Agency (see 'Consultees' further above) subject to standard conditions and informatives, I am satisfied that that this proposal will comply with the requirements of PPS 3: Access, Movement and Parking and PPS15 (Revised): Planning and Flood Risk.

#### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 2 objections had been received. 1 from PA Duffy & Co. Solicitor's on behalf of their client Mr Plunkett Duffy that had instructed

them the current proposal for a new lane would require a site line over his lands. That he has not granted an easement to the applicant in this regard; and 1 from Mr Plunkett Duffy regarding damage to his property involving PSNI involvement; and protected birds within the site.

The objections raised above have been taken into consideration however the opinion remains to recommend the approval of this proposal as it complies with the relevant policy provisions as detailed further above in the main body of the report. With regards to the access lane requiring a site line over the objectors lands the agent was contacted to confirm that the correct Certificate was completed or on the back of the objection if they wished to amend the Certificate. The agent advised the applicant was content that the correct Certificate had been completed, that he was in ownership of all the lands outlined in red. With regards ownership / legalities surrounding the development of this site I am content as any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed works. I would note that for clarity I had asked PA Duffy Solicitor's for further details of the lands in the ownership of their client Mr Plunkett Duffy i.e., a map to show lands the site line was over. Whilst this was not provided it would appear through details provided by the applicant and objector during the processing of this application the lands in question relate to the roadside hedge of the field immediately east of the site. As detailed earlier in this report the new access and lane has been sought by the applicant as the existing access to the dwelling previously granted for replacement (see Planning History) just south of the site is not up to standard. It would appear that the facing of the objector's hedgerow to the east / RHS of the existing access to provide better visibility is what has led to ongoing issues between the objector and the applicant. Whilst this dispute is outside of Planning's remit, I am content that as pointed out by Roads Service under the previous planning histories the existing access is substandard and whilst under a replacement proposal accesses do not have to be brought to standard this proposal would provide an up to standard access to the dwelling onto the Mountjoy Road that should not prejudice road safety or significantly inconvenience the flow of traffic. Furthermore, the east site line as part of the new access arrangements as detailed on Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022 are in-situ as such should not impact the objector's land / property. In relation to concerns regarding protected birds within the site whilst a small no. of trees within the site will be required to be removed (T2, T10, T13 and T15 on Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022) and a two further lopped by 2m (T6 & T9 on Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022) I am content the trees are not protected by a tree preservation order and any works to the trees being carried out, outside of the appropriate times and affecting protected species, would be a potential criminal matter outside the remit of Planning.

Recommendation: Approve

**Summary of Recommendation:**  
Approve is recommended

## Approval Conditions

### Condition 1

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

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

### Condition 2

The existing mature trees and vegetation on site as detailed in the Tree Survey and Report dated June 2022 shall be retained, maintained, or removed as detailed in the Arboricultural Impact Statement dated October 2022.

Reason: In the interests of visual amenity and biodiversity.

### Condition 3

All proposed landscaping as detailed on Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

### Condition 4

The access and lane hereby approved shall be constructed in accordance with the levels as shown on Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022 and there be no raising or infilling of the ground within the site outlined in red.

Reason: To prevent flood risk flood risk to and from the proposed development.

### Condition 5

The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place, in accordance with Drawing No. 02(Rev.01) bearing the date stamp received 24 OCT 2022, prior to the commencement of any other works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 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.

|                                      |
|--------------------------------------|
| <b>Case Officer:</b> Emma Richardson |
|--------------------------------------|

|                          |
|--------------------------|
| <b>Date:</b> 30 May 2023 |
|--------------------------|

|   |                  |
|---|------------------|
| <b>ANNEX</b>  |                  |
| <b>Date Valid</b>   | 30 November 2021 |
| <b>Date First Advertised</b>  | 14 December 2021 |
| <b>Date Last Advertised</b>   | 14 December 2021 |
| <b>Details of Neighbour Notification</b> (all addresses)<br><br>The Owner / Occupier<br>277 Mountjoy Road, Stewartstown, Tyrone, BT71 5AE<br>The Owner / Occupier<br>276 Mountjoy Road, Stewartstown, Tyrone, BT71 5AE  |                  |
| <b>Date of Last Neighbour Notification</b>  | 21 December 2021 |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | <events screen>  |
| <b><u>Planning History</u></b>  |                  |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>Rivers Agency-Substantive: YResponseType: FR<br>Historic Environment Division (HED)-Substantive: YResponseType: FR<br>Historic Environment Division (HED)-Substantive: TBC<br>Historic Environment Division (HED)-Substantive: TBC<br>Rivers Agency-Substantive: TBC<br>Rivers Agency-823856 - Final Response.pdf<br>Historic Environment Division (HED)-<br>Rivers Agency-<br>Rivers Agency-41523 - Final Response.pdf |                  |

### Drawing Numbers and Title

|                    |              |
|--------------------|--------------|
| Road Access Plan   | Plan Ref: 02 |
| Site Location Plan | Plan Ref: 01 |

|   |  |
|---|--|
| <b>Notification to Department (if relevant)</b> |  |
|   |  |

Not Applicable



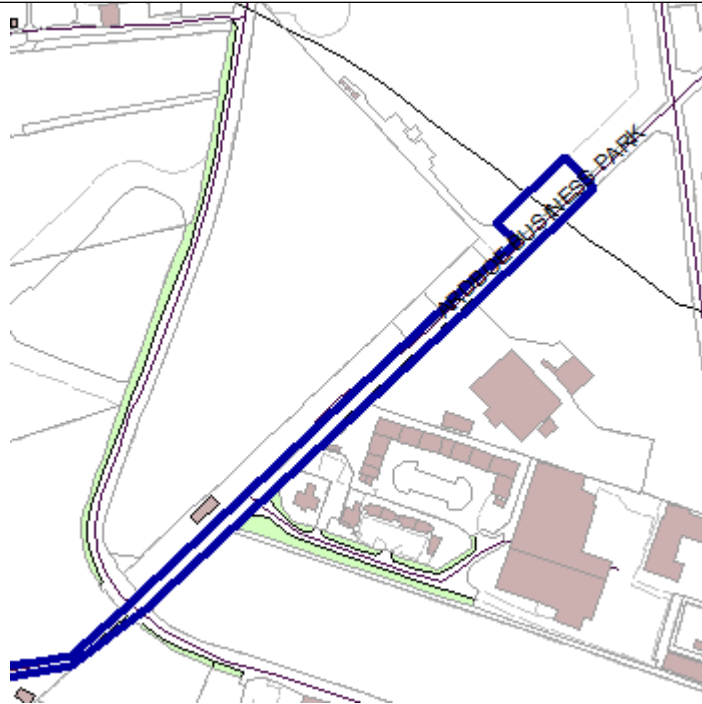


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.13   |
| <b>Application ID:</b><br>LA09/2022/0047/F  | <b>Target Date:</b> 10 March 2022   |
| <b>Proposal:</b><br>Proposed store & associated parking   | <b>Location:</b><br>80M North Of 74 Kilmascully Road<br>Ardboe  |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Gary Campbell<br>5 Ronan Drive<br>Magherafelt<br>BT45 6HD | <b>Agent Name and Address:</b><br>Aps Architects LLP<br>4 Mid Ulster Business Park<br>Cookstown<br>BT80 9LU |
| <b>Executive Summary:</b><br><br>The applicant's spouse is a Senior Member of Council staff.    |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee                               | Response                            |
|-------------------|---|-------------------------------------|
|                   | DFI Roads - Enniskillen Office          | Substantive:<br>TBCResponseType: PR |
|                   | Rivers Agency                           | Substantive:<br>TBCResponseType: PR |
|                   | Environmental Health Mid Ulster Council | Substantive: TBC                    |

### Representations:

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

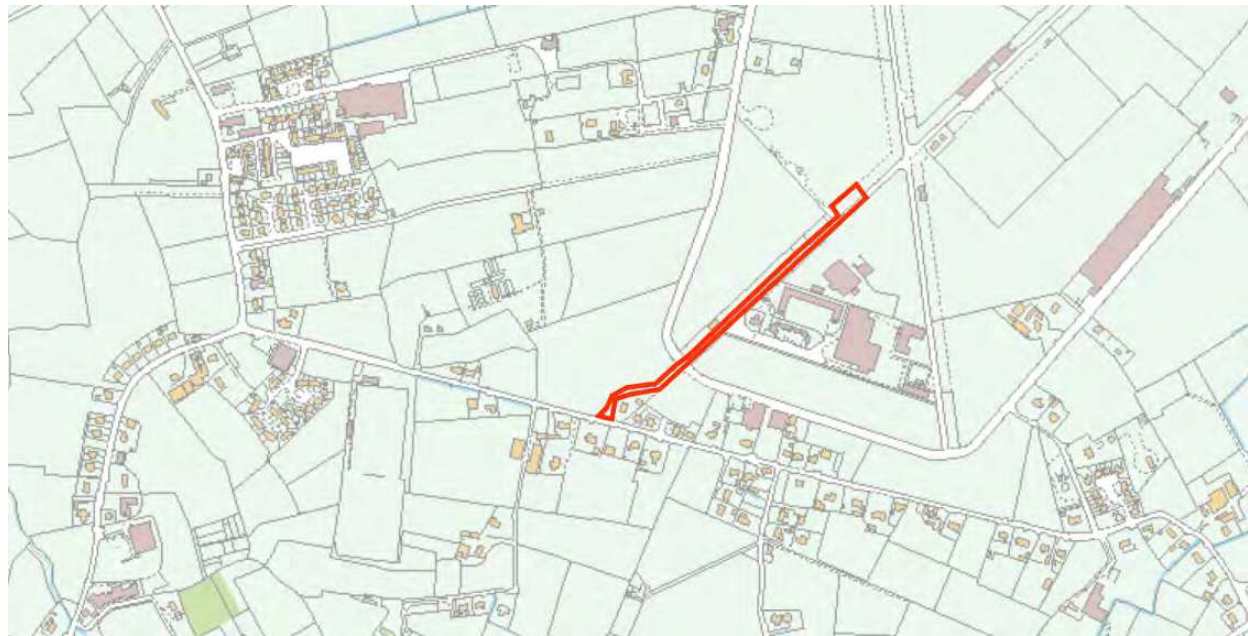
### Summary of Issues

### Characteristics of the Site and Area

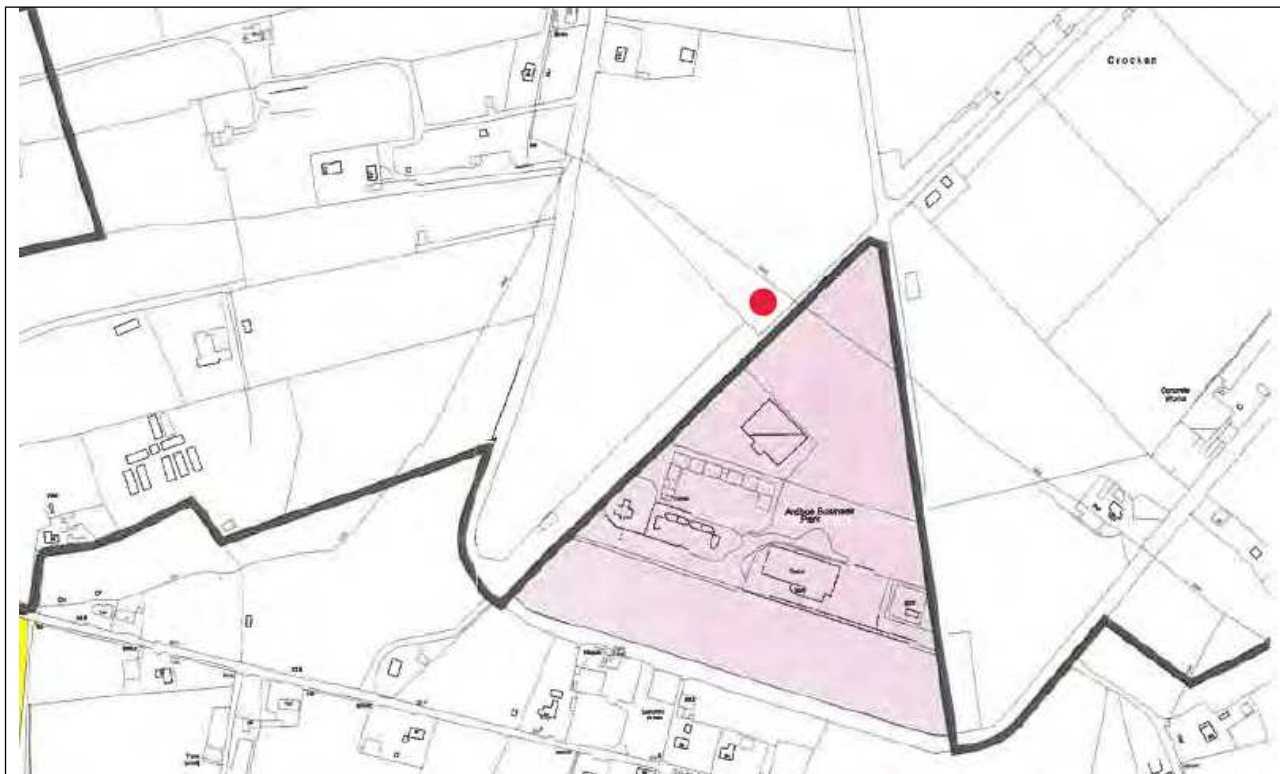
This application site occupies a rectangular portion of land at 80 metre North No 74 Kilmasally Road, Ardboe. It covers an area of 0.2 hectares, sitting alongside and to the west of the access to the old Airfield area. This application site is in the rural countryside with the settlement limit of Ardboe, running along the opposite side of the road and including the triangular portion of land within its limits. This triangular area includes the Ardboe Business Park and Quinn Building Supplies which is zoned as an Area of Industry/Mixed Business Use in the Cookstown Area Plan.

Whilst this application site is located outside of the settlement limits of Ardboe, it is accessed from within the settlement limits via an existing access and lane off the Kilmasally Road. The site is flat and occupies an overgrown parcel of land which was once part of the runway strip. The boundary which runs alongside the access road is defined by a post and wire fence, with the remaining boundaries undefined as it appears part of the wider agricultural field to the north west.

There is a single wind turbine located approximately 80 metres to the south of the site and photovoltaic panels another 80 metres beyond this at the opposite end of the field.



This application site is on a parcel of land which was included in the planning permission which was granted for changing the runway to a commercial yard.



### Planning History

LA09/2018/1099/F - Change of use from existing runway to commercial yard - 260m SE of No 151 Mullanahoe Road, Ardboe - Approval - 09.01.2019

I/2014/0067/F - Proposed site for photovoltaic array with grid connection – 70 South of No 151 Mullanahoe Road Ardboe – Approval - 09.07.2014

I/2014/0068/F - Proposed site for photovoltaic array with grid connection - 15m South of No 151 Mullanahoe Road Ardboe – Approval - 11.06.2014

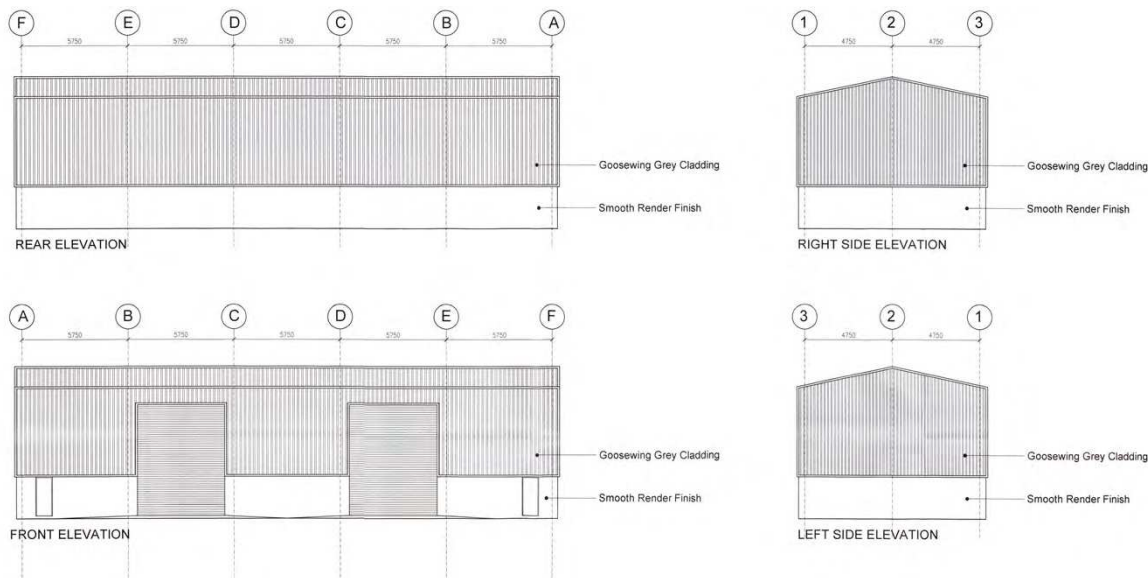
I/2013/0082/PREAPP – Proposed light industrial/commercial units - Lands at Ardboe air drum, Mullanahoe Road, Ardboe – Likely to Refuse - 25.06.2013

I/2012/0100/F - Proposed amendment to previously approved wind turbine  
 I/2010/0388/F to enable the erection of a wind turbine with a maximum hub height of 50m and up to a 30m rotor diameter with a maximum output not exceeding 250kW (tower to be either monopole or lattice construction) to serve for export to the grid – Withdrawn Dec 2012

### **Description of Proposal**

## Description of Proposal

This application seeks full planning permission for a proposed store & associated parking on land 80m North of 74 Kilmascully Road, Ardboe.



The proposed building measures 10.1 metres wide and is 29.2 metres long, with a ridge height of 8.2 metres FGL. There are 2 large roller shutter doors on the southern eastern elevation which faces onto the road, as well as 2 pedestrian doors at each end of this elevation. On the roof and 3 other elevations there are no further openings. The lower part of the building is smooth render finish with grey cladding to the upper part and the roof, typical of industrial/agricultural buildings in the countryside. The site enclosed by palisade fencing 1.8 metres high and accessed via double gates.

## Representations and Consultations

An existing unaltered access will be utilised and 7 parking spaces are provided, DfI Roads have no objection to this proposal.

DfI Rivers have no objection.

The Environmental Health section of Mid Ulster District Council were consulted and raised no objections to this proposal.

This application was advertised in the local press in line with the Council's statutory duty and four neighbouring properties were notified. There were no objections received for this proposal.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

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

### **Policy Consideration**

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

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

The Cookstown Area Plan (CAP) is the relevant plan for this site, which sits outside of and adjacent to the settlement limits of Ardboe, in the open countryside. The land to the east of this site is included within the development limits and is also zoned as an area for industrial and mixed business use appropriate to the scale of the settlement. Plan Policy IND 1- Industry and Mixed Business Use states that planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses within these areas where the proposed development meets the key site requirements identified in Part 3 of the Plan. As this application site is located outside of any settlement designated in CAP and outside any zoned areas of Industry and Mixed Business Use identified, by reason of its location this proposal is in conflict with the Plan.

The SPPS states the planning system has a key role in achieving a vibrant economy. In this regard, the aim of this SPPS is to facilitate economic development needs in ways consistent with the protection of the environment and the principles of sustainable development. The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. Farm diversification, the re-use of rural buildings and appropriate redevelopment and expansion proposals for industrial and business purposes will normally offer the greatest scope for sustainable economic development in the countryside. Such proposals may occasionally involve the construction of new buildings, where they can be integrated in a satisfactory manner.

In the interests of rural amenity and wider sustainability objectives, the level of new

building for economic development purposes outside settlements must be restricted.

Exceptions to this general principle may be justified in the following circumstances;

- A small scale new build economic development project may be permissible outside a village or small settlement where there is no suitable site within the settlement. An edge of settlement location will be favoured over a location elsewhere in the rural area, subject to normal planning considerations.

- A proposal for major or regionally significant economic development, where a countryside location is necessary because of size or site specific requirements. Such proposals should be able to demonstrate a significant contribution to the regional economy and be otherwise acceptable, particularly in terms of their environmental and transport impacts. An edge of town location should normally be favoured over a location elsewhere in the rural area.

All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development.

The SPPS retains the policy provisions of PPS 21, PPS4 and PPS3, however this proposal is contrary to the SPPS in that the proposal fails to accord with any of the exceptions to development as listed above.

Policy CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside outlines a range of types of development which in principle are considered to be acceptable in the countryside. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations. One type of development outlined in PPS21 which in principle is considered acceptable in the countryside is industry and business uses in accordance with PPS 4 Economic Development.

Policy PED 2 - Economic Development in the Countryside in PPS 4 sets out the circumstances where proposals for economic development uses in the countryside will be permitted with all other proposals only permitted in exceptional circumstances.

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

In justification for the granting of the approved development on this application site under application LA09/2018/1099/F, the applicant did not have an existing business usage on the site and proposed to create a yard area to rent for general storage purposes. The existing runaway/hardstanding is within his agricultural holding but he cannot claim for it under the single farm payment scheme as it is not usable farm land.



The development proposed in this planning application is an extension to the previous planning permission for the commercial yard granted in January 2019. The premise of economic development on this parcel of land has already been accepted by Mid Ulster Council as an exception to policy by this permission and the precedent has been set. The agent in the supporting statement for this application said the proposal is for a small-scale storage building with car parking. The agent has confirmed the development on this site has commenced and currently the yard is being lawfully utilised for storage as was previously granted in the permission in 2019, thereby this proposal can be assessed against PED 3 as it is an extension to an established economic use in the countryside.

In cases where there is no major increase in the site area of the enterprise and the scale and nature of the proposal does not harm the rural character or appearance of the local area, permission may be granted for an expansion to an established economic use the countryside under Policy PED 3. This application site includes a small portion of the site which was granted permission for the storage yard so there will be no increase to the approved site area. PED 3 goes on to say that new buildings may be permitted where there are no existing buildings on the site and provided it is in proportion and will integrate as part of the overall development.

I am content the proposed building would adequately integrate due to its location immediately adjacent to the edge of both a zoned area for Industry and Mixed Use and would not have a significant visual impact on the surrounding area. There are other storage areas within the immediate vicinity of the site and the existing businesses and development on this abandoned airfield area in close proximity to this application site gives the area a distinctly industrial character. Previously this application site was a hardstanding part of the runway and I would not be concerned that any future development would be prejudiced.

A list of General Criteria for Economic Development is set out in Policy PED 9 of PPS 4 which all proposals must comply with. Given the proximity of this application site to land within the settlement limit which is also zoned and thus developed as an area of industry and business use, I am content this proposed development would be compatible with the surrounding land uses. There are also some other exiting economic uses in the vicinity namely Quinn Building Supplies Ltd which have buildings long established on this airfield area, both within and outside of the settlement limits to the north of this site.

The nearest residential property to this application site sits approximately 150 metres to the north east, however due to the use of this proposed building for storage use, I do not feel there should be any nuisance or amenity issues. There are no natural or built heritage features which could be impacted by this proposal. The existing biodiversity value of the site is low and it is considered this proposed development should not adversely affect the natural environment. The site does not lie within a floodplain, as verified by DfI Rivers. The storage use of this proposed building would not generate any noise nuisances and the Council's Environmental Health section had no concerns in this regard. The site is accessed via an existing unaltered lane and DfI Roads are satisfied it is in compliance with PPS 3 in that adequate access arrangements, parking and



manoeuvring areas are provided. The location of the site on the periphery of the settlement results in many types of movement patterns being catered for.

The proposed 1.8 metres high palisade fences will provide adequate security for the site. This proposed development by nature of its location and the existing surrounding land uses should effortlessly integrate into the surrounding landscape.

### **Summary of Recommendation:**

Approve is recommended

As discussed above, the fact the previous application has been implemented on this site, the existing development surrounding this proposed development along with confirmation from the agent of a storage use currently on the site, I am content this application meets the policy requirements of PPS 4 and should be granted permission, subject to conditions.

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

The vehicular access including visibility splays forward sight distance and parking, shall be provided in accordance with Drawing No 02 bearing the date stamp 13th January 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### **Condition 3**

No retailing or use other than storage in or from the building hereby permitted shall occur, unless permission is granted from Mid Ulster Council.

Reason: To control the nature of development on the site.

#### **Condition 4**

During the first available planting season following the commencement of the development hereby approved, a band of native species trees shall be planted within the

area shaded yellow on drawing No 01 bearing the date stamp received 13th January 2022.

Reason: To ensure the provision of a high standard of landscape.

**Signature(s):** Cathy Hughes

**Date:** 26 May 2023

| ANNEX  |                   |
|--|-------------------|
| <b>Date Valid</b>  | 13 January 2022   |
| <b>Date First Advertised</b>   | 27 January 2022   |
| <b>Date Last Advertised</b>  | 27 January 2022   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>28 Kilmascally Road Ardboe<br>The Owner / Occupier<br>29B Kilmascally Road Ardboe<br>The Owner / Occupier<br>Resource Centre, Kilmascally Road Ardboe<br>The Owner / Occupier<br>74 Kilmascally Road Ardboe  |                   |
| <b>Date of Last Neighbour Notification</b>   | 12 September 2022 |
| <b>Date of EIA Determination</b>   |                   |
| <b>ES Requested</b>  | <events screen>   |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2019/1057/F<br>Proposals: Proposed construction of new factory inclusive of a fabrication and cutting shed, a fitting shed ,and office block with associated site works<br>Decision: PG<br>Decision Date: 21-JUL-21<br><br>Ref: LA09/2016/0104/PAD<br>Proposals: Expansion of existing facilities to include a proposed truss unit, associated wood store and two light industrial units<br>Decision: PAD<br>Decision Date: 01-JAN-17<br><br>Ref: I/2010/0388/F<br>Proposals: Proposed erection of a 31m Vestas V27 225kw wind turbine to serve for export to the grid<br>Decision: PG<br>Decision Date: 24-JUN-11 |                   |

Ref: LA09/2016/0316/F

Proposals: Proposed pre-fabricated after schools building linked to existing daycare / nursery business

Decision: PG

Decision Date: 06-JUN-16

Ref: I/2014/0414/F

Proposals: Proposed change of use from commercial unit to after schools facility

Decision: PG

Decision Date: 25-MAR-15

Ref: I/2005/0372/Q

Proposals: Proposed Housing Development

Decision:

Decision Date:

Ref: I/2005/0410/O

Proposals: Housing development

Decision: PG

Decision Date: 03-MAY-06

Ref: LA09/2017/0521/F

Proposals: Proposed change of house type on sites 1, 2 and 19 from those approved under I/2007/0481/F

Decision: PG

Decision Date: 04-JUL-17

Ref: LA09/2017/1788/F

Proposals: Proposed expansion of existing facilities to include a proposed Truss units, associated wood store and two light industrial units

Decision: PG

Decision Date: 10-SEP-18

Ref: I/2007/0481/F

Proposals: Housing development (consisting of 20 dwellings), site road and associated works

Decision: PG

Decision Date: 23-MAR-09

Ref: I/2006/0963/F

Proposals: Extension of an Existing Concrete Storage Yard, for the Storage of Precast Floor Slabs Produced in the Adjoining Factory.

Decision: PG

Decision Date: 21-MAR-08

Ref: LA09/2018/1099/F

Proposals: Change of use from existing runway to commercial yard.

Decision: PG

Decision Date: 09-JAN-19

Ref: I/1992/0506

Proposals: Timber Store

Decision: PG

Decision Date:

Ref: LA09/2022/0047/F

Proposals: Proposed store & associated parking

Decision:

Decision Date:

Ref: I/2011/0411/F

Proposals: New wood chip store

Decision: PG

Decision Date: 10-NOV-11

Ref: LA09/2016/1491/NMC

Proposals: Reduce the factory premises to a single building measuring 79mx41m externally with an eaves height of 9.1m and a ridge height of 12m (Non Material Change to Planning Approval I/2008/0142/F and I/2011/0015/LDE)

Decision:

Decision Date:

Ref: I/2008/0142/F

Proposals: Proposed extension to existing industrial and business park

Decision: PG

Decision Date: 28-JAN-10

Ref: I/2003/0253/F

Proposals: Extension to existing Shop & Offices

Decision: PG

Decision Date: 14-MAY-03

Ref: LA09/2021/0936/F

Proposals: Proposed expansion of existing truss production facilities to include a proposed truss production & timber storage unit

Decision: PG

Decision Date: 11-MAR-22

Ref: I/2013/0082/PREAPP

Proposals: Proposed light industrial/commercial units

Decision: ELR

Decision Date: 25-JUN-13

Ref: I/2012/0100/F

Proposals: Proposed amendment to previously approved wind turbine I/2010/0388/F to enable the erection of a wind turbine with a maximum hub height of 50m and up to a 30m rotor diameter with a maximum output not exceeding 250kW (tower to be either monopole or lattice construction) to serve for export to the grid

Decision:

Decision Date:

Ref: LA09/2016/1181/PAN

Proposals: Expansion of existing facilities to include a proposed truss unit associated wood store and two light industrial units

Decision: PANACC

Decision Date: 30-SEP-16

Ref: I/1992/0457

Proposals: Proposed Resource Centre, Workshop Units, cold store, serviced sites, horticultural park and associated access road

Decision: PG

Decision Date:

Ref: I/2006/0753/F

Proposals: Proposed upholstery workshop 370m sq

Decision: PG

Decision Date: 21-DEC-06

Ref: I/2006/1233/F

Proposals: Proposed 2918m<sup>2</sup> extension to existing Coldstore, extension located to side (North) comprising of additional storage and office areas. Also Associated siteworks and plant room extension with 27 No. proposed car parking spaces & 3 HGV spaces

Decision: PG

Decision Date: 23-JUL-07

Ref: I/2010/0519/F

Proposals: 1222 sq/m single storey side extension to existing coldstore building comprising of additional cold-storage & forklift store. Also associated siteworks & carparking

Decision: PG

Decision Date: 15-FEB-11

Ref: I/2006/0680/F

Proposals: Proposed extension to workshop to provide completed machinery including blasting and painting made up parts for the completed machinery.

Decision:

Decision Date:

Ref: I/1997/0545

Proposals: Erection of Hoarding

Decision: PG

Decision Date:

Ref: LA09/2019/0861/DC

Proposals: Request of Discharge of Condition No.3 of I/2007/0481/F.

Decision: AL

Decision Date: 03-JUL-19

Ref: I/1992/0065

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/1992/0065B

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/1050/F

Proposals: Proposed change of house types to 14 semi-detached units from those 16 house types previously approved on sites 3-18 under planning application I/2007/0481/F and changes to internal road layout

Decision: PG

Decision Date: 24-APR-20

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR

Rivers Agency-Substantive: TBCResponseType: PR

Environmental Health Mid Ulster Council-Substantive: TBC

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Proposed Plans Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.14   |
| <b>Application ID:</b><br>LA09/2022/0264/F  | <b>Target Date:</b> 22 April 2022   |
| <b>Proposal:</b><br>Renewal of previously approved<br>LA09/2016/0361/F Proposed free range<br>poultry house | <b>Location:</b><br>Approximately 690M N.E. Of 16 Greenhill<br>Road<br>Ballygawley                            |
| <b>Referral Route:</b><br>Refuse is recommended   |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Mr Eugene MC Bride  | <b>Agent Name and Address:</b><br>Somerville Design Services<br>23 Todds Leap Road<br>Ballygawley<br>BT70 2BW |
| <b>Executive Summary:</b>   |   |

| Case Officer Report  |   |  |
|--|---|--|
| Site Location Plan   |   |  |
| <p>This material is based upon Crown Copyright and is reproduced with the permission of Land &amp; Property Services under delegated authority NIMA CS&amp;LA581 from the Controller of Her Majesty's Stationary Office © Crown copyright and database rights.</p>   |   |  |
| <b>Consultations:</b>  |   |  |
| Consultation Type  | Consultee                               | Response   |
|  | DFI Roads - Enniskillen Office          | Substantive: TBC   |
|  | Environmental Health Mid Ulster Council | Substantive: TBC   |
|  | Shared Environmental Services           | Substantive: TBC   |
|  | NIEA                                    | Substantive: TBC   |
|  | DAERA - Omagh                           | Substantive: TBC   |
| Statutory Consultee  | DFI Roads - Enniskillen Office          | LA09-2022-0264-F - 16 Greenhill Road Ballygawley - Response.docx |
| <b>Representations:</b>  |   |  |
| Letters of Support   | 0                                       |  |
| Letters of Objection   | 0                                       |  |
| Letters Non Committal  | 0                                       |  |
| Number of Support Petitions and signatures   |   |  |
| Number of Petitions of Objection and signatures  |   |  |
| <b>Summary of Issues</b>   |   |  |
| <b>Characteristics of the Site and Area</b>  |   |  |
| <p>The application site is a 0.95ha plot of agricultural land located 690m North of 16 Greenhill Road, Ballygawley. It is outside the development limits of any settlement defined in the Dungannon and South Tyrone Area Plan 2010 as well as all other areas of constraint.</p> <p>It sits to the rear of the existing farmyard and a derelict dwelling and it has a relatively flat topography. The western site boundary is defined by a coniferous plantation and the northern boundary by a post and wire fence and gorse hedgerow. The eastern boundary is undefined on the ground and the southern boundary is defined by a post and wire fence and a laneway in the farm buildings. The area is predominantly rural in nature and has an undulating landform. It has a dispersed settlement pattern with the predominant form of development being single dwellings and agricultural buildings.</p> |   |  |

The site is accessed off the Greenhill road via an existing curved laneway which leads into the farm holding.

### **Description of Proposal**

The proposal seeks full planning permission for the renewal of a previously approved (LA09/2016/0361/F) free range poultry house.

LA09/2016/0361/F was granted planning permission for a free range poultry house containing approx. 16000 birds for egg production with 2 free standing feed bins on 28th February 2017.

This application was received 22nd February 2022.

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

#### **Policy Consideration**

Dungannon and South Tyrone Area Plan 2010

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 15 – Planning and Flood Risk

PPS 21 – Sustainable Development in the Countryside

The proposal is for the renewal of previously approved LA09/2016/0361/F for proposed free range poultry house to contain approx. 16000 birds for egg production with 2 free standing feed bins. It will measure 88.4m in length, 16.7m in width and has an 8m ridge height. The roof will be finished in PPC Aluminium cladding with the walls and doors finished in treated T and G timber sheeting. Access to the site will be via an existing farm lane onto the Greenhill Road.

The DSTAP 2010 acknowledges that agriculture is an important use in the area. It does not have any policies in relation to this application but it identifies the site within the rural area where PPS 21 applies.

The SPPS gives provision for Agriculture and Forestry Development subject to a number of policy provisions. It does not present any change in policy direction with regards to this type of development. As such, existing policies will be applied.

PPS 21 – Sustainable Development in the Countryside

PPS 21 is a material planning policy consideration for this type of development. All proposals for agricultural buildings in the countryside will be expected to conform to several criteria laid out in the relevant policy, CTY 12 – Agriculture and Forestry Development. I will deal with these criteria as they appear in the policy.

CTY 12

DAERA have confirmed that the farm business is active and established.

(a) Necessary for the efficient use of the holding - The Ministers Review into the Operation of Planning Policy Statement 21 recognised there would be a significant number of planning applications for poultry houses to supply the Agri-Food sector. It does not provide any policy guidance but it does clearly recognise this industry is a key economic driver for the rural economy. On the basis of this review I am content that this building is necessary for the efficient use of this existing agricultural holding in order to drive the rural economy of Mid Ulster.

(b) Character and Scale appropriate to its location - The proposed materials, form and design of the Poultry Houses and ancillary development are all agricultural and I am content that in terms of character and scale it is appropriate to this rural location. The proposed buildings will be in keeping with the adjacent agricultural buildings.

(c) Visually Integrate - The building reads and clusters with the existing buildings on the farm. It also benefits from the backdrop of a mature coniferous plantation. I am therefore satisfied that it will visually integrate into this rural landscape. There are no long term critical views of the building from the public road.

(d) No adverse impact on natural and built heritage – The application site is within 7.5km of Glenmore Wood ASSI. NIEA and Shared Environment Service have been consulted and have requested a significant amount of further information including; drainage plan, drainage assessment, details on poultry manure management, clarification on bird range area, nutrient management plan, a litter contract, Revised Air Dispersion Modelling, and an updated export agreement for any waste product. This information was requested on 14/06/22, 13/09/22, 29/09/22, 19/01/23, 28/03/23, and to this point the information has not been forthcoming.

In light of this I am not satisfied that there will be no impact on the natural environment and as such that the proposal also complies with policy NH3 of PPS 2.

(e) No adverse impacts on residential amenity - Environmental Health and NIEA have been consulted with the application and associated Air Quality Impact Assessment (AQIA). No concerns regarding unacceptable noise, smell or pollution have been raised. I am therefore content that this proposal will not have a detrimental impact on the amenity of dwellings outside the farm holding.

Where new buildings are proposed CTY 12 requires them to be sited beside existing farm buildings. The proposed poultry houses will be sited adjacent to the applicants existing buildings on the farm. Design and materials are sympathetic to the rural locality. Due to the specific needs of this industry and the risk of cross contamination it would not be appropriate for the applicant to use existing agricultural buildings on his farm.

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

Transport NI were consulted with this application, and they have no concerns regarding road safety subject to splays of 2.4m x 60m, a Forward sight distance, 10m radii and 6m wide access for the first 20m.

Conclusion

Taking all the above assessment into consideration, refusal must be recommended. NIEA have requested further information almost 1 year ago and as this has not been forthcoming they cannot determine if the development has the potential to adversely affect the surface water environment.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Planning Policy Statement 21 - Sustainable development in the Countryside, Policy CTY12, in that insufficient information has been provided to ensure the proposal is not likely to have an adverse impact on natural and built heritage.

**Case Officer:** Peter Hughes

**Date:** 31 May 2023

| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 25 February 2022 |
| <b>Date First Advertised</b>   | 17 March 2022    |
| <b>Date Last Advertised</b>  | 15 March 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>Knockonny Road, Ballygawley, Tyrone, BT70 2JG<br>The Owner / Occupier<br>86 Whitebridge Road, Ballygawley, Tyrone, BT70 2JG  |                  |
| <b>Date of Last Neighbour Notification</b>   | 28 March 2022    |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b>   |                  |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Substantive: TBC<br>Environmental Health Mid Ulster Council-Substantive: TBC<br>Shared Environmental Services-Substantive: TBC<br>NIEA-Substantive: TBC<br>DAERA - Omagh-Substantive: TBC<br>DFI Roads - Enniskillen Office-LA09-2022-0264-F - 16 Greenhill Road Ballygawley - Response.docx |                  |

**Drawing Numbers and Title**

Proposed Plans      Plan Ref: 04  
Site Location Plan   Plan Ref: 03  
Site Layout or Block Plan   Plan Ref: 02  
Site Location Plan   Plan Ref: 01  
  
Site Layout or Block Plan   Plan Ref: 2A

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.15   |
| <b>Application ID:</b><br>LA09/2022/0281/F  | <b>Target Date:</b> 28 April 2022   |
| <b>Proposal:</b><br>Proposed housing development of 13 units comprising of 12 two storey semi detached and 1 no two storey detached | <b>Location:</b><br>Opposite Cluntoe Park<br>Ardboe Rd<br>Cookstown<br>BT80 Oht                                       |
| <b>Referral Route:</b><br>Approve is recommended  |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Hagan Builders<br>72 Kinturk Road<br>Cookstown<br>BT80 0JD                                    | <b>Agent Name and Address:</b><br>Terry Murphy<br>4 Mid Ulster Business Park<br>Sandholes Rd<br>Cookstown<br>BT80 9LU |
| <b>Executive Summary:</b>   |   |



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

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**Consultations:**

| Consultation Type       | Consultee                               | Response                             |
|-------------------------|---|--------------------------------------|
|                         | NI Water - Single Units West            | Substantive:<br>TBCResponseType: FR  |
|                         | Rivers Agency                           | Substantive: TBC                     |
|                         | DFI Roads - Enniskillen Office          | Substantive: TBC                     |
|                         | Environmental Health Mid Ulster Council | Substantive: TBC                     |
|                         | Rivers Agency                           | Substantive:<br>YResponseType: FR    |
|                         | NI Water - Multiple Units West          | Substantive:<br>TBCResponseType: FR  |
| Non Statutory Consultee | NIEA                                    | PRT LA09-2022-0281-F.PDF             |
| Statutory Consultee     | Rivers Agency                           | 537237 - Final response.pdf          |
| Statutory Consultee     | DFI Roads - Enniskillen Office          |                                      |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | PSD DFI approval.docx                |
| Statutory Consultee     | DFI Roads - Enniskillen Office          |                                      |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Response Template - 27 feb 2023.docx |

**Representations:**

|                    |   |
|--------------------|---|
| Letters of Support | 0 |
|--------------------|---|

|   |   |
|---|---|
| Letters of Objection  | 7 |
| Letters Non Committal   | 0 |
| Number of Support Petitions and signatures  |   |
| Number of Petitions of Objection and signatures   |   |
| <b>Summary of Issues</b> <p>Nine representations have been received from two objectors in relation to this planning application and relate to the following:-</p> <ul style="list-style-type: none"> <li>o Removal of natural habitats of native birds, insects etc. and the removal of trees used as a bat roost requiring an ecological/bat survey.</li> </ul> <p>The only mature trees likely to have bat roost potential are located to the eastern part of the site which is immediately north of No.34 and which is not being developed. Therefore the proposal does not include the removal of the mature hedgerows and or trees along the site boundaries, and these can be conditioned to be retained.</p> <ul style="list-style-type: none"> <li>o Part of the site was a flax hole which has been infilled and requires a site investigation.</li> </ul> <p>The fact that the site may have been infilled is not a reason for requiring a site investigation. In the event that the site may have been infilled at some point in the past, and there was no evidence provided to substantiate this claim, the developer will still have to obtain Building Control approval for any substructure works involved.</p> <ul style="list-style-type: none"> <li>o Increase in traffic requiring a traffic management plan.</li> </ul> <p>DfI Roads did not request a traffic management plan and advised that the proposed development was acceptable without such.</p> <ul style="list-style-type: none"> <li>o Health and safety issues relating to raised manholes and kerbs leading to potential trips.</li> </ul> <p>It is normal practice within a development to have manhole covers and kerbs raised until such times as the development is almost completed and the final wearing course is applied.</p> <ul style="list-style-type: none"> <li>o Possibility of contamination caused by illegal dumping of asbestos.</li> </ul> <p>This specific issue was raised directly with NIEA Regulation Unit who advised that this can be dealt with by way of condition. This issue is detailed in the report below under consultation responses.</p> <ul style="list-style-type: none"> <li>o Flooding of the objectors property at No.30 and a number of fields requiring a storm water drainage survey. The objector requested the opportunity to commission an independent drainage assessment.</li> </ul> <p>DfI Rivers requested a drainage Assessment and a Consent to Discharge, both of which were provided. DfI Rivers accepted these and did not raise any additional concerns.</p> <ul style="list-style-type: none"> <li>o Increased storm water levels due to development at Cluntoe Park.</li> </ul> <p>DfI Rivers accepted the submitted Drainage Assessment which demonstrated that the design and construction of a suitable drainage network is feasible providing a valid Schedule 6 discharge Consent is obtained. The Drainage Assessment indicated that the 1 in 100 year could be contained through the addition of an underground offline system adjacent to the online attenuation system. The Consent to Discharge was submitted and accepted by DfI Rivers who did not raise any concerns regarding increased storm water levels.</p> <ul style="list-style-type: none"> <li>o Loss of sunlight.</li> </ul> |   |

Given the separation distance between the proposed dwellings and the existing dwellings, it is not accepted that there will be any loss of natural sunlight.

- o Increase in noise nuisance due to construction affecting home/family life. This is discussed later in the main body of the report under PPS 7 bullet point (h).

- o Poor design.

The design is considered to be acceptable and is not dissimilar to the existing dwellings at Cluntoe Park or Pairc Na Mona.

- o Pollution during construction requiring a waste management plan.

Environmental did not raise any concerns regarding pollution nor have they requested a waste management plan.

- o Private water and foul sewer pass through the site. A build-over agreement is required between the developer and NIW with a wayleave agreement between the developer and the house owner.

If the private sewer from No.34, or any other dwelling, is passing through the site this is a civil matter between the applicant/developer and the house owner.

- o Loss of privacy to No.34.

There is currently a 2m high conifer hedge along the front and side of No.34 which provides effective screening from ground level. The closest dwelling proposed to No.34 is on Site 6, which will sit gable end towards No.34. Whilst there are two first floor bedroom windows in that gable, these windows overlook the front of No.34 and are in the region of 11m from the front of No.34. Therefore in my opinion, there will be little loss of privacy to No.34 and no loss of privacy to the rear private amenity space of that dwelling, which still has approximately 110m<sup>2</sup>.

- o Loss of view.

As there is no right to a view in planning terms, this is not a valid planning consideration.

- o Devaluation of property.

No evidence has been provided to substantiate this claim and given the site is located within the urban area, it is not accepted that there will be any devaluation of existing property due to the proposed development.

- o Contesting ownership of part of the application site.

The owner of No.34 claims ownership of part of the site as they have been using it for more than 38 years. The applicant has accepted this and has consequently removed that part of the site from the proposed layout.

- o None of the objectors concerns have been answered.

All of the objectors issues have been fully considered by both the case officer and/or consultees.

- o Request to meet the case officer for a site meeting to substantiate some of the objectors concerns.

As all of the objectors concerns have been put to Council in writing and have been fully considered by either Council and/or consultees, I do not consider there is any merit in having a site meeting to reiterate these.

- o Unable to see amended plans/additional information/amended proposals on the planning portal.

All plans, amendments and additional information is clearly viewable on Mid Ulster Councils Planning Portal which is available to the public.

- o The qualifications of the Environment Health officer should be made available.

The EH officer's qualifications are not open to scrutiny in this forum and are protected under GDPR.

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

The site is comprised of a flat rectangular field measuring approximately 0.5ha with a road frontage of 60m within the settlement of Moortown. The road frontage boundary along the western side of the site is defined by a 1.0-1.8m high thorn hedgerow. The majority of the northern boundary is defined by a 3.0m high thorn hedgerow, however this falls to around 2.5m alongside No. 30 which is a large two storey detached dwelling. No. 30 has two gable windows at ground floor level. The southern boundary is defined by a 1.0m high hedgerow alongside a concrete laneway leading to a modest single storey dwelling, No.34, at the rear of the site. The concrete lane site approximately 0.5m above the site level. The eastern boundary is defined by a mature hedge approximately 5m high, with a gap into an adjacent field to the rear of No.34.

The site sits approximately 0.75m - 1.0m below the level of the Ardboe Road with access to the field gained via a field gate at the junction of the concrete lane and Ardboe Road. There is a 2.0m high manicured hedge around the northern and western boundaries of No.34 with a small block built shed occupying the south-eastern most corner of the site. There is a small area within the site, immediately north of No.34 which appears to be amenity space for No.34. This area contains a clothes line, apple trees and fruit bushes and is fenced off from the rest of the field by an electric fence.

The field was being grazed by two horses at the time of the site inspection.

## **Description of Proposal**

Proposed housing development of 13 units comprising of 12 two storey semi detached and 1 no two storey detached. The dwellings are arranged around a central access road with a single access point onto the Ardboe Road. The access road has a gentle turn at the access point before extending along the centre of the site to a turning head at the south eastern end.

A large two storey detached dwelling occupies a key position at the left hand side of the entrance with a double fronted semi detached dwelling on the opposite side of the access. Four pairs of semi-detached dwellings line the southern side of the access road, with two pairs of semi-detached dwellings being positioned on the northern side. A small area of ground, referred to above and containing a small outbuilding, clothes line and trees/bushes, has been excluded from the layout and has apparently been left for use by the occupants of No.34 Ardboe Road.

The external finishes are as follows:-

Walls - Dashed render

Roof - Black, smooth profile concrete roof tiles

Windows & doors - Black/white uPVC

Front doors & screen - coloured

Fascia & Barge Boards - Black uPVC

Gutters & downpipes - Black uPVC

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

### **Policy Consideration**

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

The 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 - Draft Plan Strategy has been published for consultation, therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

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

Cookstown Area Plan 2010

Strategic Planning Policy Statement

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Creating Places

The SPPS has superseded PPS 1 (General Principles.). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to any interests of acknowledged importance. The proposed development is not within an area of archaeological importance.

The SPPS gives specific provision for Housing in settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential developments in settlements. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

As the site is located on white land within the Cookstown Area Plan 2010, the critical planning policy is therefore PPS 7.

PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential

environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

As this is an full application the proposed development is being assessed against these criteria as follows:-

(a) The proposal meets the first of these criteria in that it respects the surrounding context insofar as the proposal is for a housing development within the settlement development limits of Moortown and in a predominantly residential area. In terms of layout, the density of the proposed development is 26 dwellings per hectare, which is slightly higher than Pairc Na Mona at 23 dwellings per hectare and Cluntoe Park at 19 dwellings per hectare.

(b) There are no features of archaeological or built heritage on this site. The only landscape features identified are the boundary hedgerows and the open sheugh along the northern boundary and the hedgerows along the southern and eastern boundaries. Those hedgerows and the mature trees should be protected and incorporated into the overall design and layout. This can be achieved by conditions.

(c) This proposal is for 13 dwellings and therefore there is no requirement for the provision of public open space. All dwellings have adequate private amenity space and range from a minimum of 60m<sup>2</sup> to a maximum of 100m<sup>2</sup>.

(d) The site is within Moortown village and 16m from St. Peter's Primary School and 280m from the neighbourhood shop and the Church of the Immaculate Conception. There is also a football club with playing fields located approximately 1000m to the north of the proposed site. Therefore the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site has vehicular access directly onto the Ardboe Road which will provide an acceptable movement pattern, including walking and cycling. This will enable occupants to access public transport routes and the public network system.

(f) Adequate provision has been made for in-curtilage parking of vehicles and DfI Roads advised that this is acceptable.

(g) The design of the development draws on the best of local traditions in terms of the form/layout with house types not being dissimilar to the existing dwellings in the adjacent developments of Pairc Na Mona or Cluntoe Park.

(h) The design of the proposed dwellings is such that they do not cause a loss of residential amenity to the existing dwellings surrounding the site by way of overshadowing or overlooking. Although there are a number of objections to the proposed development from two objectors who have raised issues relating to loss of light, privacy and view in addition to noise, in my opinion, the proposed dwellings are sufficiently well removed from the existing dwellings so as not to cause overshadowing, overlooking or a loss of light. As the site is located within an urban setting, it is inevitable that the construction phase may cause some noise disturbance, although this is to be expected and will however generally only be during daytime hours. After the construction phase is completed, the development should not cause any noise nuisance. It is noted that Environmental Health Department did not raise any concerns regarding noise nuisance. It is accepted that the dwellings will block the view from No.34, there is no right to a view and therefore this is not a valid complaint.

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

### PPS 3 - Access, Movement and Parking

DfI Roads considered the proposed development and advised that following amendments to the Private Streets Determination drawings that the proposed development is acceptable subject to the suggested conditions.

#### Consultee responses

DfI Roads advised that the access and parking arrangements are acceptable subject to conditions.

Environmental Health advise that they have no issues of concern.

NIEA Regulation Unit were consulted in respect of the objection alleging that asbestos containing material had been dumped on site. NIEA advised that Regulation Unit (RU) Land and Groundwater Team note that there are no records of previous potentially contaminating land uses on this application site or in the adjacent area. RU are advised by the Planning Authority that asbestos containing materials are alleged to have been deposited at this site. RU would have no objection to this planning application subject to Conditions requiring all works to cease if new contamination or risks to the water environment are encountered. The new contamination must be investigated and a remediation strategy agreed with Council. A verification report is also required following completion of the remediation works.

DfI Rivers requested that the working strip be kept free from all impediments including tree planting, hedges, permanent fences and sheds. This can be achieved through a condition. A drainage assessment and consent to discharge were requested and accepted subject to conditions.

NI Water advised that whilst the receiving Waste Water Treatment Works has sufficient capacity, the proposed development is unacceptable due to the foul sewer network being unable to accommodate the additional loading. However, this can be conditioned that no development commences until a method of dealing with the sewage disposal has been submitted and agreed with Council in consultation with NI Water.

#### Recommendation

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

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

Approve is recommended

#### Approval Conditions

##### Condition 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.

Condition 2

The finished floor levels of the dwellings hereby approved shall be as indicated on drawing no.03/1 uploaded to the planning portal on 16th December 2022.

Reason: In the interest of residential amenity and to prevent over-looking.

Condition 3

All proposed planting as indicated on the stamped approved drawing no. 03/1 uploaded to the planning portal on 16th December 2022, shall be undertaken during the first available planting season following completion of the development hereby permitted.

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

Condition 4

The existing natural screenings along the northern, southern, eastern and western boundaries of this site, shall be permanently retained at the existing height and augmented where necessary, unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

Condition 5

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

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

Condition 6

The visibility splays of 90 metres by 2.4 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 10/2 uploaded to the planning portal on 9th May 2023, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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



and the convenience of road users.

Condition 7

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

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

Condition 8

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 the development.

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

Condition 9

In the event that previously unknown contamination is discovered, development on the site shall cease, pending submission of a written report. The report shall appropriately investigate the nature and extent of that contamination and present the findings and conclusions of the same additionally providing details of the appropriate measures to be taken as a result of the contamination, for the prior written approval of Council.

Reason: To protect the development from land contamination.

Condition 10

It would be considered good practice for any material imported on site for use in reinstatement of excavations to be proved to be 'suitable for use'. Appropriate sampling should be undertaken and laboratory analysis presented within a verification report. If required, the applicant should seek authorization from Waste Management Licensing Team within NIEA and ensure the appropriate approvals are in place before works commence. All excavated material should be removed in accordance with the appropriate waste management legislation.

Reason: To protect the development from land contamination.

Condition 11

If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and Council shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with Council in consultation with NIEA: Regulation Unit in writing, and subsequently implemented and verified to its satisfaction.

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

#### Condition12

After completing any remediation works required under Condition 11 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Council in consultation with NIEA: Regulation Unit. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.

The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

#### Condition13

Prior to the commencement of any of the approved development, the applicant must demonstrate how any out of sewer flooding, emanating from the surface water drainage network agreed under Article 161, in a 1 in 100 year event, will be safely managed so as not to create a flood risk to the development or from the development to elsewhere.

Reason: In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

#### Condition14

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council in consultation with DfI Rivers which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event.

Reason: In order to safeguard against surface water flood risk.

#### Condition15

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

The Department for Infrastructure 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. 10/2 uploaded to the planning portal on 9th May 2023.

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.

#### Condition16

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

(Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be 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. 10/2 uploaded to the planning portal on 9th May 2023. The Department for Infrastructure 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 agreements under Article 3 (4C) and Article 32.

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.

**Case Officer:** Malachy McCrystal

**Date:** 25 May 2023

| ANNEX   |                 |
|---|-----------------|
| <b>Date Valid</b>   | 3 March 2022    |
| <b>Date First Advertised</b>  | 15 March 2022   |
| <b>Date Last Advertised</b>   | 15 March 2022   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>40 Ardboe Road, Cookstown, Tyrone, BT80 0HT<br>The Owner / Occupier<br>42 Ardboe Road, Cookstown, Tyrone, BT80 0HT<br><br>The Owner / Occupier<br>36 Ardboe Road, Cookstown, Tyrone, BT80 0HT<br>The Owner / Occupier<br>30 Ardboe Road Cookstown Tyrone BT80 0HT<br>The Owner / Occupier<br>34 Ardboe Road Cookstown Tyrone BT80 0HT<br>The Owner / Occupier<br>29 Ardboe Road Cookstown Tyrone BT80 0HT<br>The Owner / Occupier<br>35 Ardboe Road Cookstown Tyrone BT80 0HT<br>The Owner / Occupier<br>46 Ardboe Road Cookstown Tyrone BT80 0HT<br>The Owner / Occupier<br>1 Cluntoe Park Cookstown Tyrone BT80 0BJ<br>The Owner / Occupier<br>2 Cluntoe Park Cookstown Tyrone BT80 0BJ<br><br>The Owner / Occupier<br>38 Ardboe Road, Cookstown, Tyrone, BT80 0HT<br><br>The Owner / Occupier<br>30 Ardboe Road Cookstown BT80 0HT |                 |
| <b>Date of Last Neighbour Notification</b>  | 1 February 2023 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |

## **Planning History**

### **Summary of Consultee Responses**

NI Water - Single Units West-Substantive: TBCResponseType: FR  
Rivers Agency-Substantive: TBC  
DFI Roads - Enniskillen Office-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBC  
Rivers Agency-Substantive: YResponseType: FR  
NI Water - Multiple Units West-Substantive: TBCResponseType: FR  
NIEA-PRT LA09-2022-0281-F.PDF  
Rivers Agency-537237 - Final response.pdf  
DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-PSD DFI approval.docx  
DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-Response Template - 27 feb 2023.docx

### **Drawing Numbers and Title**

Road Access Plan  
Site Layout or Block Plan Plan Ref: 03/1  
Proposed Elevations Plan Ref: 04/1  
Housing Concept Plan Plan Ref: 02/1  
Landscaping Plan Plan Ref: 13/1  
Block/Site Survey Plans Plan Ref: 12  
Site Location Plan Plan Ref: 01  
Photograph Plan Ref: 14  
Landscaping Plan Plan Ref: 13  
Site Layout or Block Plan Plan Ref: 11  
Road Access Plan Plan Ref: 10  
Block/Site Survey Plans Plan Ref: 09  
Proposed Plans Plan Ref: 05  
Roads Details Plan Ref: 08  
Proposed Plans Plan Ref: 07  
Proposed Plans Plan Ref: 06  
Proposed Plans Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Road Access Plan  
Site Layout or Block Plan Plan Ref: 10/2

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.16   |
| <b>Application ID:</b><br>LA09/2022/0424/F   | <b>Target Date:</b> 13 July 2022  |
| <b>Proposal:</b><br>Proposed mixed use scheme comprising the erection of a three storey building, retention and alterations to existing building on Rainey Street and existing rear return to provide 13 No apartments (total), retention of 2 retail units, amenity space, car parking and ancillary site works | <b>Location:</b><br>Lands At Nos 39-41 Rainey Street<br>Magherafelt<br>BT45 6EA<br>Co.Derry |
| <b>Referral Route:</b> Approve is recommended  |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>Genmark Developments<br>16C Tamlaghduff Road<br>Bellaghy<br>BT45 8JG   | <b>Agent Name and Address:</b><br>Clyde Shanks<br>7 Exchange Place<br>Belfast<br>BT1 2NA    |
| <b>Executive Summary:</b>  |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response  |
|-------------------------|---|---|
| Statutory Consultee     | DFI Roads - Enniskillen Office          | DC Checklist.doc<br>Roads Consultation.docx   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09 22 0424 Rainey Street Apartments.doc   |
| Statutory Consultee     | Historic Environment Division (HED)     |   |
| Non Statutory Consultee | NI Water - Strategic Applications       | LA09-2022-0424-F.pdf  |
| Non Statutory Consultee | NI Water - Strategic Applications       | Consulted in error. Please return this planning application LA09/2022/0424/F under Multiple Units West. |
| Statutory Consultee     | Historic Environment Division (HED)     |   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09 2022 0424 F 39-41 Rainey St Magherafelt.doc  |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | Response uploaded 5/9/22  |
| Statutory Consultee     | Historic Environment Division           |   |



|  |   |  |
|--|---|--|
|  | (HED)                                   |  |
| Non Statutory Consultee  | Environmental Health Mid Ulster Council |  |
| <b>Representations:</b>  |   |  |
| Letters of Support   | 0                                       |  |
| Letters Non Committal  | 0                                       |  |
| Letters of Objection   | 1                                       |  |
| Number of Support Petitions and signatures   |   |  |
| Number of Petitions of Objection and signatures  |   |  |
| <b>Summary of Issues</b><br><br><p>One representations has been received in respect of this application and related to the following issues:-Potential noise nuisance from the PO sorting office as vehicles load and unload mail in the early hours of the morning which could prejudice Royal Mail's ability to meet its statutory duty of collecting and delivering letters six days per week;The above issue has been dealt with later in the report below.No noise assessment has been submitted in support of the application. A condition was suggested to deal with this issue;The above issue has been dealt with later in the report below.No construction Management Plan has been submitted. A condition was suggested to deal with this issue;A construction management plan is not required for the proposed development, nor has this been requested by any of the consultees.</p>  |   |  |
| <b>Characteristics of the Site and Area</b><br><br><p>The site is located on Rainey Street adjacent to the historic market yard which has a Listed Building adjacent to the site boundary. The site is a rectangular site and is largely accessed from a pedestrian access on Rainey Street with both vehicular and pedestrian access from the laneway to the rear. Rainey Street has a mixture of retail, office and hot-food/café uses.The site consists of a street frontage property and appears to be currently occupied by No.37 - EMS Group - Medical Supplies and No.41 All-Tek (Sales, Repairs, Pawn). This is a 3 storey property with two shop front display windows in addition to a door leading to 1st and 2nd floor flats. The building also extends back from the Rainey Street frontage towards a narrow vehicular laneway with vehicular access onto the laneway.The external façade of the building has a smooth plaster finish with decorative plaster quoins. There are also raised plaster bands around the windows and doors with a cornice at first floor level. There are two large chimneys at either gable and centred on the ridge which is cement fibre slates. The windows are timber, sliding sash.The site is adjacent to and abuts the Listed Building at the Market Yard which is constructed in basalt stone. The Post Office and associated yard sits on the Diamond side of the site.The rear side of the roof has natural slates with rough wet dash finish to the walls and timber casement windows. The site is secured by a 2.0m high security fence along the rear boundary with a 4m high block wall defining the boundary with the Post Office.The existing building has a 3 storey rear return with private car park which provides approximately 12 no. parking spaces which are not marked out on the ground and which is accessed via the narrow lane to the rear. Union Street car park, which is</p> |   |  |

partially a pay and display car park, sits on the other side of the laneway, opposite the site. When viewed from the rear, the Post Office building is the tallest building, at three storeys and finished in red brick with a flat roof and secured by a 4.0m high palisade fence.

### **Description of Proposal**

Proposed mixed use scheme comprising the erection of a three storey building, retention and alterations to existing building on Rainey Street and existing rear return to provide 13 No apartments (total), retention of 2 retail units, amenity space, car parking and ancillary site works. The ground floor provides for the two retail units and three apartments with the remaining ten apartments equally spaced over the first and second floors. The two retail units have direct access onto Rainey Street, while the three apartments have access onto a pedestrian walkway which connects the rear of the site onto Union Street car park. Associated bin stores and cycle stands are located towards the rear of the site adjacent to the former telephone exchange building and accessing onto the pedestrian walkway. Three car parking spaces are proposed at the rear of the site and access onto the laneway between the site and Union Street car park. The two retail units provide 31m<sup>2</sup> and 85m<sup>2</sup> of floorspace with associated bin storage to the rear. The three ground floor apartments are two bedroom, three person and range between 62m<sup>2</sup> and 70m<sup>2</sup> with 140m<sup>2</sup> associated communal amenity space. The five apartments proposed on the first floor are two bedroom, three person and range from 61m<sup>2</sup> to 70m<sup>2</sup> with the five apartments on the second floor providing either two bedroom three person apartments with a single, two bedroom, four person apartment and ranging from 62m<sup>2</sup> to 77m<sup>2</sup>. The proposal includes a variety of external finishes with the following: - Flat profile concrete tiles / natural slates to new pitched roofs Blue / black brick Wet dash render - painted, white Metal balustrading Iroko hardwood external doors, stained clear / teak Aluminium windows - grey coloured Cantilevered zinc canopies Grey trolac roof The existing finishes on the Rainey street elevation are to remain as existing.

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

#### **Policy Consideration**

Planning History H/1993/0548 - Extension to commercial property and new flat - approved 10.03.1994 LA09/2015/0536/F - Proposed mixed use scheme comprising 11 apartments, 4 retail units (inc. retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return) amenity space, pedestrian link/pend and ancillary site works - Approved 10.01.2017. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight. The proposal is in accordance with the Magherafelt Area Plan 2015 insofar as the site lies within the Magherafelt Town Centre but outside the Primary Retail Core. The site has no specific designation and is considered to be whiteland. The fact

that planning approval was granted for a Proposed mixed use scheme comprising 11 apartments, 4 retail units (inc.retention with minor alterations, which is of a similar nature, has to be taken into consideration. The main policy consideration in the assessment of this planning application are :-SPPS - Strategic Planning Policy Statement for NIPPS 7 Quality Residential EnvironmentsPPS 3 - Access, Movement and ParkingPPS 6 - Planning, Archaeology and the Built HeritagePlanning Strategy for Rural NIUnder the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS. Town Centres and RetailingThe aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS. The SPPS states that retailing will be directed to town centres. In that respect, the proposal is to create two retail units and although the site is outside the Primary Retail Core it is within Magherafelt town centre and is therefore consistent with that aim. The SPPS requires that all proposals for main town centre uses to be considered in an order of preference, ie. primary retail core followed by town centres. This proposal is for a town centre site. The proposal includes two retail units, where there are already two existing units, ranging from 31m<sup>2</sup> to 85m<sup>2</sup> of floorspace. Both retail units access directly onto Rainey Street and will therefore maintain the retail frontage on Rainey Street. A pedestrian access is proposed which will provide the apartments with access onto Rainey Street and thereby provides a pedestrian linkage between Union Street car park and Rainey Street and in doing so improves the permeability of the town centre. Planning Strategy for Rural NIPolicy DES 2 - Requires all development proposal in towns and villages to make a positive contribution to townscape and to be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. The proposal meets all the criteria of the above planning policy. The proposed layout opens up the rear of this site to the public and provides a pedestrian linkage through increasing the permeability of not only the site but also the surrounding area. The proposed uses will help to support the town centre in terms of its vitality and viability and will introduce an increased residential element which will help to maintain life within the town centre after normal working hours. The design, which has also been considered by NIEA: HBU is considered to be acceptable with the retention of the front portion of the site, albeit, with some modifications to create the pedestrian linkage through to the rear of the site. PPS 7 Quality Residential Environments - Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable. The proposed development is assessed against these criteria as follows:-(a) The proposed layout meets the first of these criteria in that it respects the surrounding context in terms of layout; The layout is of a similar density and scale as the previously approved developments (H/1993/0548)

and LA09/2015/0536/F.(b) NIEA: Historic Buildings Unit considered the impacts of the proposal on the listed assets and on that basis are content with the proposal subject to the stated conditions regarding the external finishes.NIEA: Historic Monuments Unit advised that as the site was subject to archaeological mitigation carried out under approval LA09/20015/0536/F, they are content that the proposal is satisfactory to policy requirements. (c) As the development is for 13 units within a town centre location, the provision of public amenity space is not a requirement. Provision of private, communal amenity space is proposed with 140m2 located on the ground floor..(d) As the site is within the town centre, the provision of neighbourhood facilities are not deemed necessary within the site. The site has good access to all such facilities within the immediate town centre.(e) The site has direct access onto both Rainey Street and the laneway at the rear of the site, leading to Garden Street and Union Street and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;(f) Adequate provision has not been made for parking of vehicles off street or within the site; Transportni advised that the application is within town centre. Council should consider any additional impact on parking availability generated from the Apartments proposals. Council should note the narrower width of footway along the Rainey Street frontage and any measures to widen would be beneficial.Application LA09/2015/0536/F for 4 retail units and 11 apartments was granted by Council after presenting to Committee with a recommendation to set aside the parking standards due to this being a town centre site and in considering the sites planning history and the extant approval. Therefore as this proposed development is of a similar nature, scale and design, I would recommend that the proposed level of car parking, albeit less than desirable, be accepted.Furthermore, approval was granted under H/1993/0548 for a development on this same site with no parking proposed at that time. That development had been commenced with Phase 1 being completed under that approval, therefore that development can be lawfully completed at any time without further approval being required. This would lead to the entire site being developed with no parking provision at all.In an effort to provide some parking within the site under the previous approved development LA09/2015/0536/F amendments were submitted showing 4 parking spaces within the rear of the site. On balance, whilst it is acknowledged that;o Union Street car park is operating at almost full capacity;o the proposal only provides token car parking (3 spaces) when the parking standards would suggest a requirement in the region of 40 spaces;o the development has an almost total reliance on public car parks and on-street parking to service the development;The previously approved development (H/1993/0548) which has been commenced on this site can be completed without any further approvals being required. This would result in the entire site being developed with no parking provision. Therefore as this proposal is viewed as a better quality development and although it only proposes 3 parking spaces, this is more than the extant approval proposed. Therefore, this development provides not only more parking provision but also a better form of development with a pedestrian link through from Union Street car park to Rainey Street.(g) The design of the development is acceptable in terms of form, materials and detailing and this has been accepted by NIEA: Historic Buildings Unit. HBU suggested that conditions be included on the decision notice in respect of the external finishes to be used.(h) The immediate area has a mixture of uses which are all relatively quiet and appropriate for town centre use. The proposal does not create any potential to create a conflict and will not have an adverse impact on neighbouring properties.The single representation received, raised concerns regarding

the potential for the occupants of the proposed apartments to experience noise disturbance due to delivery vehicles loading, off-loading and attending the adjacent Royal Mail sorting offices during unsociable hours. Having considered the submitted noise impact assessment, Environmental Health advised that the proposed development is acceptable subject to conditions relating to noise mitigation measures being incorporated into the fabric of the development. It is noted that only three living room/kitchen windows, one bathroom window and one hall window face onto the Royal Mail site. There are no bedroom windows opening onto the Royal Mail premises.(i) Generally the layout is designed to deter crime as there are no areas which are unsupervised or overlooked. The issues regarding Access, Movement and Parking in relation to PPS 3 are as discussed above. With regards to PPS 6 and Planning, Archaeology and the Built Heritage, Historic Monuments Unit advised that they are content with the proposal as the site has already been subjected to archaeological mitigation measures under the previous approval. Historic Buildings Unit also advised that they have no objections subject to the suggested conditions regarding the use of external finishes. Therefore on balance, whilst this application proposes a development which falls well short of the parking standards as required, the alternative would be to have the site developed under the extant approval which would in all accounts be a lesser quality development. In this regard, it is my opinion that the proposal should be approved.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 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.

##### **Condition 2**

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

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

##### **Condition 3**

The materials to the building fronting onto Rainey Street shall match the existing.

Reason: To protect the setting of the listed Market Yard buildings and to ensure that the works proposed make use of traditional or sympathetic building materials and techniques

which respect those found on the building.

Condition 4

The materials used on the altered areas of the rear return and new buildings shall be:-

- a) Natural slates to the roof
- b) Heavy duty cast aluminium new rainwater goods and SVP's;
- c) Wet dash render, painted white and blue/black brick;
- d) Metal balustrading, painted;
- e) Hardwood external timber doors;
- f) Aluminium framed windows, coloured grey;
- g) Zinc canopies

Reason: To protect the setting of the listed Market Yard buildings and to ensure that the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building.

Condition 5

Glazing capable of providing a sound reduction as specified in Table 9 of Environmental Health Department's consultation response uploaded to the planning portal on 1St February 2023 shall be provided to all habitable rooms as denoted in the Acoustic Assessment (Reference Rp 001N 2022223) dated 24th October 2022 prior to the occupation of any unit.

Reason: To protect residential amenity.

Condition 6

Passive and mechanical ventilation, in addition to that provided by open windows, capable of achieving a sound reduction as specified within Table 9 of Environmental Health Department's consultation response uploaded to the planning portal on 1St February 2023, when in the open position, shall be provided to all habitable rooms. Mechanical ventilators shall not have an inherent sound pressure level (measured at 1 metre) in excess of 30dB(A), whilst providing a flow rate of at least 15 litres per second. All provided mechanical ventilators shall meet the requirements contained within, "The Building Control Technical Booklet K - Ventilation 1998."

Reason: To protect residential amenity.

Condition 7

An Acoustic barrier shall be erected within the site as presented on Site Layout Plan drawing ref: 3521-PL07 uploaded to the planning portal on 4th November 2022. The barriers shall be constructed of either masonry or timber panelling (close lapped with no gaps) and shall have a minimum self-weight of 25kg/M2. The barrier shall be permanently retained and maintained"

Reason: To protect residential amenity.

Condition 8

None of the residential units hereby approved shall be occupied until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District

Council in consultation with NI Water.

Reason: In the interests of residential amenity and to ensure there is a satisfactory means of sewage disposal.

**Signature(s):** Malachy McCrystal

**Date:** 17 May 2023

| <b>ANNEX</b>  |                  |
|---|------------------|
| <b>Date Valid</b>   | 30 March 2022    |
| <b>Date First Advertised</b>  | 12 April 2022    |
| <b>Date Last Advertised</b>   | 12 April 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>46A Rainey Street Magherafelt Londonderry BT45 5AH<br>The Owner / Occupier<br>46B Rainey Street Magherafelt Londonderry BT45 5AH<br>The Owner / Occupier<br>Magherafelt Delivery Office 35 Rainey Street Magherafelt Londonderry BT45 5AA<br>The Owner / Occupier<br>37 Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>42 Rainey Street Magherafelt Londonderry BT45 5AQ<br>The Owner / Occupier<br>44 Rainey Street Magherafelt Londonderry BT45 5AQ<br>The Owner / Occupier<br>43 Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>45 Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>46 Rainey Street Magherafelt Londonderry BT45 5AH<br>The Owner / Occupier<br>39 Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>41 Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>Flat 2 41 Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>41A Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>41C Rainey Street Magherafelt Londonderry BT45 5AE<br>The Owner / Occupier<br>41D Rainey Street Magherafelt Londonderry BT45 5AE |                  |
| <b>Date of Last Neighbour Notification</b>  | 28 November 2022 |
| <b>Date of EIA Determination</b>  |                  |



|   |                 |
|---|-----------------|
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/2012/0379/A<br>Type: A<br>Status: CG<br><br>Ref: H/1977/0297<br>Type: H13<br>Status: PR<br><br>Ref: H/1977/0236<br>Type: H13<br>Status: PR<br><br>Ref: H/1977/0121<br>Type: H13<br>Status: PR<br><br>Ref: LA09/2017/0534/F<br>Type: F<br>Status: PG<br><br>Ref: LA09/2017/0502/NMC<br>Type: NMC<br>Status: APPRET<br><br>Ref: H/2012/0044/F<br>Type: F<br>Status: PG<br><br>Ref: H/2007/0616/F<br>Type: F<br>Status: PG<br><br>Ref: H/2007/0619/LB<br>Type: LBC<br>Status: CG<br><br>Ref: H/1995/0344<br>Type: F<br>Status: PCO<br><br>Ref: H/2012/0047/LBC<br>Type: LBC |                 |

Status: CG

Ref: H/2003/0718/F

Type: F

Status: PG

Ref: H/1988/0333

Type: F

Status: PCO

Ref: H/1996/0378

Type: F

Status: PCO

Ref: H/1988/0518

Type: LBC

Status: PCO

Ref: H/1988/0517

Type: F

Status: PCO

Ref: H/1974/0106

Type: H13

Status: PG

Ref: H/1997/0577

Type: F

Status: PCO

Ref: LA09/2016/1457/F

Type: F

Status: PG

Ref: H/1992/0456

Type: A

Status: PCO

Ref: H/1979/0563

Type: H13

Status: PG

Ref: H/2008/0149/A

Type: A

Status: CG

Ref: H/1996/6057

Type: PREAPP

Status: PCO

Ref: H/1988/0560

Type: A

Status: PCO

Ref: H/1979/0463

Type: H13

Status: PG

Ref: H/2005/1009/F

Type: F

Status: PG

Ref: H/1985/0446

Type: H13

Status: PG

Ref: H/1987/0368

Type: F

Status: PCO

Ref: LA09/2016/1365/F

Type: F

Status: PG

Ref: LA09/2015/0369/F

Type: F

Status: PG

Ref: H/1992/0424

Type: C

Status: PG

Ref: H/2006/0507/F

Type: F

Status: PG

Ref: H/1997/0065

Type: F

Status: PCO

Ref: H/2005/1066/F

Type: F

Status: PG

Ref: LA09/2021/0230/A

Type: A

Status: CG

Ref: H/1984/0215

Type: H13

Status: PG

Ref: LA09/2020/1064/A

Type: A

Status: CG

Ref: H/1983/0323

Type: H13

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Status: PG

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Type: A

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Ref: H/1990/0396

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Status: PG

Ref: H/2002/0899/A

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Ref: H/1992/6100

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Status: PCO

Ref: LA09/2018/1227/A

Type: A

Status: CG

Ref: LA09/2017/0540/LDP

Type: LDP

Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist.docRoads Consultation.docx  
Environmental Health Mid Ulster Council-LA09 22 0424 Rainey Street Apartments.doc  
Historic Environment Division (HED)-  
NI Water - Strategic Applications-LA09-2022-0424-F.pdf

NI Water - Strategic Applications-Consulted in error. Please return this planning application LA09/2022/0424/F under Multiple Units West.  
Historic Environment Division (HED)-  
Environmental Health Mid Ulster Council-LA09 2022 0424 F 39-41 Rainey St Magherafelt.doc  
Environmental Health Mid Ulster Council-Response uploaded 5/9/22  
Historic Environment Division (HED)-  
Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

Site Layout or Block Plan  
Proposed Floor Plans  
Proposed Elevations

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.17   |
| <b>Application ID:</b><br>LA09/2022/0454/F   | <b>Target Date:</b> 27 May 2022   |
| <b>Proposal:</b><br>Proposed dwelling and garage on a farm                                     | <b>Location:</b><br>Land Approx. 60M S.W. Of 6 Beaghbeg Road<br>Dunamore<br>Kildress                      |
| <b>Referral Route:</b> Refuse is recommended   |   |
| <b>Recommendation:</b> Refuse  |   |
| <b>Applicant Name and Address:</b><br>Louise Devlin<br>8 Beaghbeg Road<br>Dunamore<br>Kildress | <b>Agent Name and Address:</b><br>Darcon Architectural Services<br>6 Ardean Close<br>Moortown<br>BT80 0JN |
| <b>Executive Summary:</b>  |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response                                   |
|-------------------------|--------------------------------|--|
| Non Statutory Consultee | DAERA - Omagh                  | LA09-2022-0454-F.DOCXSee uploaded document |
| Statutory Consultee     | DFI Roads - Enniskillen Office |  |

### Representations:

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

### Summary of Issues

Contrary to CTY 10 of PPS 21. Objections received - details are included later in the report.

### Characteristics of the Site and Area

The red line of the site includes a portion of land located approx. 60M S.W. Of 6 Beaghbeg Road. The lands to the north and west of the site are outlined in blue, indicating ownership. The lands are generally quite flat, with a gentle rise from the west to the east of the site. The lands appear to sit slightly higher than the level of the road. The site is bounded by post and wire fencing with scattered hedging along the roadside and the western boundary is currently undefined, opening to the remainder of the agricultural field. The immediate area surrounding the site appears to have undergone some development pressure, with a number of roadside properties and outbuildings, however the lands surrounding in general are rural in nature.

### **Description of Proposal**

Full planning permission is sought for a proposed dwelling and garage on a farm.

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

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. There were a number of neighbours notified under this application including: 4, 6 and 8 Beaghbeg Road. At the time of writing, there have been 2 objections received.

The objections relate to the applicant having an address which was noted on the P1 form. The address originally noted was No 6 Beaghbeg Road but this has subsequently been amended to No 8 Beaghbeg Road after querying this with applicant/agent. A further objection was received which notes that a dwelling on a farm had previously been approved and that the applicant has put up a prefab house. No full name or address was attached with this objection and thus minimal weight was given to it, however consideration was given to the previous history relating to farm dwellings previously approved and transferred off as discussed later in the report.

##### Planning History

There is not considered to be any relevant planning history associated with this site itself, however there is planning history associated with this farm business.

LA09/2017/0561/F- Retrospective planning approval to changes to house type as approved under SRNI Policies PSU by provision of accommodation in the roof space and single storey side extension for conservatory - 20M South East Of 6 Beaghbeg Road, Beaghbeg, Cookstown – PERMISSION GRANTED

I/2014/0011/F - Proposed dwelling max ridge height 6m with detached domestic garage - 20M South East Of 6 Beaghbeg Road, Cookstown – PERMISSION GRANTED

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

- Cooktown Area Plan 2010

- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- The Local Development Plan 2030 – Draft Plan Strategy

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside and has no other zonings or designations within the Plan. The site is located in an AONB.

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

(a) the farm business is currently active and has been established for at least 6 years  
 (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have confirmed that the business ID has been in existence for more than 6 years and that claims have been made on the lands over the last 6 years. From this information and from the site visit conducted, I am content the farm holding has been active and established for at least 6 years and that the land has been maintained in good agricultural and environmental condition.

With respect to (b) there is records indicating that there has been a development opportunity/dwelling transfer in relation to this farm business in November 2015. This

has since been queried with the applicant who is aware that the lands were transferred but has asked that the application proceeds to committee anyway. The proposal fails to comply with criterion (b) of CTY 10 and as such is presented to committee as a refusal.

With respect to (c), I am content that a dwelling could be sited within the red line to be visually linked to cluster with farm buildings however I noted that the siting the agent/applicant has provided is along the roadside. If permission were to be forthcoming, I would advise that amendments are sought to ensure the dwelling is set back and thus grouped with existing buildings on the farm.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. The dwelling proposed is a single storey dwelling with a design typical of that found in the countryside. I am content in terms of size, scale and design that the dwelling proposed would be acceptable if permission was to be forthcoming, however in terms of siting, it would be preferred to be located further back north in the site, to ensure it was sited with existing buildings on the farm. As the proposal fails on criterion (b), amendments were not sought in this instance.

The applicant has noted that they intend to create a new access onto Beaghbeg Road. DfI Roads were consulted and were content, subject to condition.

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

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 1**

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

**Signature(s):** Sarah Duggan

**Date:** 23 May 2023

| ANNEX  |                  |
|--|------------------|
| Date Valid   | 1 April 2022     |
| Date First Advertised  | 26 April 2022    |
| Date Last Advertised   | 26 April 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>4 Beaghbeg Road Cookstown Tyrone BT80 9PE<br>The Owner / Occupier<br>6 Beaghbeg Road Cookstown Tyrone BT80 9PE<br>The Owner / Occupier<br>8 Beaghbeg Road Cookstown Tyrone BT80 9PE  |                  |
| Date of Last Neighbour Notification  | 30 November 2022 |
| Date of EIA Determination  |                  |
| ES Requested   | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2016/1024/F<br>Proposals: Proposed 11kv Overhead line to facilitate wind turbine at 28 Keerin Road<br>Decision: PG<br>Decision Date: 07-OCT-16<br><br>Ref: I/2005/1054/F<br>Proposals: Proposed dwelling & domestic garage<br>Decision: PG<br>Decision Date: 01-JUN-06<br><br>Ref: I/2005/0269/O<br>Proposals: Proposed dwelling and domestic garage.<br>Decision: PG<br>Decision Date: 23-MAY-05<br><br>Ref: I/1997/0496<br>Proposals: Erection of Dwelling<br>Decision: PG<br>Decision Date: |                  |



Ref: I/2010/0529/Q  
Proposals: Proposed dwelling  
Decision: 211  
Decision Date:

Ref: LA09/2022/0454/F  
Proposals: Proposed dwelling and garage on a farm  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

DAERA - Omagh-LA09-2022-0454-F.DOCXSee uploaded document  
DFI Roads - Enniskillen Office-

### **Drawing Numbers and Title**

Proposed Plans      Plan Ref: 03  
Site Layout or Block Plan   Plan Ref: 02  
Site Location Plan   Plan Ref: 01  
Site Location Plan

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.18   |
| <b>Application ID:</b><br>LA09/2022/0465/F  | <b>Target Date:</b> 2 June 2022   |
| <b>Proposal:</b><br>New 25m high lattice telecommunications tower, positioned on elevated ground with antenna & dishes located within a new compound area to be enclosed with a proposed 1.2m high timber stock proof fence & also proposed access track to installation. This proposal is part of the SRN project & will provide service for 3 operators | <b>Location:</b><br>Area Of Field Lying Approx. 750M Ne Of Ballnagilly Road<br>Lissan<br>Cookstown              |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Cornerstone Telecommunications<br>Hive 2 1530 Arlington Business Park<br>Theale<br>RG7 4SA  | <b>Agent Name and Address:</b><br>WHP Telecoms<br>401 Faraday Street<br>Birchwood Park<br>Warrington<br>WA3 6GA |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan

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### Consultations:

| Consultation Type       | Consultee                      | Response                                       |
|-------------------------|--------------------------------|--|
| Statutory Consultee     | DFI Roads - Enniskillen Office | Roads Consultation full approval.docx          |
| Non Statutory Consultee | National Air Traffic Services  | SG33636 NE of Ballnagilly Road - No Impact.pdf |
|                         | Public Health Agency           |  |
| Non Statutory Consultee | Public Health Agency           |  |

### Representations:

|   |   |
|---|---|
| Letters of Support                              | 0 |
| Letters Non Committal                           | 1 |
| Letters of Objection                            | 7 |
| Number of Support Petitions and signatures      |   |
| Number of Petitions of Objection and signatures |   |

### Summary of Issues

There were a number of objections received and a letter of support. The issues raised within the objections have been considered later in the report in detail.

### Characteristics of the Site and Area

The red line of the site is located at an area of field lying approx. 750m NE Of Ballnagilly Road, Lissan. The site is located at a rural location and is within an AONB. The site sits in an elevated location and there is mature trees located nearby which would screen the site. The surrounding area is largely rural in nature, with scattered single dwellings and associated outbuildings. There are two quarries within close proximity to the site also.

### Description of Proposal

Full planning permission is sought for a new 25m high lattice telecommunications tower, positioned on elevated ground with antenna & dishes located within a new compound area to be enclosed with a proposed 1.2m high timber stock proof fence & also proposed access track to installation. This proposal is part of the SRN project & will provide service for 3 operators.

### Planning Assessment of Policy and Other Material Considerations

## **Policy Consideration**

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

### **Relevant Histories**

LA09/2021/1747/PAD - Proposed 4G (Four Generation) telecommunications equipment - Proposed 30M Lattice Tower At Ballynagilly Road Lissan Cookstown BT80 9XL – PAD CONCLUDED

### **Representations**

To date there have been a number third party objections received, and a letter of support received also.

The objections detail a number of concerns including;

- Impact on visual amenity and rural character
- Health concerns
- 5G mast
- Lack of consultation/notification about application
- Amenity of proposed and existing residents

### **Assessment of objections/letters of support**

The objections received are lengthy and detailed and within them there is concern about the impacts this proposal would have both visually in the landscape and on their daily lives in terms of health impacts it may have. The application site is located within the Sperrin's AONB and therefore must be more sensitively designed and sited.

The bulk of the objections received appears to be centred around the health implications this proposal may have and concern that there may be misleading information being provided from the agent. The agent has provided an ICNIRP declaration which certifies that the site is designed to be in full compliance with the requirements of the radio frequency guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure, as expressed in the EU Council Recommendation. I have no reason to question this information provided from the agent. Operators are under a legal obligation to operate transmitters in accordance with the conditions of their license. The objectors raise concerns about a 5G mast, it has been clarified with the agent that the mast is to deliver a 4G service and there are no proposals for 5G. They add that if it were to deliver 5G at a later stage it would require additional technology at the site and a further planning submission alongside a new ICNIRP, however there are no such plans at this time.

In relation to being notified about the application, the objectors note that they were not made aware of the application by the agent. Given the scale of the proposal there was no statutory obligation for the agent to make local landowners, neighbours etc aware of the proposal. The normal advertising was carried out in a local newspaper and there were no neighbours notified under the application given the red line.

In relation to the visual impact the proposal will have especially in relation to its siting within an AONB, I am content that the agent has carried out their site selection process and are aware of the sensitivities of the AONB and as such have considered this throughout the site identification process. The site they have chosen benefits from some tree cover which is considered will help to reduce any potential visual impact the proposal may have. The agent has noted within their supporting information that they have taken care to seek a balance between the sensitive landscape with the necessity to bring coverage to this area. The objections do note that they refer within the report to “this area of Co. Tyrone” rather than “Co. Derry”. I am content that the site is easily identified with the numerous maps and this is a minor error within the report.

There was a letter of support received from Emma Sheerin MLA who notes the need for connectivity in this rural area and the many benefits this will bring to this area. I should add that there were letters added as “letters of support” which reference other similar applications in other Council districts. I would note that they were not considered relevant to this application as they refer to entirely different sites in different Council areas, however the benefits noted within the letters were identical to those noted within Emma Sheerin’s letter of support.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

#### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

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

Applications for the development of telecommunications equipment should be required to be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines for public exposure to electromagnetic fields.

#### PPS 10: Telecommunications

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

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

- (a) the sharing of an existing mast or other structure has been investigated and is not feasible; or
- (b) a new mast represents a better environmental solution than other options.

The agent has provided 5 sites that were considered though not chosen as the final proposed siting area. Reasons are provided as to why these sites were unsuitable in the submitted supporting statement. I am satisfied that alternative site options have been investigated, and it has been demonstrated that all 5 site options are not feasible.

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

- (1) information about the purpose and need for the particular development including a description of how it fits into the operator's or broadcaster's wider network;

In the supporting statement submitted to the planning department, it is stated that this was the most appropriate site for a number of reasons including proximity to existing sites to serve the target area, the topography of the site and the setting of the equipment in an area will separated from residential properties. They state that the proposed mast will not only serve existing phone users but enhance the coverage within the area. The application was submitted as a collaboration between Mobile Network Operators (MNO's) and the Government to improve 4G coverage for people living, working and travelling in this rural location.

The agent has also submitted two further reports ('General Background Information for Telecommunications Development') which provide further clarification as to the purpose and requirement for such development, and how such development will help to facilitate the wider telecommunications network. I am satisfied that it has been demonstrated that there is a particular need for this development and I am content that it fits into the operator's wider network. They have noted that the mast will be shared by the three MNOs – three, Telefonica and Vodafone.

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

Measures taken to mitigate the visual and environmental impact of the proposal take the form of consideration given to the precise siting of the column itself. The agent has provided that the selected site was the most suitable, not only from a technical standpoint, but also by way of preserving amenity. The site is well screened with the existing trees. I am content that there would be no overshadowing and/or overlooking with neighbouring properties. The proposed column is sited in an elevated area, however, the agent provides that the proposed development will have negligible impact on the landscape and visual amenity. The submitted supporting statement also provides the reasons for the choice of design of the column. This design is also cited as being 'one of the slimmest lattice masts' that is

capable of supporting the associated range of equipment required. Given this, the distance of the proposed site from surrounding dwellings and roads, as well as the existing dense mature roadside vegetation including trees ranging from approximately 10-15 metres in height, I am content that the proposed can integrate well into the surrounding environment. Adequate consideration has been given to measures to mitigate the visual / environmental impact of the proposal. I am also satisfied that the chosen site is not subject to any mapped designations and is not located near to any protected areas, including SACs, SPAs and Ramsar sites.

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

This proposal has included a location map and elevations showing the height of the proposed mast. The frequency, modulation characteristics and details of power output have also been provided in the submitted supporting statement. An ICNIRP certificate was also submitted with the application.

NATS were consulted and have raised no concerns relating to the proposal.

Public Health Agency were consulted however the email address on our system was for a member of staff who has retired.

I have considered the proposal before me against the above policy as outlined in PPS 10. Having assessed the application and evidence provided against this policy, I consider the proposal to be acceptable.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

Within 12 months of the telecommunications mast becoming obsolete 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.

Reason: To restore the amenity of the area.

**Signature(s):** Sarah Duggan

**Date:** 1 June 2023



|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 7 April 2022    |
| <b>Date First Advertised</b>  | 26 April 2022   |
| <b>Date Last Advertised</b>   | 26 April 2022   |
| <b>Details of Neighbour Notification</b> (all addresses)  |                 |
| <p>The Owner / Occupier<br/>No Neighbours</p>   |                 |
| <b>Date of Last Neighbour Notification</b>  | 9 November 2022 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b>  |                 |
| <p>Ref: I/2015/0110/PREAPP<br/> Proposals: Wind Farm consisting of 8 no turbines - Pre-application scoping for content of EIA to be submitted. (Amended proposal)<br/> Decision:<br/> Decision Date:</p> <p>Ref: LA09/2015/0459/F<br/> Proposals: The construction and operation of a wind farm comprising 8no. three bladed wind turbines with a maximum base to blade tip height of 126.5m. Ancillary developments include a permanent lattice anemometer mast of 80m height; turbine transformers; turbine bases, foundations and hardstands and temporary set-down areas up-grading of 2 existing field entrances along the Ballynagilly Road, widening and strengthening of existing tracks and construction of new access tracks, junctions and turning areas; a 33kV switch room control building with communications equipment, car parking and compound area; underground electrical cables and communications lines connecting wind turbines to the switch room control building; on site drainage works;</p> |                 |

temporary material deposition area; temporary construction compound; and all ancillary and associated development and infrastructure including general and excavation works. The application also includes temporary works along the transport route to facilitate the delivery of turbine components including the upgrade of the existing junctions at Slaght Road and Ballynagilly Road, and at Feegarran and Slaght Road, and realignment of a section of the Feegarran Road all in Ballynagilly Townland, Lissan (ward), Cookstown, Co. Tyrone. (Revised Bat Report received)

Decision: PR

Decision Date: 11-MAY-18

Ref: LA09/2021/1747/PAD

Proposals: Proposed 4G (Four Generation) telecommunications equipment.

Decision: PAD

Decision Date: 25-FEB-22

Ref: LA09/2022/0465/F

Proposals: New 25m high lattice telecommunications tower, positioned on elevated ground with antenna & dishes located within a new compound area to be enclosed with proposed 1.2m high timber stock proof fence & also proposed access track to installation

This proposal is part of the SRN project & will provide service for 3 operators

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

National Air Traffic Services-SG33636 NE of Ballnagilly Road - No Impact.pdf

Public Health Agency-

Public Health Agency-

### **Drawing Numbers and Title**

Proposed Elevations      Plan Ref: 04

Site Layout or Block Plan   Plan Ref: 03

Site Layout or Block Plan   Plan Ref: 02

Site Location Plan   Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.19  |
| <b>Application ID:</b><br>LA09/2022/0576/O   | <b>Target Date:</b> 29 June 2022   |
| <b>Proposal:</b><br>Dwelling and garage  | <b>Location:</b><br>35M West Of 77 Carralooan Road<br>The Woods<br>Magherafelt                                   |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mr John Gribbin<br>132 Moneynick Road<br>Randalstown | <b>Agent Name and Address:</b><br>PJ Carey Architecture<br>21 Slaght Lane<br>Glarryford<br>Ballymena<br>BT44 9QE |
| <b>Executive Summary:</b>  |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response  |
|-------------------------|---|---|
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Outline resp.docx   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09-22-0576 O 35M West Of 77 Carralooan Road, The Woods, Magherafelt.doc |
| Non Statutory Consultee | NI Water - Single Units West            | LA09-2022-0576-O.pdf  |
| Non Statutory Consultee | NI Water - Single Units West            | LA09-2022-0576-O.pdf  |

### Representations:

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

### Summary of Issues

Contrary to policy, however, I believe members could consider the proposal an exception

to policy given the planning history of the adjacent site. 1 objection received. The comments received have been considered within the body of this report.

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

The site is located just outside the development limits of the small settlement of the Woods, located in a piece of land between the settlement limits, from such the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The site is identified as 35m West of 77 Carraloan Road, The Woods with the red line making up the northern part of a vacant piece of land which appears to be unkept agricultural land. The site is accessed via an existing shared access that serves the dwellings No.83, 85 & 87 Carraloan Road. The north western boundary of the site is defined by existing mature trees and hedges with a row of dwellings to east defining this boundary with a wooden close board fence running along this boundary until the point of access to the site. The south and south western boundaries are currently undefined. A third-party farm holding is located approximately 20m south west of the application boundary.

### **Description of Proposal**

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

#### **Relevant Site History**

LA09/2020/0387/O- Single dwelling and garage within a cluster. 82M West Of 64 Carraloan Road, The Woods, Magherafelt.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015

SPPS: The Strategic Planning Policy Statement for Northern Ireland

PPS 2: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

The Magherafelt Area Plan identifies the site as being outside any defined settlement limits.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to

integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*
- *the cluster appears as a visual entity in the local landscape*
- *the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads*
- *the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;*
- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;*
- *Development would not adversely impact on residential amenity.*

In terms of the first criteria, I am content that the site lies outside of a farm, however I note that the site is reliant on buildings that are located within the development limits to constitute being a cluster. There are no buildings in the vicinity of the site within the countryside to constitute as a cluster within the countryside so the site is not within a cluster. Although there is not cluster, there is an Orange Hall and a crossroads are within close proximity of the site, within the countryside and could be considered a focal point, however as the site is not within a cluster it fails to meet this criteria.

The policy also requires the site be bounded on at least two sides with other development in the cluster. The site is bound only to the east by development within the settlement limits so cannot be considered. It should be noted that outline approval was granted adjacent to the south of the site under reference LA09/2020/0387/O however no Reserved Matters application has been received and no development has occurred, so the development is not currently bound on this side. It should be noted that the timeframe for submitting a Reserved Matters application has not lapsed at this site and development could still occur as it is an extant approval.

As mentioned, the approval adjacent was approved as an exception to policy given the site is sandwiched between two parts of 'The Woods' settlement limits it could be seen

as rounding off. From this I am of the opinion that members could view this application as an exception to policy CTY 2a as it could be seen as rounding off and it will not alter the character of the area given the planning approval LA09/2020/0387/O adjacent.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this an outline application no design details etc. I am of the opinion that an appropriately designed dwelling would not be prominent in the landscape. The proposed site has existing vegetation along the north western boundaries which should be retained and supplemented with additional landscaping along any new boundaries to further aid integration. Therefore, a landscaping scheme would be required in any Reserved Matters application. Finally, given the context of the surrounding development I am of the opinion that if permitted the dwelling should be restricted to an 8.0m ridge height from finished floor level.

Policy CTY 14 deals with rural character and states that planning permission will be granted where the building it does not cause detrimental change to, or further erode the rural character of the area. As stated, I am content that an appropriately designed dwelling will not be prominent feature. As previously noted, a dwelling in this location could be considered rounding off and will not alter the character of the area.

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

DfI Roads were consulted and offered no objection subject to conditions.

#### **Other Material Considerations**

Environmental Health were consulted and although they did not state the application should be refused or offer any refusal reasons they did recommend the separation distance between a third party dwelling and farms should be 75m. In this instance the separation distance is approximately 25m. However, given the council approved a site immediately south, adjacent to the farm holding there is no reason to refuse this application on that basis. The applicant should be aware that the site is within 75m of a third party farm holding.

NI Water were also consulted and initially recommended refusal due to the proximity of a Waster Water Treatment Plant. However, following further investigation and discussions a WWTW could not be identified, NI Water were re-consulted and in their latest response offered no objection.

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

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

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

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

#### Condition 2

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

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

#### Condition 3

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

#### Condition 4

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

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

#### Condition 5

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

Reason: To ensure the dwelling integrates into the countryside and to ensure the



maintenance of screening of the site.

**Condition 6**

The proposed dwelling shall have a ridge height of no more than 8.0 metres above finished floor level.

**Reason:** To ensure that the development is satisfactory integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

**Signature(s):** Ciaran Devlin

**Date:** 23 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 4 May 2022      |
| <b>Date First Advertised</b>   | 17 May 2022     |
| <b>Date Last Advertised</b>  | 17 May 2022     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>81 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>134 Ballyronan Road Magherafelt Londonderry BT45 6HR<br>The Owner / Occupier<br>73 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>75 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>77 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>87 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>79 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>85 Carraloan Road Magherafelt Londonderry BT45 6HT<br>The Owner / Occupier<br>83 Carraloan Road Magherafelt Londonderry BT45 6HT |                 |
| <b>Date of Last Neighbour Notification</b>   | 28 June 2022    |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/1993/0483<br>Type: F<br>Status: PCO<br><br>Ref: H/1978/0038<br>Type: H13<br>Status: PG  |                 |

Ref: H/1999/0702/F

Type: F

Status: PG

Ref: H/1985/0319

Type: H13

Status: PG

Ref: H/2014/0353/F

Type: F

Status: PG

Ref: LA09/2020/0387/O

Type: O

Status: PG

Ref: LA09/2022/0576/O

Type: O

Status: PCO

Ref: H/2004/1506/O

Type: O

Status: PG

Ref: H/1981/0233

Type: H13

Status: WITHDR

Ref: H/1986/0138

Type: H13

Status: PG

Ref: LA09/2019/0298/O

Type: O

Status: PG

Ref: H/1991/0025

Type: F

Status: PCO

Ref: H/1978/0455

Type: H13

Status: PG

Ref: H/1980/0204

Type: H13

Status: PG

Ref: H/1984/0132

Type: H13

Status: PG

Ref: H/1993/0382

Type: F

Status: PCO

Ref: H/1999/0057

Type: F

Status: PCO

Ref: H/1993/0012

Type: F

Status: PCO

Ref: H/1986/0072

Type: F

Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

Environmental Health Mid Ulster Council-LA09-22-0576 O 35M West Of 77 Carraloon Road, The Woods, Magherafelt.doc

NI Water - Single Units West-LA09-2022-0576-O.pdf

NI Water - Single Units West-LA09-2022-0576-O.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Location Plan Plan Ref: 01 Rev A

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

Not Applicable

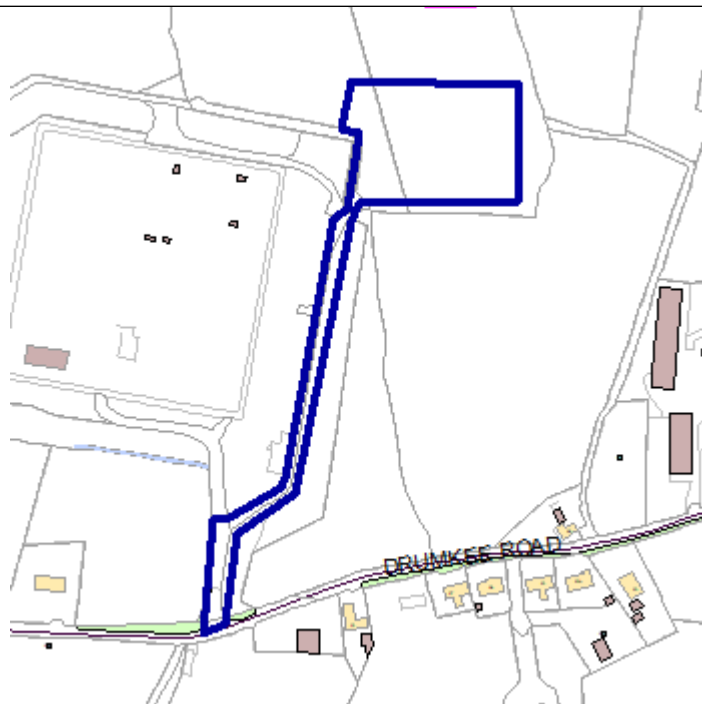


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.20  |
| <b>Application ID:</b><br>LA09/2022/0600/F  | <b>Target Date:</b> 4 July 2022  |
| <b>Proposal:</b><br>Proposed erection of a battery energy storage system facility 100MW (BESS) and associated 33KV transformers, including 2 switch houses with control rooms lighting and closed-circuit television (CCTV) columns, new site boundary fencing and landscaping proposals, use of existing access and ancillary development works, including underground cabling route linking the site to Tamnamore main substation to the West | <b>Location:</b><br>Lands Immediately East Of Tamnamore Substation And C 260M South West Of 167 Ballynakilly Road<br>Coalisland<br>Dungannon |
| <b>Referral Route:</b> Approve <b>is recommended</b>  |  |
| <b>Recommendation:</b> Approve  |  |
| <b>Applicant Name and Address:</b><br>Heron Storage Ltd<br>2 St Patrick's Street<br>Draperstown   | <b>Agent Name and Address:</b><br>TSA Planning<br>20 May Street<br>Belfast<br>BT2 8AB  |
| <b>Executive Summary:</b><br><br>The applicant is a relative of the Head of Local Planning in Mid Ulster District Council - Karen Doyle.  |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

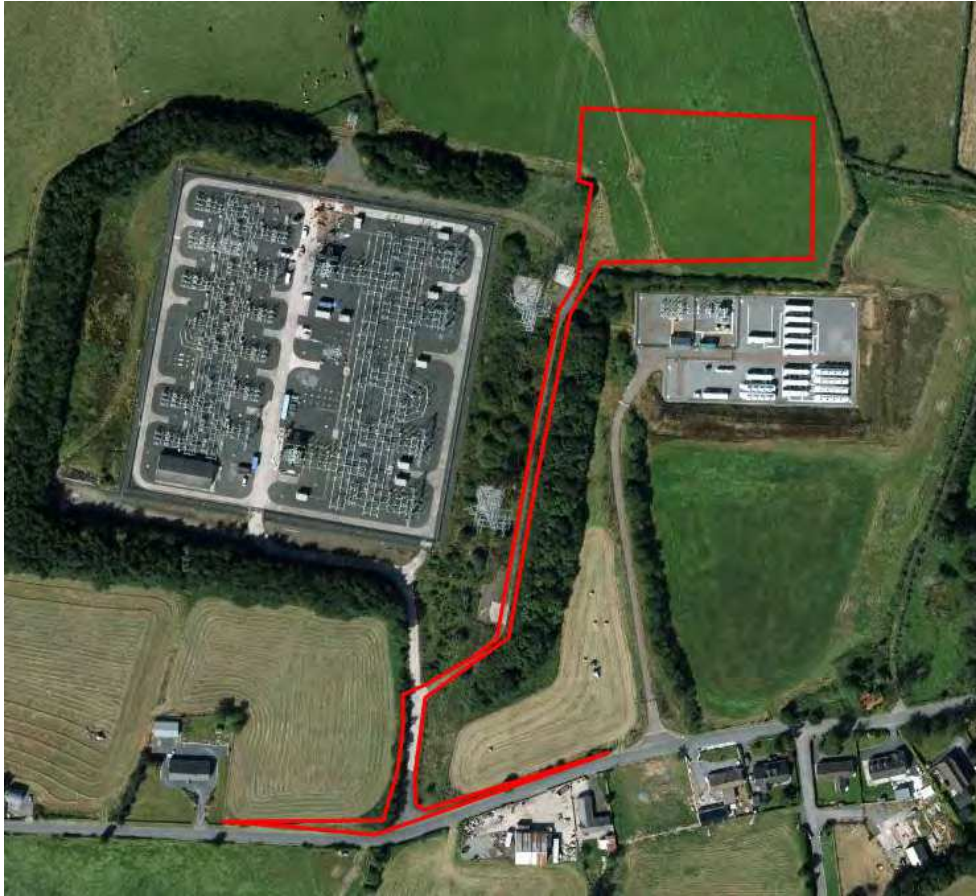
| Consultation Type       | Consultee                               | Response  |
|-------------------------|---|---|
| Statutory Consultee     | NIEA                                    | PRT LA09-2022-0600-F.PDF  |
| Statutory Consultee     | NI Water - Strategic Applications       |   |
| Statutory Consultee     | NIE                                     |   |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | LA09-2022-0600-F - 167 Ballynakilly Road Coalisland - Response.docx   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09-22-0600 F Lands Immediately East Of Tamnamore Substation.docLA09-22-0600 F Lands Immediately East Of Tamnamore Substation 180123.doc |
| Statutory Consultee     | Health And Safety Executive For NI      | CN202204-0002 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (15.07.2022).pdfGood         |

|                     |           |   |
|---------------------|-----------|---|
|                     |           | <p>morning</p> <p>The applicant's representative contacted HSENI directly regarding a Fire Safety Report they had provided to MUDC on 15 June, however this report does not seem to be available on the planning portal under this reference number.</p> <p>HSENI has considered the Fire Safety Report provided by the applicant's rep, please see uploaded response.</p> <p>Regards</p> <p>HSENI</p> <p>CN202207-0001 - Lands immediately east of Tamnamore Substation &amp; c260m SW of 167 Ballynakilly Rd, Coalisland (20.07.2022).pdf</p> |
| Non Consultee       | Statutory | <p>NI Fire And Rescue Service Headquarters</p> <p>2023.01.20 - LA09_2022_0600_F - NIFRS Consultation Response.pdf</p>   |
| Non Consultee       | Statutory | <p>Geological Survey NI (DfE)</p> <p>3037. MUDC Planning. Lands Immediately East Of Tamnamore Substation Dungannon.doc</p>  |
| Statutory Consultee |           | <p>NI Fire And Rescue Service Headquarters</p>  |
| Statutory Consultee |           | <p>NIEA</p> <p>LA09-2022-0600-F.PDF</p>   |
| Non Consultee       | Statutory | <p>Rivers Agency</p> <p>489334 Final response.pdf</p>   |
| Non Consultee       | Statutory | <p>NIEA</p> <p>PRT LA09-2022-0600-F.PDF</p>   |
| Non Consultee       | Statutory | <p>NIE</p> <p>No Response letter LA09_2022_0600_F.pdf</p>   |
| Statutory Consultee |           | <p>NI Water - Strategic Applications</p> <p>LA09-2022-0600-F pdf.pdf</p>  |

|   |   |   |
|---|---|---|
| Statutory Consultee                             | Health And Safety Executive For NI      | CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (14.10.2022).pdf |
| Statutory Consultee                             | DFI Roads - Enniskillen Office          | 09-11-2022.docx   |
| Statutory Consultee                             | Health And Safety Executive For NI      | CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (16.01.2023).pdf |
| Statutory Consultee                             | NI Fire And Rescue Service Headquarters |   |
| Statutory Consultee                             | NIEA                                    | PRT LA09.pdf  |
| Statutory Consultee                             | DFI Roads - Enniskillen Office          | Roads Consultation full approval.docx   |
| Statutory Consultee                             | Health And Safety Executive For NI      |   |
| Statutory Consultee                             | NIEA                                    | PRT LA09-2022-0600-F.PDF  |
| Statutory Consultee                             | Rivers Agency                           | 171724 Final response.pdf   |
|   | NI Fire And Rescue Service Headquarters |   |
| Statutory Consultee                             | Health And Safety Executive For NI      | CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (01.02.2023).pdf |
| Non Statutory Consultee                         | SONI LTD                                |   |
| Statutory Consultee                             | Rivers Agency                           | 106483 Final response.pdf   |
| <b>Representations:</b>                         |   |   |
| Letters of Support                              | 0                                       |   |
| Letters Non Committal                           | 0                                       |   |
| Letters of Objection                            | 0                                       |   |
| Number of Support Petitions and signatures      |   |   |
| Number of Petitions of Objection and signatures |   |   |
| <b>Summary of Issues</b>                        |   |   |
| <b>Characteristics of the Site and Area</b>     |   |   |



This application site occupies a parcel of land located 260 metres South West of 167 Ballynakilly Road, Coalisland. It sits immediately east of the existing NIE/SONI Tamnamore Substation which accesses onto the Drumkee Road. Adjacent and to the south of the site is a battery storage facility which was granted permission in October 2018. The site itself occupies the southern portion of an agricultural field which continues to the north, resulting in a lack of defined boundaries on the ground. There is existing hedgerow close to the southern boundary and established vegetation exists where the proposed new access is located. On the opposite side of the Drumkee Road close to where the existing access meets the public road, is an established line of detached dwellings which are mostly single storey along the roadside.



The site measures approximately 0.95 ha and sits less than 2.5 kilometres to the North West of the Tamnamore Roundabout, and 400 metres to the south west of the junction where traffic turn off the Ballynakilly Road towards Clonoe.



The surrounding agricultural land is traversed by the busy A45 Ballynakilly Road which connects Coalisland to the M1 motorway. There are some dispersed dwellings throughout the landscape and a variety of commercial landuses such as car sales, joinery, tourist accommodation and filling station close by, as well as some engineering enterprises. The surrounding landscape is also characterised by the existing electricity infrastructure with the presence of pylons and transformers permeating the skyline.

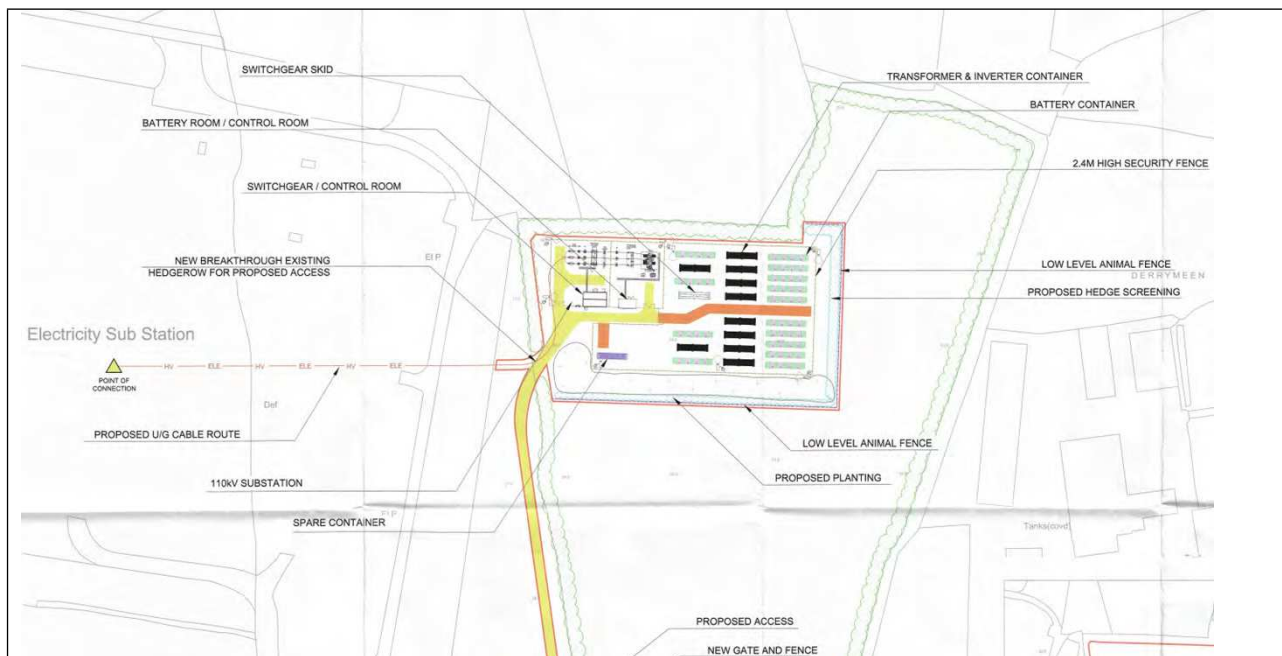
### Relevant Planning History

LA09/2022/1447/F - Proposed synchronous condenser facility, new access, and ancillary development - 370M SW Of No 51 Drumkee Road, Dungannon – under consideration

LA09/2022/1410/F - Proposed battery energy storage system (BESS) 100MWh (100 MW/1 hr), new access and alterations/ extensions of existing lane, and ancillary development - 500M NE Of 32 Drumkee Road, Dungannon (to Rear Of Tamnamore 275kv Electricity Substation) - under consideration

LA09/2021/0816/HSC - Lithium Battery Storage – 26.10.2022 - Application Withdrawn

LA09/2019/1469/NMC - Non-material change to approval LA09/2018/0803/F (Battery Energy Storage System) - 150M North Of 60 Drumkee Road, Coalisland – Granted – 18.12.2019 (see below)



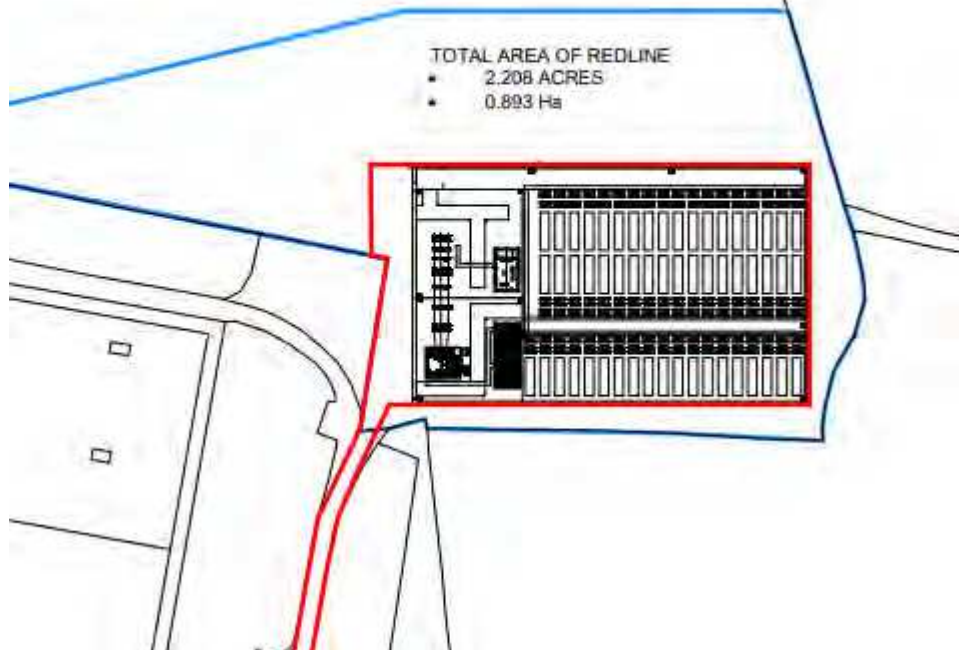
LA09/2020/0876/PAD - Battery Storage facility - 150M North Of 60 Drumkee Road, Coalisland – Declined – 01.09.2021

LA09/2018/0803/F - Proposed battery energy storage system, new access lane and ancillary development – 150M North Of 60 Drumkee Road, Coalisland - 03.10.2018 – Approval

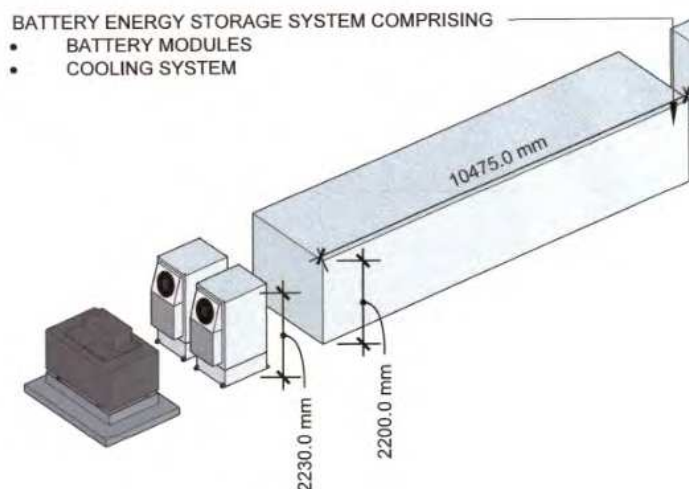
M/2011/0198/F - Additional electrical plant and equipment installation, control room inside the existing sub-station site and overhead electrical transmission lines - Approval – 08.12.2011

## Description of Proposal

This application seeks full planning permission for a Battery Energy Storage System (BESS) facility on lands immediately East of Tamnamore Substation and approximately 260 metres South West of No 167 Ballynakilly Rd, Coalisland. This BESS facility includes associated 33Kv transformers, 2 switch houses with control rooms, lighting and Closed-Circuit Television (CCTV) columns, new site boundary fencing and landscaping proposals, new site access and laneway and ancillary development works, including an underground cabling route which links the site to the main Tamnamore substation to the West.



This BESS proposal includes a total of 55 “battery enclosures” which are positioned in 3 rows along the eastern side of the site. Each of these enclosure structures have a footprint of just over 26 sq. metres, measuring 2.2 metres in height, 2.5 metres wide and 10.5 metres in length.



Positioned at the end of each enclosure is a 33 kV transformer and 2 invertors which each have a footprint of 12 sq. metres and are 2.2 metres high. All the 55 transformers are sited on a 6 sq. metre platform and have a footprint of 33 sq.

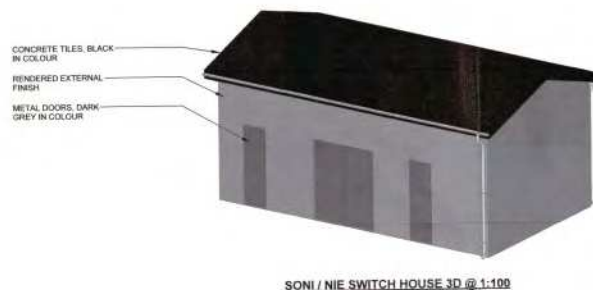
A single 110kV transformer is sited within the south western corner of the compound

also and an underground cable will connect to the existing substation.

This application also proposes 11 no 6 metre lighting columns along the boundaries of the compound which have CCTV incorporated. Sitting to the west of the row of enclosures close to the southern boundary is a Customer Switch House. This building is 17.5 metres by 6.6 metres and is 6 metres FGL a separate customer access is located in this south western corner.



To the north of this the NIE/SONI Switch House is sited which 6.3 metres by measures 11.5 metres with a ridge height of 6 metres FGL as below. This building has a separate gated access close to the north western corner of the compound.



As well as the relevant Drawings and application necessary for this planning application, the agents also submitted a number of additional documents for the proposal to be assessed. These included a Drainage Assessment, Preliminary Risk Assessment, Outline Construction Environmental Management Plan, Traffic Management Plan, Noise Impact Assessment, Informal Consultation and Engagement Report, Lighting Assessment and an Outline Emergency Response Plan.

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

### **Policy Consideration**



As this type of development is a relatively new concept, it is important to get an understanding of the concept of BESS systems. In December 2020, the Chief Planner issued an update to all local Council's to provide information and advice on a number of planning matters which included BESS systems – CPU7. The Department here departed from the PAC's recent opinion and confirmed that BESS development falls within the meaning of an “energy generating system”.

Taking into account the judgement of ABO Wind NI Ltd and Energia Renewables Co Ltd Judicial Review in October 2021, the Judge recognised that a BESS facility carries out multiple tasks;

- Converting imported energy into a form which can be stored
- Storage of this converted energy
- Conversion of the stored energy into electrical energy.

The Judicial Review concluded that a BESS facility does not really fall into Class 1-8 of the Planning (Development Management) Regulations (NI) 2015 and therefore should be classified as Class 9 – All Other Development.

This results in this application proposal being categorised not as a major application and therefore assessed as a local one.

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), as far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed on 24th September 2020. All valid representations received have been subject to a Counter Representation period. In light of this the Draft Plan cannot currently be given any determining weight. This site is located outside of any settlement limit and the DSTAP does include any guidance or specific policy on the provision of energy infrastructure within the plan area.

The Regional Development Strategy (RDS) – Shaping our Future provides the overarching strategic framework and recognises that transport, agricultural and “energy supply” are the main contributors to greenhouse gas emissions. It aims to Improve connectivity to enhance the movement of people, energy and information while also reducing our carbon footprint and facilitate adaptation to climate change.

It is important in all aspects of planning to address the consequences of climate change, which means an even greater focus on where people live and work and how transport and energy needs are planned. The RDS confirms that decision makers will have to balance economic growth and the environmental impacts on air quality and energy supply for industry and transportation.

In the RDS, Regional Guideline 5 promotes the need to deliver a sustainable and secure

energy supply, referring to developing smart grid initiatives to improve the responsiveness of the electricity grid to facilitate new forms of renewable generation and to improve reliability, productivity and energy efficiency. The Regional Guideline 9 seeks to reduce our carbon footprint as well as facilitating mitigation measures while adapting to climate change and focussing on renewable energies also. The RDS in Chapter 4 – Regionally significant Economic Infrastructure refers to the need to facilitate the provision of additional renewable power generation and to address different areas of weakness in the energy grid. I am content this proposed development of a BESS would comply with and contribute to achieving the promotive principles of the RDS.

The Strategic Planning Policy Statement (SPPS) provides the core planning principles which underpin the delivery of the two-tier planning system with the aim of supporting sustainable development while promoting a sustainable environment. This policy is material to all planning application decisions and has retained some of the Planning Policy Statements, although any conflict between the SPPS and any retained policy will be in favour of the SPPS. In reference to telecommunications and other utilities, the SPPS aims to facilitate the development of such infrastructure in an efficient and effective manner whilst keeping environmental impact to a minimum. As the SPPS does not introduce more stringent policy context in respect of development such as is proposed in this planning application, the relevant planning policy which to assess this BESS is therefore provided by PPS 21 – Sustainable Development in the Countryside. Policy CTY 1 – Development in the Countryside within PPS 21 lists a range of non-residential development which includes certain utility or telecommunication developments which may be considered acceptable in a countryside location.

PPS 18 – Renewable Energy highlights that increased development of renewable energy resources is vital to facilitating the delivery of international and national commitments on both greenhouse gas emissions and renewable energy. Unless there are unacceptable adverse effects which are not outweighed by the local wider environmental, economic and social benefits of the development, renewable energy development must be supported.

The Planning Strategy for Rural Northern Ireland (PRSNI) is also relevant to this proposal, in terms of Policy PSU 8 – New Infrastructure. This policy states that the need for need infrastructure must be balanced against the objective to conserve the environment and protect amenity. It goes on to say that decision makers must be satisfied there is an overriding regional or local requirement for the development and a through exploration of alternative sites has been undertaken.

PSU 8 specifies that “the potential adverse impact of existing infrastructure upon neighbouring land uses will be a material consideration” and advises that applications for new infrastructure must take into consideration;

1. Need for the facility
2. Impact on the environment
3. Impact on existing communities
4. Impact on Natural Heritage

5. Existence of alternative sites
6. Mitigation of adverse effects.

## **1. Need for the facility**

It is evident that in today's world, the need for electricity is increasing as technologies such as the introduction of electric vehicles and other activities advance, and it is anticipated the fostering of energy may be a key driver to unlock renewable capacity.

This BESS proposal is designed as a component of modernising the national electricity grid to stabilise supply by creating an energy storage facility to store electricity when there is a surplus of generation in the system and to then discharge electricity onto the grid at times of deficit of generation.

This will significantly increase efficiency, enhancing security and supply of electricity while also reducing the need for extensive investment in grid reinforcement and upgrading. In order to increase the efficiency of proposals such as BESS development, it is most desirable to site them close to the source of the product, which in this instance is the electricity substations. The proximity of these BESS proposals close to the source also ensures a more robust connection and therefore contributes to overall sustainability as it optimises existing infrastructure, in this instance the Tamnamore substation.

The area surrounding the Tamnamore Sub Station appears to be coming an area of interest for development of energy storage facilities etc. To the north of the substation is another application for a BESS under application LA09/2022/1410/F which is under consideration. Directly opposite to where this site accesses onto the public road at approximately 370 metres South West of No 51 Drumkee Road, Dungannon is an application for a Synchronous Condenser facility (LA09/2022/1447/F) which is currently under consideration. It is important that existing and proposed development is taken into consideration as a proliferation of new energy developments entirely surrounding the area would not be ideal either.

## **2. Impact on the environment**

This site is located in an agricultural field to the east of the Tamnamore NIE/SONI substation and to the north of an operational BESS facility. The compound measures 109 metres by 66 metres covering a footprint of just under 7,200 sq. metres. It will be set back some 300 metres from the Drumkee Road with existing vegetation shielding views from the Ballynakilly Road. In order to assess any potential impacts this proposed development may have on the surrounding environment, a number of bodies were consulted.

The Geological Survey of NI (GSNI) assessed this proposal on their Shafts and Adits Database and confirmed the site is greater than 200 metres from the closest known abandoned mine and they have no concerns regarding this proposal.

The Regulation Unit of NIEA assessed the Preliminary Risk Assessment provided by



RSK Ireland Ltd. As there were no unacceptable risks identified to environmental receptors, they have no objections to this proposal, subject to conditions.

The Natural Environment Division (NED) of NIEA commented on the presence of a native hedgerow on the southern portion of the site which is classified as a priority habitat for native wildlife. However, it is content that the proposed additional planting of native species hedgerow along the northern boundary of the site will be a compensatory benefit to the local biodiversity.

Water Management Unit of NIEA in taking into consideration the Outline Construction Environmental Management Plan and the Drainage Assessment requested more information on the drainage plan. They are content with the information contained within the amended Drainage Assessment subject to conditions.

DfI Rivers were consulted and requested amended information included in the Drainage Assessment as is discussed below.

Existing ground levels of the site will be reduced by about 3 metres which will also reduce the potential for long views of the development. The agent submitted a document which illustrated views of this proposal from 3 vantage points along the surrounding Ballynakilly and Drumkee Roads. These wireframes were useful in demonstrating how this proposed development would not be visually obtrusive in the surrounding area. Together with the backdrop of the existing substation and storage system, the existing and proposed planting and distance from critical views along the road network, I am content the proposal will not have a significant visual impact on the landscape.

### **3. Impact on existing communities**

The closest residential property to this proposed development is No 179 Ballynakilly Road which sits approximately 200 metres to the east of the site. There are a number of agricultural buildings which are much closer to the site and are part of the farm holding at No 66 Drumkee Road. The dwelling associated with this farm Derrymeen House is also 200 metres from the site in a south easterly direction.

Mid Ulster District Council's Environmental Health Department provided comment on the Preliminary Risk Assessment in relation to land contamination issues and they concluded that any risk to human health would be minimal. In terms of noise nuisance, upon considering the Noise Impact Assessment submitted there were some concerns regarding the "creeping background" which the PAC have confirmed must be taken into consideration and thus provision made for this. Following the submission of amended information, there are no concerns regarding noise nuisance, subject to conditions regarding noise levels and procedure in the event of a noise complaint.

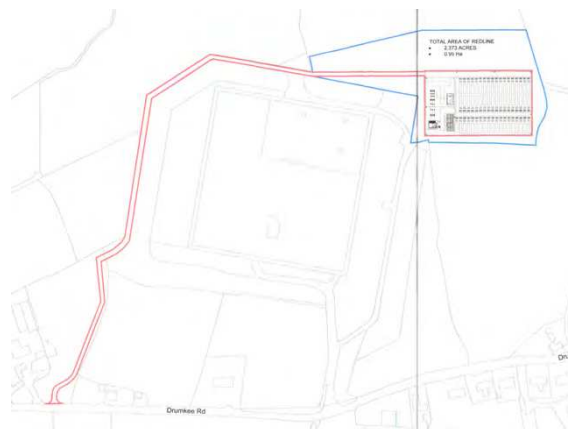
The Health and Safety Executive of NI (HSENI) as a Statutory Consultee for this type of development were asked to provide response to the Fire Safety Report submitted. HSENI note that with battery technologies there is a risk of fire and/or explosion and

commented that the method utilised for the submitted report is merely a test method and not standard, therefore a precautionary approach is advised. This advice is based on previous incidents involving BESS facilities, possible impact on nearby residential properties and the lack of robust evidence or UK/European standards to offset this cautionary approach. Following the assessment of further information submitted, the HSENI advise that NI Fire and Rescue Service (NIFRS) are consulted regarding the legal standing of the test method regarding fire safety regulations. They also advised the Council to utilise the reduced radius when considering explosion risks. HSENI accepts the agent's assessment of dangerous substances within the site and the layers of protection to prevent fire propagating. HSENI have not objected to this application taking into consideration toxic plume of Hydrogen Fluoride and the proximity of nearest residential properties. NIFRS were consulted on this proposal and did not have any objection. Taking into consideration the comments provided above, I do not think there will be any detrimental impact to the existing community, subject to adherence to conditions as part of any permission granted to ensure health and safety takes precedence.

#### 4. Impact on Natural Heritage

This application site is located in the countryside within the Lough Neagh Peatlands Local Character Area LCA 65, which is characterised by a low-lying marshy landscape with some protruding drumlins. The entire compound covers a footprint of just under 7,200 sq. metres and will be enclosed by a 2.35 metre green palisade fence.

Initially the access was to go around the western boundary of the substation site where a new access was proposes onto the Drumkee Road. I had apprehensions regarding the introduction of this new proposed access which was not the least intrusive option. DfI Roads in the initial consultation also highlighted concerns of the introduction of an additional access when there already were 2 serving this land. As can be seen below, the access was amended so it would utilise what appears to be an existing route which joins the access for the substation close to where it meets the public road. Following the submission of additional information, DfI Roads are content with this amended access which is in compliance with PPS 3 and it has a reduced impact on the area that what was initially proposed.



As stated earlier, NED are satisfied additional hedge planting of a native species hedgerow along the northern boundary of the site will be a compensatory benefit to the local biodiversity. A Biodiversity Checklist was compiled by Ayre Environmental Consulting Ltd which confirms the site is not located wholly or partially within any designated site. I am satisfied there are no built or natural heritage features which could be potentially impacted by this proposal.

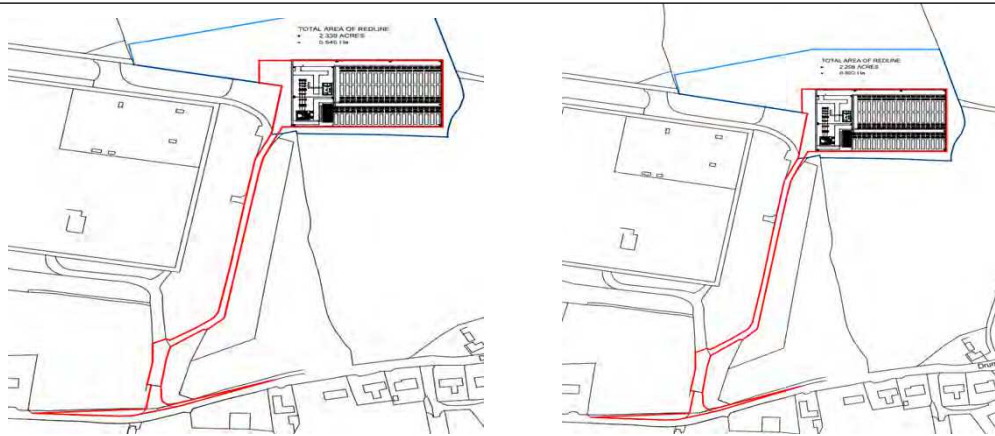
The development proposed in this application does not sit neatly within Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017. This proposal does not fit into Category 3 (c) **Transmission of electrical energy** or Category 10 (b) Urban Projects. Under Regulation 12 (1) of these regulations, the Council is obliged to make a determination as to whether this application is for EIA development. As a precautionary measure an Environmental Impact Screening Determination was carried out for this proposal. This concluded that the environmental impacts of this project are not thought to be so significant as to warrant an Environmental Statement and therefore under current EIA legislation it is not required in this instance.

#### **5. Existence of alternative sites**

Due to the nature of a BESS facility, its sustainability decreases the further away it is sited from the source of energy supply, therefore it is necessary that they are sited close to existing electricity substations if possible. By siting the BESS where it is proposed on the block plan, I am content it will cluster with the existing facility adjacent and to its south as well as the existing substation, thereby not appearing as a brand new single entity being introduced into the landscape.

#### **6. Mitigation of adverse effects.**

While assessing this application, it was deemed necessary to consult System Operator for Northern Ireland (SONI) as they are operators of the Tamnamore Substation which sits immediately west of this application site. The Tamnamore substation has been identified in the Transmission Development Plan NI 2021-2030 for 3 specific network projects and it will be necessary to extend the substation to accommodate these. Initially they had concerns regarding the impact this proposed development could have on the potential for future expansion of their existing site and operations as there is already limited space within and around the Tamnamore substation. Subsequently a meeting was held and the applicant then reduced the red line of the site, and removed a small section in the north western corner which they propose is only required during construction stage for the access. SONI are now content this application proposal should not impede any future plans for their extension of the substation. The reduction in site as is evident below has also been confirmed by DfI Rds as acceptable.



A new hedgerow along the northern boundary of the compound will soften the visual impact of this development and aid its integration.

I am satisfied that conditions attached to any permission granted on this site would ensure that all areas of mitigation are covered in terms of health and safety to protect employees, nearby residents as well as the natural environment and its inhabitants also.

PPS 15 Planning and Flood Risk provides policy context for flooding and drainage issue and DfI Rivers were consulted and asked to provide comment on the Drainage Assessment for this proposal. They confirmed the site does not lie within a floodplain and that it is unaffected by any known watercourse. Policy FLD 3 relates to Development and Surface Water flood risk outside of Flood Plains and DfI Rivers mentioned the SuDS has no outlet and the drainage is via percolation through the soil strata. They acknowledge out of sewer flooding will be managed by attenuating the 1 in 100 year event within the proposed drainage network and safely disposed of which would satisfy Policy FLD 3 in providing adequate mitigation measures. I am therefore content this proposal complies with the provisions of PPS 15, subject to conditions relating to the revised Drainage Assessment.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

An Environmental Impact Screening Determination was carried out for this proposal as it fell within Category 10 – Infrastructure Projects part (B) - The carrying out of development to provide for urban development projects, including the construction of shopping centres and car parks, of Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017.

The proposed development in this application is an urban development project and the

area exceeds 0.5 ha. Under Regulation 12 (1) of these regulations, the Council is obliged to make a determination as to whether this application is for EIA development. Mid Ulster Council has determined that the environmental impacts of this application are thought not to be so significant as to warrant the submission of an Environmental Statement under current EIA legislation. The environmental effects of this proposal have been assessed via the Development Management process under the relevant policies, as discussed above.

Due to the development surrounding this application site, I am satisfied this proposal would be viewed as an extension to this existing infrastructure and thereby not having a detrimental impact on the landscape. On the basis of the assessment above, I am satisfied this BESS proposal fulfils the requirements of the Rural Strategy, specifically PSU 8 as well as the relevant policies contained in PPS 3, 15, 18 and 21 and the RDS. This proposed development will contribute to achieving a reduced carbon footprint and thereby helping to achieve renewable targets and doing so in a sustainable manner.

This application was advertised in the local press and 3 neighbouring properties were notified in line with the Council's statutory duty. Upon receipt of an amendment to the access an additional neighbour was notified of this proposal. As no objections were received, this application can be dealt with through the Council's Scheme of Delegation and approval is recommended.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 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

##### **Condition 2**

The vehicular access, including visibility splays and any forward sight distance shall be provided in accordance with Drawing No 9 REV 2 received on 4th May 2023, prior to the commencement of any works or 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 satisfactory means of access in the interests of road safety and the convenience of road users.

Condition 3

The Sound Power Level of Inverters and Transformers shall not exceed the levels outlined within Table 1 of the Irwin Carr letter dated 7th October 2022.

Reason: To protect nearby residential amenity from excessive noise.

Condition 4

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 operator shall, at his/her expense, employ a suitably qualified and competent person, to assess compliance with noise levels stated within condition 1. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity from noise.

Condition 5

In the event that previously unknown contamination is discovered falling outside the scheme of the approved revised remediation scheme in the Preliminary Risk Assessment dated 9th May 2022, development on the site shall cease, pending the submission and agreement of a written report, detailing the proposed investigation, risk assessment and remediation scheme, by Mid Ulster District Council and the Northern Ireland Environment Agency. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance available at [www.gov.uk/guidance/land-contamination-how-to-manage-the-risks](http://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks). In the event of unacceptable risks being identified a remediation strategy shall be agreed by Mid Ulster Council in writing and subsequently implemented and verified to its satisfaction and that of Northern Ireland Environment Agency.

Reason: To protect environmental receptors and to ensure the site is suitable for use.

Condition 6

After completing all remedial works under Condition 5 and prior to the operation of the development, a Verification Report must be agreed in writing by Mid Ulster Council. This should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing risks and achieving the remedial objectives. This report must be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at [www.gov.uk/guidance/land-contamination-how-to-manage-the-risks](http://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks).

Reason: To protect environmental receptors and to ensure the site is suitable for use.

Condition 7

Prior to the development commencing, any onsite wells should be fully decommissioned and evidence agreed in writing to Mid Ulster Council. This should be in line with SEPA guidance document - "Good Practice for Decommissioning Redundant Boreholes and Wells (UK Groundwater Forum)" available at <https://sepa.org.uk/media/34618/decommissioning-redundant-boreholes-and-wells.pdf>.

Reason: To protect environmental receptors and to ensure the site is suitable for use.

Condition 8

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

Reason: To protect breeding birds.

Condition 9

The proposed lighting around the compound are only to be operational during times authorised personnel are on site.

Reason: To minimise the impact of the proposal on bats and other wildlife.

Condition 10

All hard and soft landscaping works shall be carried out in accordance with the details on Drawing No 10 REV1 dated 29th November 2022. These works shall be carried out during the first available planting season after works commences to the appropriate British Standard and or other recognised Codes of Practice and retained thereafter.

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

Condition 11

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

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

Condition 12

The details contained in the Drainage Assessment dated 2nd February 2023 and the Subsequent amendments dated 23rd February 2023, 28th February 2023 and 27th

March 2023 shall be implemented and adhered to, unless written consent is obtained from Mid Ulster District Council.

Reason: To safeguard against flood risk.

**Condition13**

The details contained in the Fire and Safety Report dated 29th November 2022 shall be implemented and adhered to, unless written consent is obtained from Mid Ulster District Council.

Reason: In the interest of public health and safety.

**Condition14**

Any variation to the details contained in the Hazardous Substance Report dated 29th November 2022 shall be sought by written consent Mid Ulster District Council.

Reason: In the interest of public health and safety.

**Condition15**

Prior to the development hereby permitted becoming operational, a Final Emergency Response Plan will be submitted to in writing and agreed by Mid Ulster District Council. Once agreed, these shall be implemented in full and any variations to the agreed Plan will require further consent.

Reason: In the interest of public health and safety.

**Condition16**

Once a contractor has been appointed and prior to the commencement of any developmoent hereby permitted, a Final Construction Environmental Management Plan (CEMP) must be submitted to and agreed in writing by Mid Ulster Distrcit Council in compliance with NIEA Water Management Unit.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

**Condition17**

The proposed facility shall install the Multi Source Power Flex-ESS Battery Energy Storage Sysytem as agreed by Mid Ulster District Council.

Reason: In the interests of fire and safety.

**Signature(s):** Cathy Hughes

**Date:** 11 May 2023



| ANNEX   |                 |
|---|-----------------|
| <b>Date Valid</b>   | 9 May 2022      |
| <b>Date First Advertised</b>  | 26 May 2022     |
| <b>Date Last Advertised</b>   | 24 May 2022     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>40 Drumkee Road Dungannon Tyrone BT71 6JA<br>The Owner / Occupier<br>44 Drumkee Road Dungannon Tyrone BT71 6JA<br>The Owner / Occupier<br>40B Drumkee Road Dungannon Tyrone BT71 6JA<br>The Owner / Occupier<br>51 Drumkee Road, Dungannon Tyrone BT71 6JA  |                 |
| <b>Date of Last Neighbour Notification</b>  | 19 April 2023   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: M/1980/0050<br>Proposals: EXTENSION TO DWELLING AND NEW GARAGE<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1979/0292<br>Proposals: REPLACEMENT DWELLING<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2022/1410/F<br>Proposals: Proposed battery energy storage system (BESS) 100MWh (100 MW/1 hr), new access and alterations/ extensions of existing lane, and ancillary development.<br>Decision:<br>Decision Date:<br><br>Ref: LA09/2022/1108/PAD<br>Proposals: Electrical installation, including Synchronous Compensator and associated |                 |

infrastructure

Decision:

Decision Date:

Ref: LA09/2022/0600/F

Proposals: Proposed erection of a battery energy storage system facility 100MW (BESS) and associated 33KV transformers, including 2 switch houses with control rooms lighting and closed-circuit television (CCTV) columns, new site boundary fencing and landscaping proposals, new site access and laneway and ancillary development works, including underground cabling route linking the site to Tamnamore main substation to the West

Decision:

Decision Date:

Ref: LA09/2022/0397/PAD

Proposals: Proposed erection of a 100MW Battery Energy Storage Facility (BESS) and all associated site and access works including an underground cable connection to the adjacent Tamnamore Electrical Substation

Decision: WDN

Decision Date: 03-AUG-22

Ref: LA09/2020/1267/F

Proposals: 2 Bedroom modular bungalow

Decision: PG

Decision Date: 29-JUN-21

Ref: M/2004/0456/Q

Proposals: dwelling or dwellings

Decision: ELA

Decision Date: 03-JUN-04

Ref: M/2004/0463/Q

Proposals: dwelling or dwellings

Decision: ELA

Decision Date: 03-JUN-04

Ref: M/2004/0457/Q

Proposals: dwelling or dwellings

Decision: ELR

Decision Date: 27-MAY-04

Ref: M/2003/1338/F

Proposals: New 275/110kv Grid Substation with interconnecting 110kv over-head line connection (5.5km) to the existing Dungannon main Substation at Edendork, Dungannon

Decision: PG

Decision Date: 29-JUN-04

Ref: M/2004/0458/Q  
Proposals: dwelling or dwellings  
Decision: ELA  
Decision Date: 03-JUN-04

Ref: M/2004/0455/Q  
Proposals: Site for dwelling or dwellings  
Decision: ELA  
Decision Date: 03-JUN-04

Ref: M/2011/0198/F  
Proposals: Additional electrical plant and equipment installation, control room inside the existing sub-station site. Overhead electrical transmission lines detailed in Form P1.  
Decision: PG  
Decision Date: 08-DEC-11

Ref: M/2004/0460/Q  
Proposals: dwelling or dwellings  
Decision: ELA  
Decision Date: 03-JUN-04

### **Summary of Consultee Responses**

NIEA-PRT LA09-2022-0600-F.PDF

NI Water - Strategic Applications-  
NIE-

DFI Roads - Enniskillen Office-LA09-2022-0600-F - 167 Ballynakilly Road Coalisland - Response.docx

Environmental Health Mid Ulster Council-LA09-22-0600 F Lands Immediately East Of Tamnamore Substation.docLA09-22-0600 F Lands Immediately East Of Tamnamore Substation 180123.doc

Health And Safety Executive For NI-CN202204-0002 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (15.07.2022).pdfGood morning

The applicant's representative contacted HSENI directly regarding a Fire Safety Report they had provided to MUDC on 15 June, however this report does not seem to be available on the planning portal under this reference number.

HSENI has considered the Fire Safety Report provided by the applicant's rep, please see uploaded response.

Regards

HSENI

CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (20.07.2022).pdf  
 NI Fire And Rescue Service Headquarters-2023.01.20 - LA09\_2022\_0600\_F - NIFRS Consultation Response.pdf  
 Geological Survey NI (DfE)-3037. MUDC Planning. Lands Immediately East Of Tamnamore Substation Dungannon.doc  
 NI Fire And Rescue Service Headquarters-  
 NIEA-LA09-2022-0600-F.PDF  
 Rivers Agency-489334 Final response.pdf  
 NIEA-PRT LA09-2022-0600-F.PDF  
 NIE-No Response letter LA09\_2022\_0600\_F.pdf  
 NI Water - Strategic Applications-LA09-2022-0600-F pdf.pdf  
 Health And Safety Executive For NI-CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (14.10.2022).pdf  
 DFI Roads - Enniskillen Office-09-11-2022.docx  
 Health And Safety Executive For NI-CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (16.01.2023).pdf  
 NI Fire And Rescue Service Headquarters-  
 NIEA-PRT LA09.pdf  
 DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
 Health And Safety Executive For NI-  
 NIEA-PRT LA09-2022-0600-F.PDF  
 Rivers Agency-171724 Final response.pdf  
 NI Fire And Rescue Service Headquarters-  
 Health And Safety Executive For NI-CN202207-0001 - Lands immediately east of Tamnamore Substation & c260m SW of 167 Ballynakilly Rd, Coalisland (01.02.2023).pdf  
 SONI LTD-  
 Rivers Agency-106483 Final response.pdf

### **Drawing Numbers and Title**

|                           |                                  |
|---------------------------|----------------------------------|
| Site Location Plan        | Plan Ref: 01 REV1 Version: Final |
| Existing Plans            | Plan Ref: 13                     |
| Existing Plans            | Plan Ref: 12                     |
| Proposed Plans            | Plan Ref: 11 Version: Final      |
| Landscaping Plan          | Plan Ref: 10 REV1 Version: Final |
| Proposed Plans            | Plan Ref: 09                     |
| Proposed Plans            | Plan Ref: 08 Version: Final      |
| Proposed Plans            | Plan Ref: 07 REV1 Version: Final |
| Proposed Plans            | Plan Ref: 06                     |
| Proposed Plans            | Plan Ref: 05                     |
| Cross Sections            | Plan Ref: 04                     |
| Site Layout or Block Plan | Plan Ref: 03                     |
| Site Layout or Block Plan | Plan Ref: 02                     |
| Site Layout or Block Plan | Plan Ref: 09 REV1 Version: Final |

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.21   |
| <b>Application ID:</b><br>LA09/2022/0624/F  | <b>Target Date:</b> 8 July 2022   |
| <b>Proposal:</b><br>This is a section 54 application for approval LA09/2017/0487/F Requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings. | <b>Location:</b><br>Clonoe O'Rahilly GFC<br>93 Washingbay Road<br>Coalisland<br>BT71 4PU                        |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Clonoe O'Rahilly GFC<br>93 Washingbay Road<br>Coalisland  | <b>Agent Name and Address:</b><br>McKeown & Shields Associates Ltd<br>1 Annagher Road<br>Coalisland<br>BT71 4NE |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan

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### Consultations:

| Consultation Type   | Consultee                      | Response                |
|---------------------|--------------------------------|-------------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | 03-08-2022.docx         |
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads Consultation.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is located at 93 Washingbay Road, Coalisland. The site is located within the settlement limits of Annaghmore as identified within the Dungannon and South Tyrone Area Plan 2010. The immediate surrounding lands include a strip of land along the roadside either side of the existing access to the Clonoe GAA Community building and a football pitches. (see below map). Beyond the site there is a mix of uses including residential, commercial and agricultural. As the site is a strip along the roadside there are unobstructed views when travelling along the Washingbay road from both sides.

### Description of Proposal

This is a section 54 application for approval LA09/2017/0487/F Requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

Regional Development Strategy Dungannon and South Tyrone Area Plan (DSTAP) 2010  
Mid Ulster Local Development Plan 2030 - Draft StrategyPPS3 – Access movement and parking  
Strategic Planning Policy Statement (SPPS) This is a section 54 application for

approval LA09/2017/0487/F, requesting to remove the requirement of road widening & provision of an additional footpath along the entire frontage of the development as safe access on both approaches to the development have now been provided in accordance with the approved stamped drawings. This proposal is referring to conditions 6 and 7 of LA09/2017/0487/F. These conditions were; Cond 6 The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. 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 03/3 bearing the date stamp 26th June 2018. Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980. Cond 7 The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road (including provision of a 2.0 metre wide footway along site frontage) have been completed in accordance with the details outlined blue on Drawing Number 03/3 bearing the date stamp 26th June 2018. 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. The application is under Section 54 of the Planning Act (NI) 2011 and is solely to deal with the issue of varying conditions 6 and 7 of Planning Permission LA09/2017/0487/F. Section 54 allows the Council to consider the variation of conditions of planning permission. The rationale behind this application is as stated by the agent that the purpose of the conditions were to provide proper safe access to the site. The applicant has stated in their proposed description that in their opinion safe access on both approaches to the development have now been provided. Given the circumstances of the application a consultation was sent to DfI Roads, in their response they stated; 'It is a consistent approach that within settlement limits, road improvements including footway provision is provided to an appropriate standard in conjunction with development. The road widening and footway provision is considered the appropriate works necessary to provide a proper safe and convenient means of access to the development.' 'the provision of a frontage and connecting footway by the applicant is considered a requirement to provide sustainable means of travel to and along the application site' It is clear from their response that the applicant must provide a foot path along the remainder of the site frontage, (see below [picture]), however, the final paragraph of the DfI Roads response did offer a reduced footpath. 'To avoid alteration works to the existing frontage boundaries, DfI Roads would consider reduced footway widths as a relaxation in standard from that previously approved so that a footway can be provided within the existing verges. This however would be subject to a detailed design indicating what can be achieved.' In conclusion the Council is not able to remove the condition as it is DfI Roads position that a safe and convenient access has not been achieved and therefore the original conditions must be complied with.

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

Refuse is recommended



## Refusal Reasons

### Reason 1

The proposed development is contrary to PPS 3 - Access, Movement and Parking in that it would, if permitted, prejudice the safety and convenience of road users since an adequate means of travel to and from the application site has not been achieved.

**Signature(s):** Peter Hughes

**Date:** 22 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 13 May 2022     |
| <b>Date First Advertised</b>  | 28 June 2022    |
| <b>Date Last Advertised</b>   | 28 June 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>96 Washingbay Road Coalisland Tyrone BT71 4PU<br>The Owner / Occupier<br>95 Washingbay Road Coalisland Tyrone BT71 4PU<br>The Owner / Occupier<br>102 Washingbay Road Coalisland Tyrone BT71 4PU<br>The Owner / Occupier<br>100 Washingbay Road Coalisland Tyrone BT71 4PU<br>The Owner / Occupier<br>97 Washingbay Road Coalisland Tyrone BT71 4PU |                 |
| <b>Date of Last Neighbour Notification</b>  | 30 June 2022    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: M/1987/0031B<br>Type: RM<br>Status: PCO<br><br>Ref: M/2014/0396/F<br>Type: F<br>Status: PG<br><br>Ref: M/2014/0242/PREAPP<br>Type: PREAPP<br>Status: EOLI<br><br>Ref: M/1978/0101<br>Type: H13<br>Status: PG   |                 |

Ref: M/2004/0603/Q  
Type: PREAPP  
Status: 360

Ref: M/2000/1027/Q  
Type: PREAPP  
Status: PCO

Ref: M/1995/0586  
Type: O  
Status: PCO

Ref: M/1998/0369  
Type: F  
Status: PCO

Ref: M/1994/0261  
Type: F  
Status: PCO

Ref: M/1996/0600  
Type: F  
Status: PCO

Ref: LA09/2020/0854/F  
Type: F  
Status: PG

Ref: M/1982/016701  
Type: H13  
Status: PG

Ref: M/1982/0167  
Type: H13  
Status: PG

Ref: LA09/2022/0624/F  
Type: F  
Status: PCO

Ref: M/2011/0198/F  
Type: F  
Status: PG

Ref: M/1994/6069  
Type: PREAPP

Status: PCO

Ref: M/2003/1128/F

Type: F

Status: PG

Ref: M/2008/0977/F

Type: F

Status: PG

Ref: M/2010/0803/F

Type: F

Status: PG

Ref: M/2004/1941

Type: F

Status: APPRET

Ref: M/2013/0235/F

Type: F

Status: PG

Ref: M/2002/1155/F

Type: F

Status: PG

Ref: M/2010/0653/Q

Type: PREAPP

Status: EOLI

Ref: M/1999/0681/F

Type: F

Status: PG

Ref: M/2000/0742

Type: F

Status: APPRET

Ref: M/2002/0607/F

Type: F

Status: PG

Ref: M/1996/0217%

Type: F

Status: PCO

Ref: M/1998/0873

Type: F

Status: PCO

Ref: M/2005/1753/Q

Type: PREAPP

Status: PCO

Ref: M/1987/0031

Type: O

Status: PG

Ref: M/2007/0648/F

Type: F

Status: PG

Ref: M/1987/056601

Type: H13

Status: PG

Ref: M/1987/0566

Type: RM

Status: PG

Ref: M/2003/0618/F

Type: F

Status: PG

Ref: M/1994/6063

Type: PREAPP

Status: PCO

Ref: M/1994/0474

Type: F

Status: PCO

Ref: M/1988/0384

Type: RM

Status: PCO

Ref: M/1998/4043

Type: P

Status: PCO

Ref: M/2006/1601/F

Type: F

Status: PG

Ref: M/2005/2408/LDP

Type: LDP

Status: PG

Ref: M/2006/1285/F

Type: F

Status: PG

Ref: M/2005/1767/F

Type: F

Status: PG

Ref: M/2005/2155/F

Type: F

Status: PG

Ref: M/1990/0658

Type: F

Status: PCO

Ref: M/2009/0544/F

Type: F

Status: PG

Ref: M/1999/0713/A41

Type: A41

Status: PDE

Ref: M/1985/0180

Type: H13

Status: PG

Ref: M/2004/0599/F

Type: F

Status: PG

Ref: LA09/2018/0188/O

Type: O

Status: PG

Ref: M/2005/0612/O

Type: O

Status: APPRET

Ref: M/1974/0192

Type: H13

Status: PG

Ref: M/1982/0072

Type: H13

Status: PR

Ref: LA09/2018/1364/RM

Type: RM

Status: PG

Ref: M/2009/0998/F

Type: F

Status: PG

Ref: M/1989/0218

Type: F

Status: PCO

Ref: M/1976/0100

Type: H13

Status: PG

Ref: M/2015/0142/F

Type: F

Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-03-08-2022.docx

DFI Roads - Enniskillen Office-Roads Consultation.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable







## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.22  |
| <b>Application ID:</b><br>LA09/2022/0626/F   | <b>Target Date:</b> 8 July 2022  |
| <b>Proposal:</b><br>Erection of two agricultural sheds for housing sheep/feed/machinery and the retention of two existing sheds. | <b>Location:</b><br>100M WSW Of 43 Tullynagee Road<br>Moneymore  |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Paul McCrystal<br>21 Tirgan Road<br>Tulnagee<br>Moneymore<br>BT45 7RZ                      | <b>Agent Name and Address:</b><br>Malachy McCrystal<br>22 Tirgan Road<br>Tulnagee<br>Moneymore<br>BT45 7RZ |
| <b>Executive Summary:</b>  |  |

## Case Officer Report

### Site Location Plan

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### Consultations:

| Consultation Type       | Consultee         | Response                                 |
|-------------------------|-------------------|--|
| Non Statutory Consultee | DAERA - Coleraine | Consultee Response LA09-2022-0626-F.DOCX |
| Statutory Consultee     | NIEA              | PRT LA09-2022-0626-F ADV.PDF             |
| Non Statutory Consultee | Rivers Agency     | 472711 final.pdf                         |
| Non Statutory Consultee | NIEA              | PRT LA09-2022-0626-F.PDF                 |

### Representations:

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

### Summary of Issues

The applicant has not met the active and established for 6 years test that all agricultural buildings are required to comply with.

### Characteristics of the Site and Area

The site lies within the open countryside and outside all other areas of constraint as depicted by the Magherafelt Area Plan 2015. The site is sandwiched between the settlements of Desertmartin to the North and Moneymore to the South, with the larger settlement of Magherafelt just a short distance to the North East.



The red line of the site is an irregular shape, it comprises a small cut out in the NE corner of a large rectangular field. The wider field is bounded on all sides by mature vegetation and the smaller site nestles in the NE corner with thick treed area to the North and a smaller area of mature vegetation to the South. The area is described as good agricultural ground with a scattering of single houses and farmsteads located along the roadside, however the general feel of the area is rural in nature.



The applicants home is just a short distance to the south east at number 21 Tirgan Road.



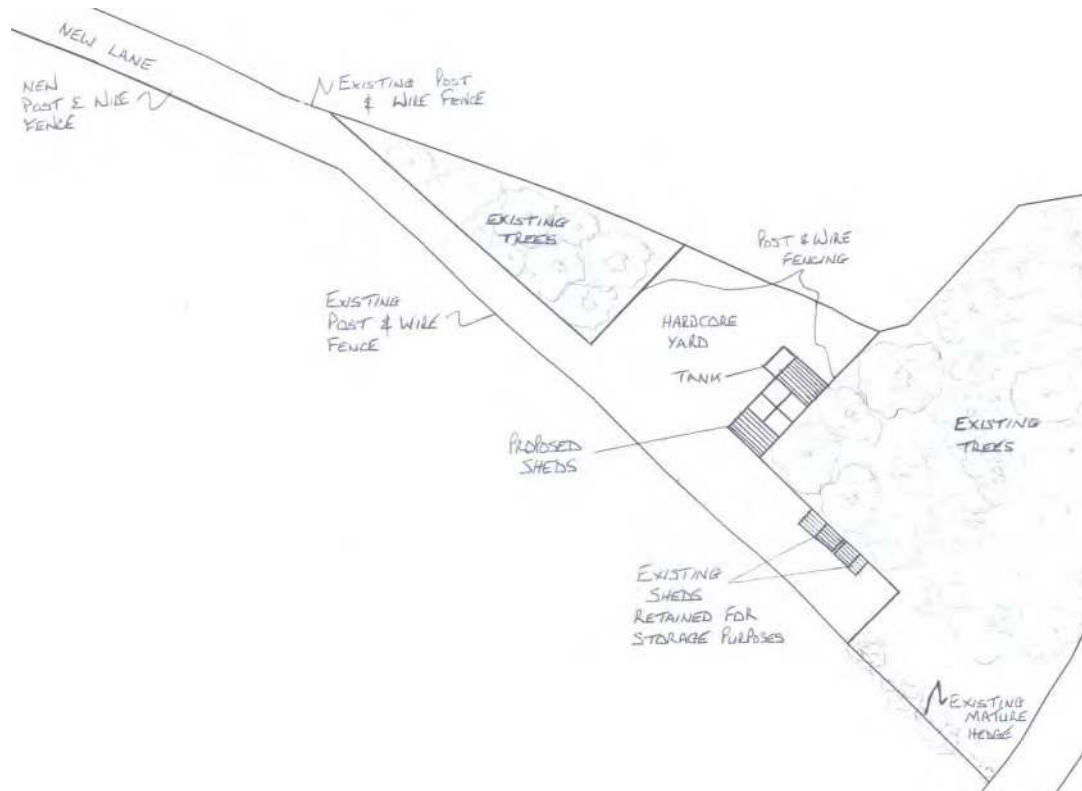


Within the site there are two agricultural sheds, of block construction with a tin upper sides and roof, these sheds are open on one side with an agricultural gate to pen the area of for holding sheep. There are little or no views of the site from the roadside.



## Description of Proposal

Erection of two agricultural sheds for housing sheep/feed/machinery and the retention of two existing sheds.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

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

1. Strategic Planning Policy Statement (SPPS).
2. Magherafelt Area Plan 2015.
3. Planning Policy Statement (PPS) 3 - Access, Movement and Parking.
4. PPS 21 - Sustainable Development in the Countryside.

### Planning Assessment of Policy and Other Material Considerations

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

### Planning History

H/2004/0627/O - Site for Dwelling and Detached Garage. - Tulnagee Road, Moneymore, (193M North West Of 21 Tirgan Road) - Permission Refused 20.01.2005

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

**The Strategic Planning Policy Statement for Northern Ireland (SPPS)** is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. 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. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered .

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

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

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

Policy AMP 2 of PPS 3 (Access to Public Roads) permits direct access onto a public road where road safety is not prejudiced, traffic flow is not inconvenienced and where the proposal does not conflict with a Protected Route. DFI Roads have been consulted with the proposal and are content subject to conditions.

**PPS 21 Policy CTY 12 Agricultural and Forestry Development** states the planning permission will be granted for development on an 'active and established' agricultural or forestry holding where the proposal satisfies certain criteria.

CTY 12 includes five further criteria (a-e):

##### **a) Agricultural holding**

The applicant has provided supporting information highlighting that the proposal will aid a new farmer in the efficient functioning of a new farm by providing a farm shed for the safe sheltering of sheep in winter and effective lambing in spring. This is a new farm that does not meet the active and established test for 6 years however, it is my opinion that should it be excepted as an exception, the sheds are necessary for the functioning on the new holding.

##### **B & C) Integration and character**

The proposal presents agricultural buildings which are not considered uncommon within the context of this rural landscape. The materials used are similar to other types of agricultural development within this area. The site is set well back from the road and there is significant natural screening.

Notwithstanding that above, buildings of this nature are not considered uncommon in the countryside, however, they are usually part of a wider grouping of farm buildings. In this case the site does lend itself well to clustering, using the two existing sheds/shelters as well as utilising the substantial back drop of the woodland area

d) Natural environment and drainage.

There are no sensitive built heritage features of note within the site or the surrounding area. I consider that the proposal will not have a negative impact on any historic buildings or monuments.

e) Neighbouring amenity

It is noted that the proposal is sited some 100m away from the closest unconnected dwelling. I am content that the proposal will not result in detrimental impact on the amenity of residential dwellings outside of the holding or enterprise including potential problems arising from noise, smell and pollution.

CTY 12 - Additional Requirements

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

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

With regards to the above the applicant has explained that this is a proposal for a new farm holding, therefore no other existing buildings on another holding can be used. The design and materials are generally characteristic to agricultural buildings in the locality and the new shed is adjacent to the existing sheds which they seek to retain.

**Daera Consultation**

As this application is for farm shed a consultation was sent to DAERA, their response confirmed that the farm business has been in existence since 2020, therefore it does not exceed the requirement of 6 years. The applicant has not claimed payments via the Basic Payment Scheme or other Agri-Environment Schemes. Therefore, the applicant needs to demonstrate how the farm business has been active.

**Applicants case**

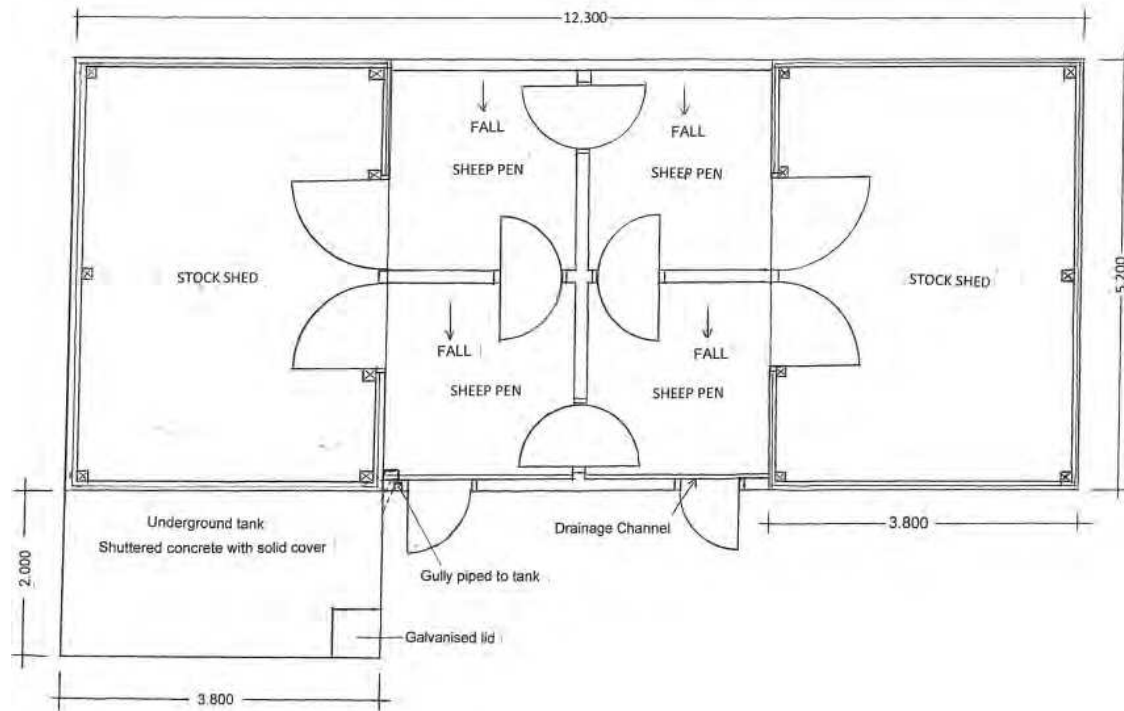
The applicant has acknowledged that the farm has not been established the required 6 years however, seeks the proposal to be approved as an exception to policy. The argument put forward is that it is DAERA requirement that in order to keep livestock, the owner must have suitable shelter or housing for said animals. In the case of a new upstart farmer, it is impracticable to keep animals for 6 years without shelter or handling facilities in order to meet the threshold for business ID activity.

The applicant has also demonstrated that they do not have access to third party buildings as DAERA regulations stipulate that housing must be kept separate and distinct in terms of Business ID for reasons such as spread of disease.

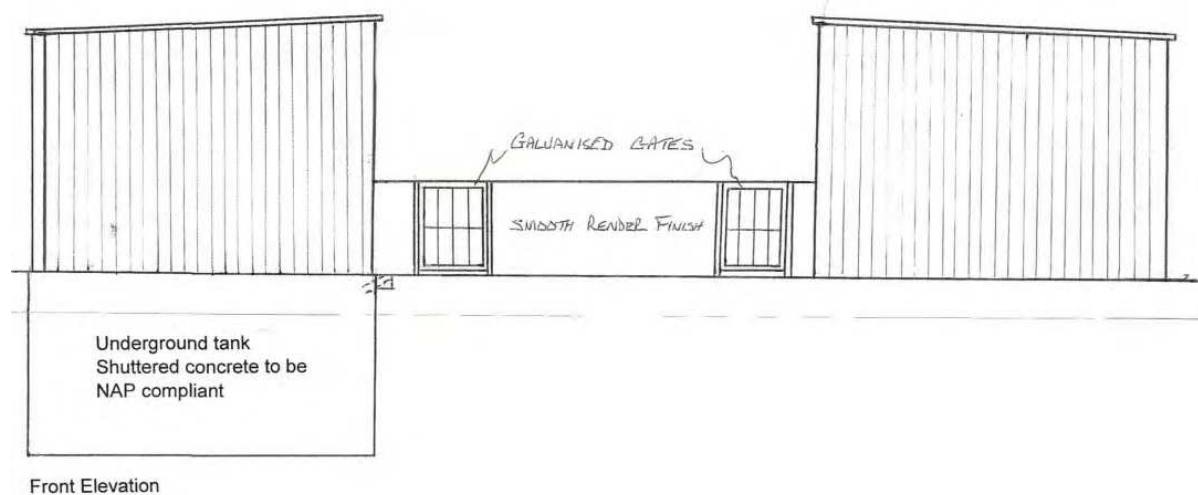
The applicant seeks the sheds for sheep handling and lambing purposes, with the retention of existing



sheds as ancillary storage. See layout below.



The sheds are low profiled and traditional to what is found on many farms, there is a small penned area between sheds and an underground slurry tank. Its position is set back from the road with minimal visual intrusion.



**Recommendation**

In consideration of the above, it is my opinion that this is a genuine application for necessary farm sheds for a new farmer. However, as the business has not been active and established for the proposed 6 years, the application must be considered as an exception to policy to be acceptable.

In this instance the case put forward details that there is a sincere need for the farm sheds for effective functioning of the farm. The applicant is unable to utilise any other farm buildings, and without this permission the applicant cannot properly farm for another 3 years until the 6 year criteria for active and established is met. It is therefore my opinion that the proposal should be presented to committee as an exception to policy.

Recommendation Approval

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

**Signature(s):** Peter Hughes

**Date:** 31 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 13 May 2022     |
| <b>Date First Advertised</b>  | 28 June 2022    |
| <b>Date Last Advertised</b>   | 28 June 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>No Neighbours   |                 |
| <b>Date of Last Neighbour Notification</b>  |                 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/2003/0009<br>Type: RM<br>Status: 461<br><br>Ref: H/1990/0619<br>Type: O<br>Status: PCO<br><br>Ref: H/2001/0442/F<br>Type: F<br>Status: PG<br><br>Ref: H/1993/0116<br>Type: RM<br>Status: PCO<br><br>Ref: H/2002/1138/O<br>Type: O<br>Status: PG<br><br>Ref: H/2004/0627/O<br>Type: O |                 |

Status: PR

Ref: H/2006/0115/F

Type: F

Status: PG

Ref: LA09/2022/0626/F

Type: F

Status: PCO

Ref: H/2004/0323/F

Type: F

Status: PG

Ref: H/2005/0336/F

Type: F

Status: PG

Ref: H/2001/0178/O

Type: O

Status: PG

Ref: H/1998/0049

Type: O

Status: PCO

Ref: H/2002/0468/O

Type: O

Status: APPRET

Ref: H/1993/0205

Type: O

Status: PCO

Ref: H/2003/0392/RM

Type: RM

Status: PG

### **Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2022-0626-F.DOCX

NIEA-PRT LA09-2022-0626-F ADV.PDF

Rivers Agency-472711 final.pdf

NIEA-PRT LA09-2022-0626-F.PDF

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan  
Proposed Floor Plans  
Proposed Elevations  
Existing Elevations Plan Ref: 05  
Site Layout or Block Plan Plan Ref: 02  
Floor Plans Plan Ref: 03  
Proposed Elevations Plan Ref: 04

**Notification to Department (if relevant)**

Not Applicable

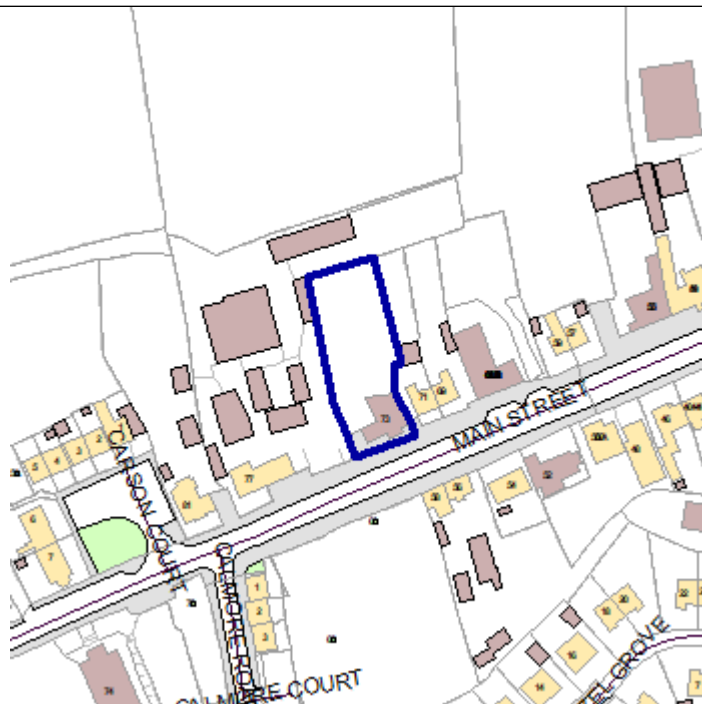


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.23  |
| <b>Application ID:</b><br>LA09/2022/0630/O  | <b>Target Date:</b> 29 August 2022   |
| <b>Proposal:</b><br>Proposed outline application for 5 no. 2 storey dwellings, 1 detached and 4 no semi detached                                | <b>Location:</b><br>73 Main Street<br>Tobermore<br>BT45 5PP  |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr C Beatty<br>3 Draperstown Road<br>Tobermore<br>BT45 5QG  | <b>Agent Name and Address:</b><br>Newline Architects<br>48 Main Street<br>Castledawson<br>BT45 8AB |
| <b>Executive Summary:</b><br><br>Refusal is therefore recommended as the proposal is contrary to Policy QD 1 of PPS7 and Policy PED 8 of PPS 4. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response   |
|-------------------------|---|--|
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Roads outline.docxDC Checklist.doc                   |
| Non Statutory Consultee | NI Water - Single Units West            | LA09-2022-0630-O.pdf                                 |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09-22-0630 O 73 Main Street Tobermore BT45 5PP.doc |
| Non Statutory Consultee | Environmental Health Mid Ulster Council |  |
| Statutory Consultee     | Historic Environment Division (HED)     |  |

### Representations:

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

## Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified of the proposal.

## Characteristics of the Site and Area

The site consists of a 2-storey building and associated concrete yard to the rear. The building is boarded up and the yard to the rear is gated off. Immediately east of the site there is a pair of semi detached dwellings and immediately to the north and west there is a farmyard with a dwelling, farm buildings and what appears to be a silo immediately to the north and west of the site.

There has clearly been a former use on this site, the nature of which is unclear given the apparent considerable length of time which the site has been disused. However, the presence of a concrete yard and large industrial style gate on the site which closes off the rear portion of the property would suggest that the previous use may not have been residential and was perhaps commercial / economic at some point in the past.

The site is within the settlement limit of Tobermore and accesses onto Main Street. The main land use in the area is residential but there is also some retail in the immediate locality, with a large factory close by and as mentioned, a farm immediately adjacent.

## Description of Proposal

5 no. 2 storey dwellings, 1 detached and 4 no semi detached

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

- Regional Development Strategy (RDS)
- Magherafelt Area Plan 2015 (MAP)
- Strategic Planning Policy Statement (SPPS)
- PPS 7 – Residential Environments
- PPS 6 – Archaeology and the Built Heritage
- PPS 4 – Planning and Economic Development
- PPS 3 – Access Movement and Parking



### Magherafelt Area Plan (MAP)

The site is located within the settlement limit of Tobermore and also within the Area of Archaeological Potential (AAP) designated in Tobermore. The site is what can be described as a brownfield site in that it has a previous use which is now clearly abandoned.

Given the location within the settlement limit, there is a presumption in favour of housing development. RG8 of the RDS promotes the use of such sites for housing by advocating *“the recycling of land and buildings and making use of other suitable sites thereby reducing the use of greenfield land.”*

There is therefore a presumption in favour of this type of development within settlement limits providing it can be delivered in a sustainable manner.

In relation to the Area of Archaeological Potential (AAP) the MAP states that within these designations there is the potential for archaeological remains which may be disturbed or compromised by development. The MAP directs that the appropriate planning policy for these areas will be addressed via PPS 6 and the consideration of this policy is laid out in the subsequent relevant paragraphs below.

### Strategic Planning Policy Statement (SPPS)

The SPPS specifically echoes the RDS ambition of achieving 60% of new housing in urban areas. Given its population size, Tobermore cannot be considered to be part of the “urban area” in Mid Ulster in relation to the 60% target because this relates specially to the hub settlements (and Coalisland) which have a population of 5,000 or greater. However, the SPPS also supports the provision of housing developments in smaller settlements and states at para. 6.137 that *“the use of greenfield land for housing should be reduced and more urban housing accommodated through the recycling of land and buildings and the encouragement of compact town and village forms.”*

It is therefore clear that there is a presumption in favour of development such as that proposed within settlement limits and specifically on brownfield sites such as this one.

### PPS 7 – Residential Environments

Having established that the principle of this development in this location is acceptable in terms of regional policy, it must be assessed against the criteria for sustainable housing development contained within PPS 7.

QD 1 of PPS 7 states that all proposals for residential housing development will be expected to conform to all the following criteria which have been assessed in turn as laid out below;

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

**surfaced areas;**

The application is for 1 detached dwelling (to be located where the existing building is) and a pair of semi detached dwellings. At this stage, the application is for outline permission and does therefore not include any design or detailed site layout proposals.

The agent has submitted an approximate concept drawing and this demonstrates how all houses can be positioned on site with 2 car parking spaces and adequate private amenity space. The 4no. semi detached houses are shown as having approx. 60 sq. metres of private amenity space and the larger detached house having approx. 100 sq. metres. In an ideal scenario the semi detached houses would have a minimum of 70 sq. metres of private amenity space as per the guidance contained in Creating Places. However, as already stated, the concept drawing is only indicative and I am of the view that there is room within the larger site to increase the private amenity space of these dwellings as part of any subsequent RM submission.

The proposed density of 5 houses on this site would equate to a density of approx. 36 houses per hectare. This is a relatively high density but is in keeping with the context of the immediate area where some existing housing areas have significantly higher densities. I have analysed most groups of houses in the immediate vicinity and found that some approximate densities of developments nearby are as follows;

- Hillmount Crescent – 60 houses per Ha.
- Churchview – 43 Houses per Ha.
- Edmund Court – 30 houses per Ha.
- Carson Court – 50 houses per Ha.
- 91-99 Main St. – 50 houses per Ha.

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

This will be considered as part of the assessment below under PPS 6 – Archaeology and the Built Heritage

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

This is a matter which cannot be determined at outline stage and all these issues would be dealt with via any reserved matters application. The number of dwellings is low enough so that there will be no requirement for an area of public open space as per Creating Places guidance but the requirement for adequate private open spaces will still

be a consideration when / if any final layout were to be submitted at RM stage.

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

This criterion is not relevant to a development of this size and is more fitting for a large scale development whereby facilities can be incorporated to benefit the wider community as well as the inhabitants of any such development

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

This criterion is not relevant to a development of this size and is more fitting for a large scale development whereby a private estate road is provided and can be used to facilitate a permeable road layout, where links can be formulated with local public transport.

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

This is a matter which cannot be determined at outline stage and all these issues would be dealt with via any reserved matters application via consultation with DFI Roads.

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

This is a matter which cannot be determined at outline stage and all these issues would be dealt with via any reserved matters application.

- (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 application site, as has been mentioned, is located adjacent to a farmyard. Environmental Health have therefore been consulted and have stated in their consultation response that;

*it is noted that the proposed site is within 75 metres of working farm buildings which are not associated with the applicant of this planning application. Review of this proposal finds that farm buildings are located within 75 metres of the proposed dwellings are currently used for storage of feedstuff/machinery/ vehicles/animals/slurry tank.*

*Farms have the potential to cause public health nuisances from odour, noise and flies. This department recommends that where, as in this case, it is proposed to site a dwelling close to working farm buildings that in order to provide a quality residential dwelling and*

*not place restrictions on farm activity that a suitable separation distance is provided between the working farm buildings and the residential dwelling not associated with the farm. It is difficult to be prescriptive in relation to the distance to be applied but in this departments view a minimum separation distance of 75m from farm buildings to the proposed dwelling should be applied.*

Environmental Health have therefore expressed the view that the proposal cannot be regarded as representative of a quality residential environment by virtue of the fact that the close proximity of a farm to proposed dwellings would result in nuisance from odour, noise and flies. They have stated that a minimum separation distance of proposed dwellings from the farm complex should be 75m. Given the nature of the layout, the farm complex surrounds the site and a separation distance of 75m is not possible to achieve between buildings and the farm operations.

I have spoken to the agent in relation to this and he has assured me that the farm business is no longer operational because the farmer has recently passed away. However, whilst this is obviously accepted as an unfortunate reality, the farm is not in the control of the applicant and continues to be in ownership of a third party who is not associated with this application. There can therefore be no guarantee that the farm complex will not become operational at some point in the future.

Environmental Health have also raised concerns about the close proximity of the proposal to the nearby Tobermore Concrete factory. They state that;

*It is noted that this proposal is approximately 40 metres from the boundary with Tobermore concrete. Tobermore concrete operates 24 hours a day and may give rise to excessive noise which may have a detrimental impact on amenity of receptors at this location.*

*Environmental Health would have concerns about the addition of residential units in this locality as they have potential to be impacted by industrial noise.*

Given all of the above concerns raised by the Councils Environmental Health department, I am of the opinion therefore, that the proposal does not satisfy this criterion of Policy QD1 of PPS 7. There is a clear potential for the proposed use to conflict with nearby land uses and to cause both negative impacts on the proposed buildings as well as prejudicing the operation of an existing enterprise.

#### PPS 4 – Planning and Economic Development

Policy PED 8 of PPS 4 clearly states that proposals for development that would be incompatible with established or approved economic uses or would prejudice their ongoing operations should be refused. As stated above, the Councils Environmental Health department have expressed concern over noise impacts from the 24 hours operation of Tobermore Concrete on the proposed development. This clearly shows an incompatibility between the proposed land uses and the existing economic use and could conceivably lead to complaints from residents in the future regarding the operating practices of the existing economic use.

The proposal in its current guise is therefore in my opinion, contrary to policy PED 8 of PPS4.

#### PPS 6 – Archaeology and the Built Heritage

The MAP has designated an area of Tobermore, which includes this site, as an Area of Archaeological Potential. The Plan states that in these areas, it is likely that archaeological remains will be discovered in the course of development and that the appropriate planning policy is PPS6.

Historic Environment Division (HED) have been consulted in relation to the AAP designation and have stated that due to the scale and nature of the development, they are satisfied that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. They have also provided comment on the impact of the proposed development on a grade B listed heritage asset (historic pump) in close proximity and are content that the proposal will have no greater impact on the asset than the current built environment / context.

I am therefore satisfied that the proposal is in conformity with PPS 6

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

The approximate concept drawing has shown two parking spaces available at each dwelling. DFI Roads have been consulted and have no objection subject to a satisfactory access being submitted at RM stage in line with their requirements as per the RS1 form.

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

Refuse is recommended

Given all of the above, I consider that the proposal is contrary to policies QD1 of PPS 7 and PED 8 of PPS 4. I therefore recommend refusal for the following reasons;

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to the Policy criteria set out policy QD1 of PPS 7 in that it would if permitted, lead to an adverse impact on residential amenity of the new dwellings by virtue of odour and noise resulting from the adjacent farm complex.

**Reason 2**

The proposal is contrary to PED 8 of PPS 4- Planning and Economic Development, in that the siting and density of the development would be incompatible with the adjoining industrial uses at Tobermore Concrete Works and could impact adversely and prejudice their future operation.

**Signature(s):** Colin McKeown

**Date:** 11 May 2023

| ANNEX   |              |
|---|--------------|
| <b>Date Valid</b>   | 16 May 2022  |
| <b>Date First Advertised</b>  | 28 June 2022 |
| <b>Date Last Advertised</b>   | 28 June 2022 |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner / Occupier<br>50A Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>58 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>52 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>70 Main Street Tobermore Londonderry BT45 5PR<br>The Owner / Occupier<br>65 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>56 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>77 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>63 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>50 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>46 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>61A Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>61B Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>48 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier<br>69 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>55 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>59 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>57 Main Street Tobermore Londonderry BT45 5PP<br>The Owner / Occupier<br>54 Main Street Tobermore Londonderry BT45 5PW<br>The Owner / Occupier |              |

61D Main Street Tobermore Londonderry BT45 5PP  
 The Owner / Occupier  
 1 Calmore Court Tobermore Londonderry BT45 5SF  
 The Owner / Occupier  
 61C Main Street Tobermore Londonderry BT45 5PP  
 The Owner / Occupier  
 71 Main Street Tobermore Londonderry BT45 5PP  
 The Owner / Occupier  
 81 Main Street Tobermore Londonderry BT45 5PP

|  |              |
|--|--------------|
| <b>Date of Last Neighbour Notification</b> | 28 June 2022 |
|--|--------------|

|                                  |  |
|----------------------------------|--|
| <b>Date of EIA Determination</b> |  |
|----------------------------------|--|

|                     |                 |
|---------------------|-----------------|
| <b>ES Requested</b> | <events screen> |
|---------------------|-----------------|

**Planning History**

Ref: H/2004/0174/F  
 Type: F  
 Status: PG

Ref: H/1985/0465  
 Type: H13  
 Status: PG

Ref: H/1991/0368  
 Type: F  
 Status: PCO

Ref: H/1976/0405  
 Type: H13  
 Status: PG

Ref: H/2004/0243/F  
 Type: F  
 Status: PG

Ref: H/1991/0323  
 Type: A  
 Status: PCO

Ref: H/1981/0126  
 Type: H13  
 Status: PG



Ref: H/1987/0050

Type: F

Status: PCO

Ref: H/1978/0044

Type: H13

Status: PG

Ref: H/1989/0078

Type: A

Status: PCO

Ref: LA09/2022/0630/O

Type: O

Status: PCO

Ref: H/2007/0139/F

Type: F

Status: PG

Ref: H/1981/0181

Type: H13

Status: PG

Ref: H/2006/0981/F

Type: F

Status: PG

Ref: LA09/2020/1647/F

Type: F

Status: PG

Ref: H/1995/0421

Type: F

Status: PCO

Ref: H/2007/0647/F

Type: F

Status: PG

Ref: H/2011/0450/F

Type: F

Status: PG

Ref: LA09/2022/0006/F

Type: F

Status: PCO

Ref: H/1985/0096

Type: H13

Status: PG

Ref: H/2008/0420/Q

Type: PREAPP

Status: 211

Ref: H/1994/0335

Type: F

Status: PCO

Ref: H/1985/0048

Type: H13

Status: PG

Ref: H/1979/0476

Type: H13

Status: PG

Ref: H/2000/0397/F

Type: F

Status: PG

Ref: H/2003/1498/RM

Type: RM

Status: PG

Ref: H/2001/0385/O

Type: O

Status: PG

Ref: LA09/2015/0457/F

Type: F

Status: PG

Ref: LA09/2022/0532/F

Type: F

Status: PCO

Ref: H/2005/0559/F

Type: F

Status: PG

Ref: H/1991/6020

Type: PREAPP

Status: PCO

Ref: H/1992/0242

Type: F

Status: PCO

Ref: H/1990/0178

Type: F

Status: PCO

Ref: H/1989/0498

Type: F

Status: PCO

Ref: H/1999/0677/F

Type: F

Status: PG

Ref: H/1999/0692/F

Type: F

Status: PG

Ref: LA09/2021/0765/F

Type: F

Status: PG

Ref: H/1995/0652

Type: O

Status: HISAPP

Ref: H/1994/6024

Type: PREAPP

Status: PCO

Ref: H/1977/0382

Type: H13

Status: PG

Ref: H/1985/0170

Type: H13

Status: PG

Ref: H/1990/0491

Type: F

Status: PCO

Ref: H/2001/0889/F

Type: F

Status: PG

Ref: H/2002/0910/F

Type: F

Status: PG

Ref: H/2010/0317/F

Type: F

Status: PG

Ref: H/1985/0509

Type: H13

Status: PG

Ref: H/1982/0030

Type: H13

Status: PG

Ref: H/1977/0010

Type: H13

Status: PG

Ref: H/1991/6040

Type: PREAPP

Status: PCO

Ref: H/1976/0076

Type: H13

Status: PG

Ref: H/1997/0512

Type: F

Status: PCO

Ref: H/1997/6029

Type: PREAPP

Status: PCO

Ref: LA09/2018/0589/F

Type: F

Status: PG

Ref: H/1976/0309

Type: H13

Status: PG

Ref: LA09/2016/0594/F

Type: F

Status: PG

Ref: H/1998/0681

Type: F

Status: PCO

Ref: H/2005/0578/O

Type: O

Status: PR

Ref: H/1982/0298

Type: H13

Status: PG

Ref: H/2009/0331/F

Type: F

Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads outline.docxDC Checklist.doc

NI Water - Single Units West-LA09-2022-0630-O.pdf

Environmental Health Mid Ulster Council-LA09-22-0630 O 73 Main Street Tobermore  
BT45 5PP.doc

Environmental Health Mid Ulster Council-  
Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

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

Not Applicable





## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.24  |
| <b>Application ID:</b><br>LA09/2022/0657/O  | <b>Target Date:</b> 5 September 2022   |
| <b>Proposal:</b><br>Dwelling <input type="checkbox"/> domestic garage                                     | <b>Location:</b><br>40M West Of 62 Ballynargan Road<br>Stewartstown<br>BT71 5NF                                  |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Nuala McReynolds<br>62 Ballynargan Road<br>Stewartstown<br>BT71 5NF | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>The Creagh<br>Toomebridge<br>BT41 3SQ |
| <b>Executive Summary:</b>   |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response                    |
|---------------------|--------------------------------|-----------------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office |                             |
| Statutory Consultee | Rivers Agency Craigavon        |                             |
| Statutory Consultee | Rivers Agency                  |                             |
| Statutory Consultee | Rivers Agency                  |                             |
| Statutory Consultee | Rivers Agency                  | 109885 - Final Response.pdf |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area



This site is located in the rural countryside as defined by the Cookstown Area Plan 2010 approx. 2.9 km southwest of Coagh and a short distance southwest of Kingsmill Bridge and Kingsmill former flax mill and west of Kingmills Cottages and Antique Shop.

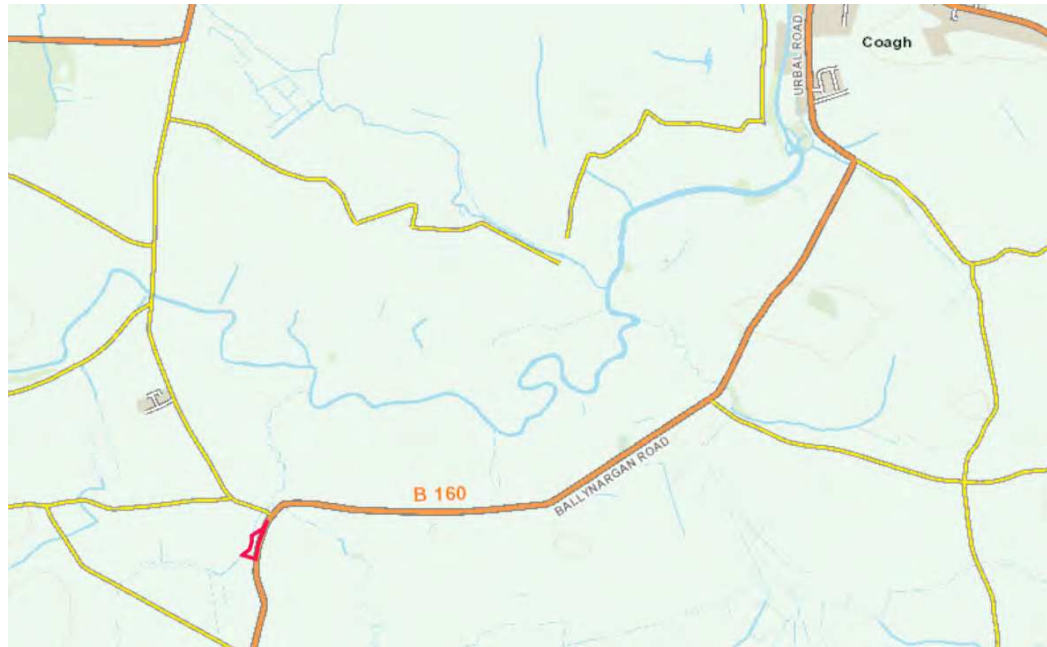


Fig 1: Site outlined red



Fig 2: Site outlined red

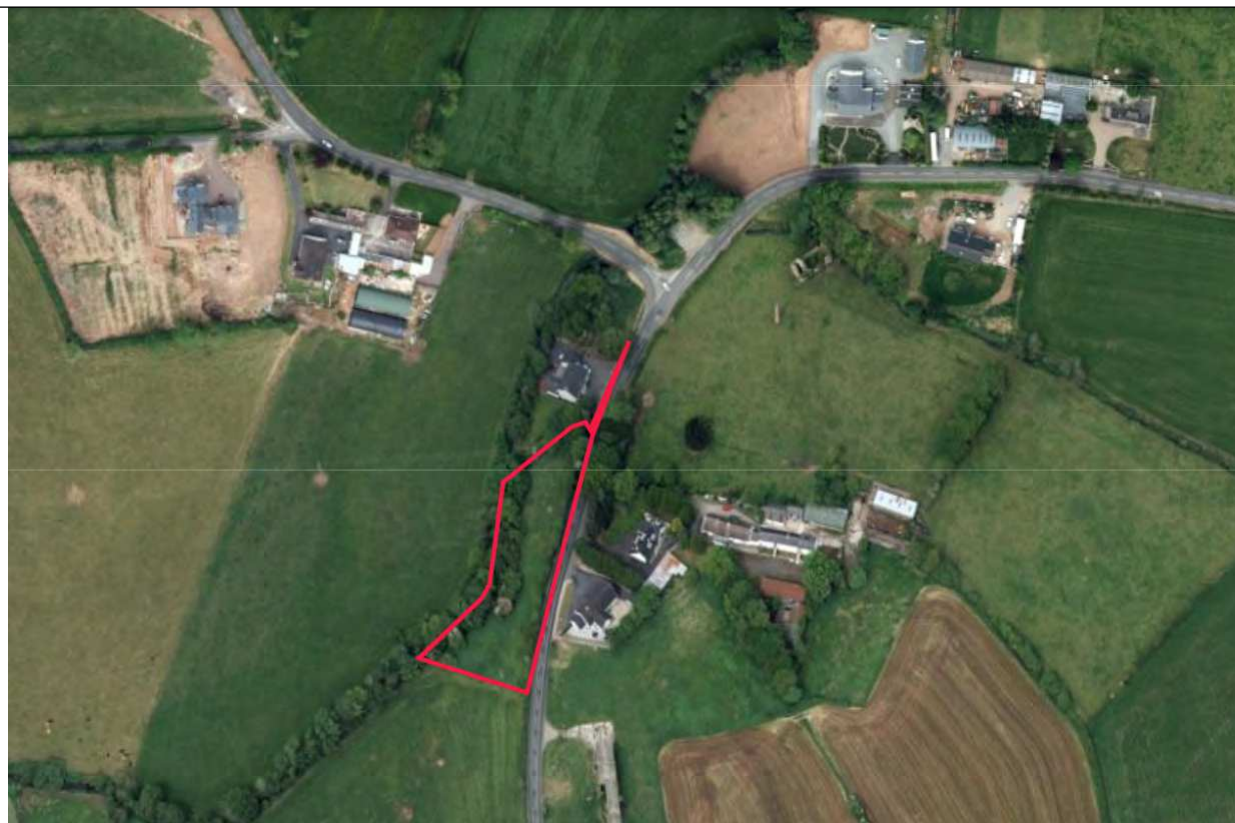


Fig 3: Site outlined red

The site is an irregular elongated agricultural roadside field fronting onto the Ballynargan Road. The site slopes downwards from its southern to northern boundary and drops back from its eastern roadside boundary to western boundary. Mature deciduous trees define the western boundary of the site. A mixed deciduous hedge approx. 1 ½ m - 2m defines the eastern roadside boundary. A watercourse runs along the western boundary of the site. The field is accessed off the Ballynargan Road via an agricultural field gate located to its northeast corner. Travelling from Kingsmill Bridge, the site is located on higher ground.

Critical views of this site will be limited until just before and passing along the roadside frontage of the host field due to the existing vegetation and dwelling to the north bounding the site and the undulating topography of the area.

The site is located within a rural area surrounded by undulating agricultural land. Development is evident in the surrounding area of the site.

A two-storey dwelling is located immediately north of the proposed site (59 Ballynargan Rd).

A bungalow (64 Ballynargan Rd); a split-level dwelling (62 Ballynargan Rd); and a single storey grade B Listed thatched cottage (62A Ballynargan Rd) with two storey former outbuilding that has been converted into 2 apartments for short term holiday lets 'Kingmills Cottages' are located opposite or east of the proposed site, on the other side of Ballynargan Road.

Kingsmill former flax mill and chimney is located further northeast of proposed site on a large agricultural field.

Three more dwellings (51, 52, 53 Ballynargan Rd) with ancillary buildings are located further again to the northeast of the site and Kingsmill Bridge.

A large vacant mill with a previous permission (I/2005/0748/F) for a conversion to 5 self-catering holiday homes including alterations and ancillary sits on a large agricultural field just southeast of the site.

### **Description of Proposal**

This is an outline application for a proposed dwelling & garage on lands 40m West of 62 Ballynargan Road Stewartstown.

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

#### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

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

Planning Policy Statement 21: Sustainable Development in the Countryside in particular: Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

## **Representations**

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

## **Planning History**

### On Site

- I/2001/0330/O - Proposed site for dwelling - Opposite 62 Ballynargan Road Coagh - Refused under Department's 'A Planning Strategy for Rural Northern Ireland' due to 1) Lack of integration 2) Build-up leading to change in rural character 3) Ribbon development
- I/2003/0723/O - Proposed site for dwelling & garage - Opposite 62 Ballynargan Road Coagh - Withdrawn 29<sup>th</sup> October 2003
- I/2004/1268/O - Proposed site for dwelling & garage - Opposite 62 Ballynargan Road Coagh - Withdrawn 3<sup>rd</sup> February 2005
- I/2010/0471/O - Proposed site for dwelling & garage - Opposite 62 Ballynargan Road Coagh - Refused 19<sup>th</sup> January 2011. Appealed (ref: 2011/A0096). Appeal dismissed on the 12<sup>th</sup> April 2012. All four refusal reasons upheld, that the proposal is contrary to:
  - Policy CTY1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement
  - Policy CTY2a of PPS21 New Dwellings in Existing Clusters in that, the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwellings, the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point and is not located at a cross-roads, the proposed site is not bounded on at least two sides with other development 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.
  - Policy CTY8 of PPS21 in that the proposal would, if permitted, result in the creation of ribbon development along Ballynargan Road.
  - Policy CTY14 of PPS21 in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.

### Adjacent Site

- I/2005/0680/O - Proposed dwelling and garage - 120M South West of 62 Ballynargan Road Stewartstown - Refused May 2006. Appealed (ref: 2006/A1882). Appeal upheld 21<sup>st</sup> May 2008
- I/2011/0226/RM - Proposed dwelling and garage - 120M South West of 62 Ballynargan Road Stewartstown

The above applications relate to lands immediately south of the current site. These permissions do not appear to have been implemented.

## **Consultees**

1. DfI Roads were consulted in relation to access arrangements and raised no

objection subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

2. Rivers Agency were consulted as NI Flood Maps indicate the site is located adjacent a watercourse and within an area of fluvial flooding. River's responded as follows from a drainage and flood risk aspect under PPS15 (Revised) Planning and Flood Risk, Policy:
- *FLD1 Development in Fluvial Flood and Coastal Plains* - The Strategic Flood Map (NI) indicates that the northern and western portions of the site are within the predicted 1 in 100 year fluvial flood plain of the Donaghey Drain. This part of the site can only be developed if the application is deemed an exception by the planning authority. If deemed an exception the applicant is required to carry out a flood risk assessment. Alternatively, if the applicant wishes to challenge the Strategic Flood Map (NI), they may carry out a flood risk assessment to better determine the extent of the flood plain.
  - *FLD2 Protection of Flood Defence and Drainage Infrastructure* – the site is bound to the west by a designated open watercourse known to us as the Donaghey Drain. Policy requires a working strip of minimum width 5m is retained, but up to 10m where considered necessary along this watercourse.
  - *FLD3 Development and Surface Water* - The development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

With regard to the above, specifically bullet point 1, it would appear at the very least the access arrangements and part of driveway are located within the flood plain and the dwelling and garage have been significantly separated on site to work around the flood plain. Planning does not deem this proposal an exception under Policy FLD 1 of PPS15 therefore it is contrary to Policy FLD 1 of PPS15 and the additional information required i.e. FRA has not been requested. The principle of this development has not been established.

### **Consideration**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside and all other policies relevant to this proposal have been retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are

certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 - Development in the Countryside. The site has been submitted under one of these instances Policy CTY 2a New Dwellings in Existing Clusters.

Policy CTY2a – New Dwellings in Existing Clusters states that planning permission will be granted for such a proposal subject to six criteria (bullet pointed below). A cluster of development is not defined in the Policy, but the first three criteria give an indication of the intended meaning.

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.
- The cluster appears as a visual entity in the local landscape.
- The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
- Development would not adversely impact on residential amenity.

The agent has made the case that there is an existing cluster of development here on both sides of the road south of Kingsmill bridge and provided a map showing its extent (see Fig 4). He outlines that this cluster comprises 5 houses, a mill which has planning approval for apartments, 2 holiday cottages, an antique shop and 3 agricultural buildings. That the area is known as Kingsmill and the Kings mill and listed chimney are still evident. That the site is enclosed with mature vegetation and bounded on two sides by development. In addition, in relation to concerns regarding part of the site being located within the fluvial flood plain owing to a river running along its western boundary he also submitted a conceptual site layout (see Fig: 5) and advised the development is a considerable height above the river and not in the flood zone.



Fig 4: Map submitted by agent to show extent of cluster.



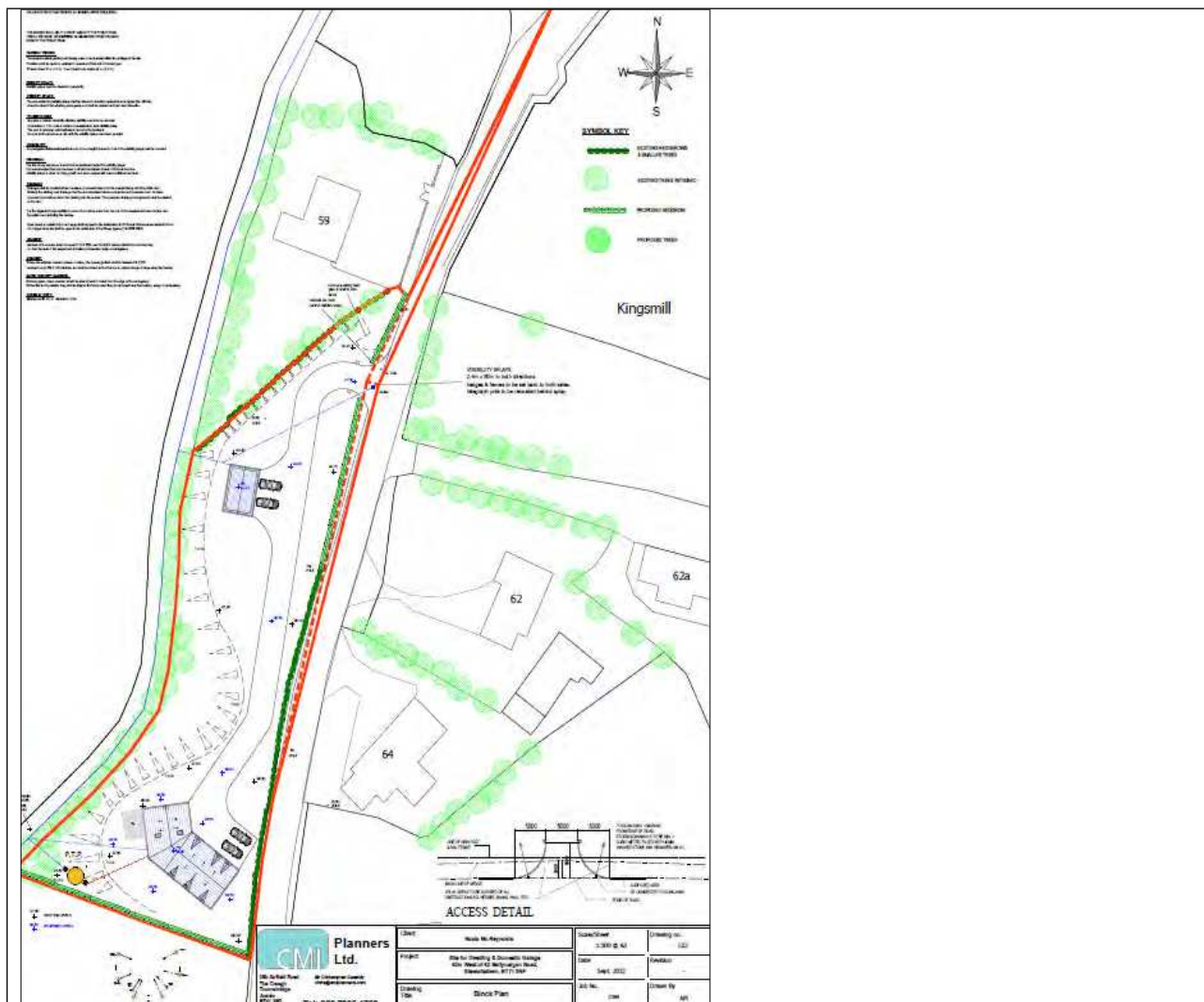


Fig 5: Conceptual site layout submitted by agent.

Having taken account of the above, the applicant has previously sought a dwelling on this site under Policy CTY2a – New Dwellings in Existing Clusters. The proposal was refused and appealed. The appeal was dismissed with all four refusal reasons upheld (see ‘Planning History’). I do not consider there has been any significant changes on site, in the vicinity or in Policy from the previous proposal was refused with the exception of an approval for a dwelling to the south of the site has not been implemented and as such has expired. As such for the reasons detailed below, I consider three of the four previous refusal reasons still stand. Owing to the permission for a potential dwelling to the south of the site no being implemented and expiring (see ‘Planning History’ further above) I no longer consider the refusal reason relating to ribboning stands as only one dwelling sits along the same side of road to the north of the site, no. 59 Ballynargan Rd. That said under this proposal there will be an additional / fourth refusal reason, related to fluvial flooding on the site (see ‘Planning History’, further above).

Whilst as detailed further above in ‘Characteristics of the Site and Area’ there is development evident in the area surrounding the site, from critical views on both approaches to the site along the Ballynargan Rd I do not consider the site sits within a cluster of development consisting of four or more buildings (excluding ancillary buildings



such as garages, outbuildings and open sided structures) of which at least three are dwellings.

Considering the east side of the road opposite the site, the two dwellings (64 & 62 Ballynargan Rd), the thatched cottage/antiques shop (62A Ballynargan Rd) and the former outbuilding that has been converted into 2 apartments 'Kingmills Cottages' are at a higher level than the lands to the north and are well-enclosed by vegetation. As such they appear very much separate from the Kingsmill former flax mill and chimney to the north and former mill to the south. The former mill buildings are in the middle of very open fields and read as completely detached structures from the group of buildings further to the north.

The site is on the west side of the road from the above buildings. There is only one existing dwelling (59 Ballynargan Rd) to the north of the site. It reads as separate from the group of buildings opposite because of the vegetation around them, the distance between them and the difference in level. Whilst there was an approval south of the site for a dwelling this has not been implemented.

Whilst there are four or more buildings within the area identified by the agent and at least three of them are dwellings so the grouping complies with criterion 1 of Policy CTY2a to that extent. The criterion also states that the cluster must lie outside a farm. As there appear to be several outbuildings on farmyards around the thatched cottage/antiques shop (62A Ballynargan Rd) and the former outbuilding that has been converted into 2 apartments 'Kingmills Cottages' this would lead me to conclude that the cluster group relates to a farm at least in part and so does not lie outside of a farm as required by the policy. This aspect does not comply with criterion one of the policy.

I have set out my consideration of the visual relationship between the buildings identified as part of the suggested cluster above and concluded that it does not appear as a visual entity. The main group to the west of the site is separated from the lands to the north and south by vegetation, distance and difference in level. The site across the road does not appear as part of the cluster either for the reasons given above. I therefore do not agree with the agent's assessment that the site is within an existing cluster of development. I Whilst I agree with the agent that there several building / structures in the area that could be considered focal points as per criteria three of Policy CTY2a i.e. the antiques shop, the tourist accommodation, the former water wheel house and chimney and the old mill which has an approval for conversion to tourism use, I do not agree that there is an existing cluster. The dwelling adjoining the site to the north is not part of a cluster nor as detailed above is the group of building opposite the site considered a cluster as per policy therefore the proposal does not comply with criteria four and five of Policy CTY2a. Furthermore, whilst there was an approval south of the site for a dwelling this has not been implemented. In relation the last criteria, criteria six, had all other criteria been met I consider a suitably designed dwelling and garage on this site would not have had any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the existing vegetation bounding the site and separation distances that could have been retained. In summary, I conclude that the proposal does not comply with policy CTY2a.

In addition, I consider this proposal contrary to Policy CTY14 of PPS21, in that if

permitted a dwelling and garage on this site would result in a suburban style build-up of development when viewed with existing buildings and would therefore result in a detrimental change to the rural character of the countryside. From critical views on both the north and south approach to the site I consider a dwelling on this site would extend built development south of no. 59 Ballynargan Road and away from the existing group of buildings opposite. The proposed development would be seen in association with no. 59 and the entrances to and roadside dwellings to the other side of the road. These views would be opened further due to the hedge removal required in order to provide the site with the required visibility splays.

Policy CTY1 of PPS21 states other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. There was no evidence to demonstrate that the proposal is essential. The proposal is also therefore contrary to Policy CTY1.

### **Additional considerations**

In addition to checks on the planning portal, Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online have been checked. Whilst NED's map viewer identified no natural heritage features of significance on site HED's map viewer identified the site sits to the west of a grade B listed thatched cottage. Given the enclosed and removed nature of the cottage from the site consultation with Historic Environment Division was not considered necessary.

**Recommendation:** Approve

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

#### **Reason 2**

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

**Reason 3**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that, the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwellings, the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point and is not located at a cross-roads, the proposed site is not bounded on at least two sides with other development 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.

**Reason 4**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s):** Emma Richardson

**Date:** 30 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 23 May 2022     |
| <b>Date First Advertised</b>   | 28 June 2022    |
| <b>Date Last Advertised</b>  | 28 June 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>64 Ballynargan Road Coagh Tyrone BT71 5NF<br>The Owner / Occupier<br>57 Ballynargan Road Coagh Tyrone BT71 5NF<br>The Owner / Occupier<br>62A Ballynargan Road Coagh Tyrone BT71 5NF<br>The Owner / Occupier<br>59 Ballynargan Road Coagh Tyrone BT71 5NF<br>The Owner / Occupier<br>62 Ballynargan Road Coagh Tyrone BT71 5NF |                 |
| <b>Date of Last Neighbour Notification</b>   | 1 July 2022     |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/2004/1268/O<br>Type: O<br>Status: APPRET<br><br>Ref: I/1991/0311<br>Type: O<br>Status: PCO<br><br>Ref: I/2002/0465/O<br>Type: O<br>Status: PG<br><br>Ref: I/2011/0351/O<br>Type: O<br>Status: PG  |                 |

Ref: I/1990/0048

Type: O

Status: PCO

Ref: LA09/2015/0610/F

Type: F

Status: APPRET

Ref: I/2004/0418/F

Type: F

Status: PG

Ref: I/2004/0175/O

Type: O

Status: PG

Ref: I/2006/1155/F

Type: F

Status: PG

Ref: I/2000/0308/O

Type: O

Status: PG

Ref: LA09/2018/1230/LBC

Type: LBC

Status: CG

Ref: LA09/2018/1229/F

Type: F

Status: PG

Ref: I/2000/0669/F

Type: F

Status: PG

Ref: I/2000/0668/LB

Type: LBC

Status: CG

Ref: I/2005/1263/F

Type: F

Status: PG

Ref: I/1997/0436

Type: O

Status: PCO

Ref: I/2001/0792/O

Type: O

Status: PG

Ref: I/2008/0752/RM

Type: RM

Status: PG

Ref: I/2005/1076/O

Type: O

Status: PG

Ref: I/2003/0314/RM

Type: RM

Status: PG

Ref: I/1999/0302

Type: O

Status: PCO

Ref: I/2011/0226/RM

Type: RM

Status: PG

Ref: I/2005/0680/O

Type: O

Status: PR

Ref: I/2001/0791/O

Type: O

Status: PG

Ref: I/1997/0430

Type: O

Status: PCO

Ref: LA09/2022/0657/O

Type: O

Status: PCO

Ref: I/2001/0330/O

Type: O

Status: PR

Ref: I/2005/0748/F

Type: F

Status: PG

Ref: I/2003/0723/O

Type: O

Status: APPRET

Ref: I/2010/0471/O

Type: O

Status: PR

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-  
Rivers Agency Craigavon-  
Rivers Agency-  
Rivers Agency-  
Rivers Agency-109885 - Final Response.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not ApplicableNot Applicable



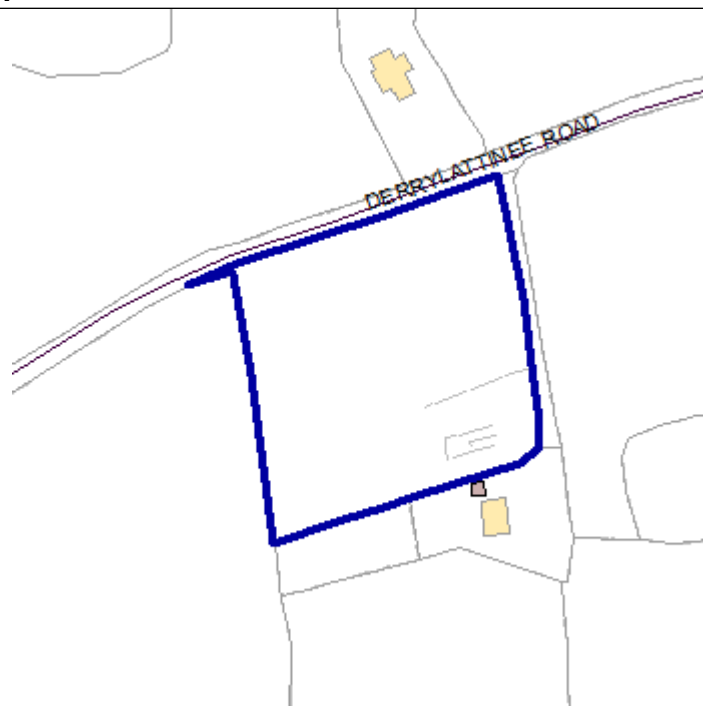
## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.25  |
| <b>Application ID:</b><br>LA09/2022/1183/O  | <b>Target Date:</b> 7 November 2022  |
| <b>Proposal:</b><br>Site for dwelling on a farm   | <b>Location:</b><br>250M North East Of 19 Derrylattinee Road<br>Dungannon  |
| <b>Referral Route:</b> Approve is recommended   |  |
| <b>Recommendation:</b> Approve  |  |
| <b>Applicant Name and Address:</b><br>Caolan Gildernew<br>10 Moolan Hill<br>Cookstown<br>BT80 8WP | <b>Agent Name and Address:</b><br>Colm Donaghy Chartered Architect<br>3 Dungannon Street<br>Moy<br>Dungannon<br>BT71 7SH |
| <b>Executive Summary:</b>   |  |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response                                    |
|-------------------------|--------------------------------|---|
| Non Statutory Consultee | DAERA - Omagh                  | LA09-2022-1183-O.docx                       |
| Non Statutory Consultee | NI Water - Single Units West   | LA09-2022-1183-O.pdf                        |
| Statutory Consultee     | DFI Roads - Enniskillen Office | Roads outline.docx<br>FORM RS1 STANDARD.doc |

### Representations:

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

### Summary of Issues

A late objection was received from the occupier of No 29 and the basis of the objection raised concerns on the proximity of the proposed dwelling to No 29 and the new dwelling will block the views of No 29. There is no existing lane serving the dwelling and the

original farm has four dwellings in close proximity.

In response to these concerns an indicative layout has been submitted and neighbours and the objector have been notified. There is no right to a view and the dwelling at No 29 is orientated so that it will not overlook the proposed dwelling and with the topography of the land there will be no direct views into the garden of the proposed dwelling. The proposal will require a new access but this is shown to run alongside the roadside hedge in order to minimise the visual impact of the dwelling. No objections have been received to the most recent plan.

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

The site is located approx. 250m North East of 19 Derrylattinee Road, Dungannon and is located outside the designated settlement limits as defined in the Dungannon and South Tyrone Area Plan, 2010. The site is a roadside portion of an agricultural field. The elevations of the site rises gently from the Derrylattinee Road. There is a third party dwelling house located directly behind the site (No 29). The boundaries of the site are comprised of mature hedgerows and vegetation with some mature trees along the southern and western boundary. The surrounding area is predominantly rural with scattered dwellings and farm holdings.

### **Description of Proposal**

This application seeks outline planning permission for a dwelling and domestic garage on a farm.

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

#### **Policy Consideration**

This application was presented before the Planning Committee in December 2022 where Members agreed to withdraw the application from the schedule for further consideration and therefore it is still being assessed as a new application and not deferred.

This is an application for a dwelling on a farm and must therefore be considered under Policy CTY 10 of PPS 21. CTY 10 has three criteria that must be met for a dwelling to be approved on a farm.

With regard to criteria (a), the applicant has provided details surrounding the farm

business ID. DAERA were consulted and confirmed that the farm business has been in existence for more than 6 years and is currently active, therefore the application meets this test.

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

Turning to criteria (c), the application site is located in a roadside field that rises from the roadside to the rear of the site. There is a single storey dwelling located in the field behind the application site. The applicant, Caolan Gildernew, is not the farm business owner and is using his father, Emmet Gildernew's Business ID and his father has signed the P1c form as the owner of the farm business. The farm maps show that Emmett farms c.24ha of lands. Following the withdrawal from the Planning Committee meeting, I carried out a site visit and suggested a new dwelling in field 14 will be sited to visually cluster with Emmett's dwelling and garage and also the agricultural buildings to the east/south east.

In response I received a letter from Emmet Gildernew which stated he does not own field 14 and rents it from his father, Phelim Gildernew and has included a lease agreement between Emmet and his parents Phelim and Geraldine Gildernew. This confirms he rents fields 14 and 15 from Phelim and Geraldine Gildernew and it is between these fields where the agricultural buildings are located. This lease agreement is for a period of 5 years, from 01/01/2020 to 31/12/2024. Emmet also rents lands from Pádraig McKenna, a total of 10 fields, and this is for a period of 5 years from 10/1/2020 to 31/01/2025.

The field in which the dwelling is proposed has a single cattle crush in the rear of the site. However, criteria (c) requires a building to be sited to visually link or cluster with an established group of buildings on the farm. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

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

However, the applicant or the farm business owner do not own any lands at the group of buildings on the farm as these are all rented. Although there is a group of buildings on the farm these buildings and the land are not in the ownership of the applicant and therefore a dwelling cannot be sited at this location. Policy allows for a site to be exceptionally considered to an alternative site elsewhere on the farm in this instance and I therefore consider Members can consider this application positively based on the permissive exception to policy.

Turning then to the application site and a consideration of Policies CTY 13 and 14, the application, as submitted, is an outline for a dwelling on a farm. The applicant proposes to site in a roadside field and roadside dwellings are characteristic of this area. The indicative design is for a single storey dwelling and this is considered appropriate given

the levels and topography of the site and will therefore not appear as prominent in the landscape. The applicant has submitted an indicative drawing which demonstrates the dwelling will have a suitable degree of enclosure from both two existing mature boundaries and the topography of the land to the rear. Accordingly I consider the application is in accordance with Policies CTY 13 and 14.

Consultations were issued and no issues of concern have been raised.

Neighbours and the objector have been notified of the indicative drawing and no objections have been received to date. I therefore recommend an approval of the application subject to the conditions below.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

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

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

#### **Condition 3**

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

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

Condition 4

The proposed dwelling shall be sited in the area shaded yellow on the approved plan 01/3.

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

Condition 5

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

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

Condition 6

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

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

Condition 7

The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

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

Condition 8

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

Condition 9

No development shall take place until a plan indicating floor levels of the proposed dwellings in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

Condition 10

A scale plan at 1:500 shall be submitted as part of the reserved matters application

showing the access to be constructed in accordance with the attached form RS1.

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

**Signature(s):** Karen Doyle

**Date:** 1 June 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 25 July 2022    |
| <b>Date First Advertised</b>   | 8 December 2022 |
| <b>Date Last Advertised</b>  | 4 August 2022   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>26 Derrylattinee Road Dungannon Tyrone BT70 1PR<br>The Owner / Occupier<br>29 Derrylattinee Road Dungannon Tyrone BT70 1PR<br>The Owner / Occupier<br>29A Derrylattinee Road Dungannon Tyrone BT70 1PR<br>The Owner / Occupier<br>29B Derrylattinee Road Dungannon Tyrone BT70 1PR |                 |
| <b>Date of Last Neighbour Notification</b>   | 17 May 2023     |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b>   |                 |
| <b>Summary of Consultee Responses</b><br><br>DAERA - Omagh-LA09-2022-1183-O.docx<br>NI Water - Single Units West-LA09-2022-1183-O.pdf<br>DFI Roads - Enniskillen Office-Roads outline.docxFORM RS1 STANDARD.doc  |                 |
| <b>Drawing Numbers and Title</b><br><br>Site Location Plan Plan Ref: 02 REV 3<br>Site Location Plan Plan Ref: PL02<br>Site Layout or Block Plan Plan Ref: PL03<br>Site Location Plan Plan Ref: PL02 REV A  |                 |

**Notification to Department (if relevant)**

Not Applicable



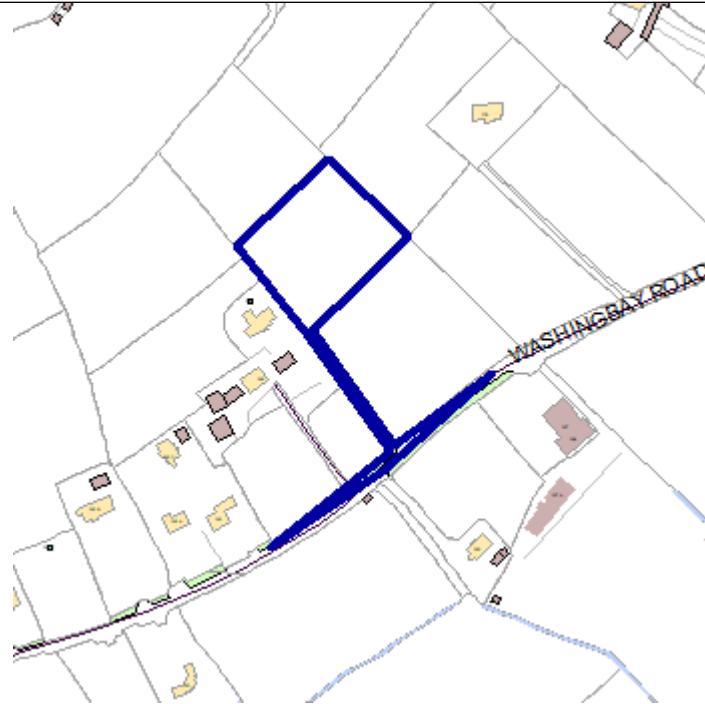


## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.26  |
| <b>Application ID:</b><br>LA09/2022/1193/O   | <b>Target Date:</b> 8 November 2022  |
| <b>Proposal:</b><br>Dwelling and domestic garage based on Policy CTY 10 (Dwelling on a farm).  | <b>Location:</b><br>20M NE Of 168 Washingbay Road<br>Coalisland<br>BT71 4QE                                      |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mrs Anne Nugent<br>49 Coole Road<br>Dungannon<br>BT71 5DP  | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>The Creagh<br>Toomebridge<br>BT41 3SQ |
| <b>Executive Summary:</b><br><br>This proposal does not meet criteria 3 of Policy CTY 10 of PPS21 Dwellings on Farms however for the reason detailed in the main body of this report it is being presented to Committee as an exception to Policy. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                           | Response  |
|-------------------------|-------------------------------------|---|
| Statutory Consultee     | Historic Environment Division (HED) |   |
| Statutory Consultee     | DFI Roads - Enniskillen Office      | Roads outline.docx<br>FORM RS1 STANDARD.doc                               |
| Non Statutory Consultee | Geological Survey NI (DfE)          | 3157 MUDC Planning. 20m NE of 168 Washingbay Road Coalisland BT71 4QE.doc |
| Non Statutory Consultee | DAERA - Omagh                       | LA09-2022-1193-O.docx   |
| Statutory Consultee     | Historic Environment Division (HED) |   |

### Representations:

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

and signatures

## Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 3km west of Lough Neagh and 1.2km northeast of Annaghmore village.



Fig 1: Site outlined red

The application site comprises a large square field bound by a mix of mature hedgerow and tree vegetation. It is set one field back from, and to the north, of the Washingbay Road. It is proposed to be accessed off the Washingbay Road via a new access and laneway along the inside of the western boundary of the field to its front. The western boundary of the field to its front / the new laneway is bound by a mix of mature hedgerow and tree vegetation. The eastern boundary of the new laneway is currently undefined onto the host field.

Whilst the wider area surrounding the site is rural in nature comprising predominantly undulating agricultural landscape interspersed with single dwellings and farm groups, there is a high degree of development pressure in the immediate area in the form of dwellings extending along both sides of the Washingbay Rd immediately to the southwest of the site. A Hurling Club including pitch also exists to the southeast of the site to the opposite side of the Washinbay Road. Beside the Hurling Club is a yard where building products are currently being stored.

The landform in the area generally rises from the Washingbay Road relatively steeply upwards to the north including through the site and beyond; and falls away to the south of the Washingbay Road. As such the site occupies a relatively elevated position in the

surrounding landscape. Whilst the site occupies a relatively elevated position views of a dwelling on it would be screened on the southwest approach to its access off the Washingbay Road by the topography of the area; the vegetation bounding the site and in the wider vicinity; and the development lining and set back from the road to its southwest. There will be short distant views of a dwelling on site from the Washingbay Road passing the roadside frontage of the field to its front; and long-distance views from the Cloghog Moss Road located to the southeast. From these views the vegetation bounding the site and topography of the area rising away to its rear would help to screen, enclose and provide a dwelling on it with a backdrop.

### **Description of Proposal**

This is an outline application for a dwelling and domestic garage based on Policy CTY 10 of Planning Policy Statement 21 (Dwelling on a farm) on lands 20m NE of 168 Washingbay Road Coalisland.

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

#### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

#### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the

Council's statutory duty. At the time of writing, no third party objections were received.

## **Relevant Planning History**

N/A

## **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject to standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside this application. DAERA advised the farm business identified on P1C Form and Farm maps was established on the 3<sup>rd</sup> March 1992 and no farm business has claimed payments through the Basic Payment Scheme or Agri Environment scheme on this site in the last 6 years.
3. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI's "Shafts and Audits Database" indicates that the proposed site is not in the vicinity of any known abandoned mineworkings.
4. Historic Environment Division (HED) were consulted as the site is located within the buffer zone of an archaeological site and monument. HED (Historic Monuments) advised the proposed development is located close to the site of post-medieval artillery fort (TYR047:023). That this is a scheduled monument and afforded protection under the provisions of the Historic Monuments and Archaeological Objects (NI) Order 1995 and Policy BH 1 of Planning Policy Statement 6 and paragraphs 6.8 of SPPS apply. That Historic Monuments has assessed the application is content that the proposal can be made satisfactory to SPPS and PPS 6 archaeological policy requirements with the following provisions to aid integration and minimise setting impacts on the adjacent historic monument:
  - Design – The proposed replacement dwelling is of sympathetic design, vernacular in character and of a low ridge height.
  - Boundary planting – Any boundary planting/augmentation is undertaken using locally prominent native species.

Historic Monuments also sought consultation on any amendments to this planning application and any Reserved Matters application.

Taking account of Historic Monuments response above should a dwelling be considered acceptable on this site it would be subject to a low 6.5m ridge height similar to dwellings in the immediate vicinity and the design of the dwelling, which should adhere to the principle of vernacular design, would be consider further under any subsequent reserved matter application. Any additional landscaping

required would be conditioned to be native species.

**Dungannon and South Tyrone Area Plan 2010** - The site lies in the rural countryside outside any designated settlement with the Plan.

**The Strategic Planning Policy Statement for Northern Ireland (SPPS)** - The SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

**Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside** - PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. These include dwellings on farms in accordance with Policy CTY 10 of PPS 21.

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

1. the farm business is currently active and has been established for at least 6 years,

DAERA advised the farm business identified on P1C Form and Farm maps submitted alongside this application was established on the 3rd March 1992 and no farm business has claimed payments through the Basic Payment Scheme or Agri Environment scheme on this site in the last 6 years.

Whilst consultation with DEARA was only able to confirm the applicant's farm business has been established at least 6 years I am reasonably content that it is currently active. This is based on the farm maps submitted alongside this application which show 3 fields, including the site, that the applicant has stated she owns; on the date of my site inspection these lands were in good agricultural condition and contained cows; DAERA confirming the applicant's business was registered in 1992; and no. of invoices submitted to showing activity in recent years. The invoices included but were not limited to hedge cutting provided by Mac Contracts at the Washingbay Road for the applicant in 2016, 2017, 2018, 2019 and 2020 with the addition of fertiliser being sown in 2018; fencing products and fertiliser purchased from Sinclair Hardwar in 2017, 2018 and 2020; Cleaning out sheughs provided by Gerard Doris Building Contractor's at the Washingbay Road for the applicant in 2019 and 2021; and grass seed, fertiliser and fencing products purchased from Mervyn Potts fencing supply store in 2020. As such, I am reasonably content Criterion (31) of CTY 10 has been met.

2. no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application or since PPS 21 was introduced on 25th November 2008,

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the applicants farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

3. the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group(s).

This proposal does not meet criteria 3 of policy CTY 10 as detailed above in that the new building will not visually link or be sited to cluster with an established group of buildings on the applicant's farm which are located approx. 3km to the east of the site at 49 Coole Rd and comprise the applicant's home a roadside bungalow and two accompanying outbuildings on a small yard (see Fig 2, below). This proposal also does not meet the exception to policy as there are no demonstrable health and safety reasons or verifiable plans to expand the farm.

Bearing in mind the above the agent has confirmed the applicant does not own any lands surrounding the farmyard, the only lands she owns is the site and two abutting fields located at the Washingbay Road. I consider it reasonable that this proposal be treated as an exception to policy as the applicant has farm buildings however owns no lands within the vicinity of the buildings to site a dwelling to visually link or cluster and a dwelling on the site proposed would not offend policy CTY 13 or CTY 14 of Planning Policy Statement 21. I believe a dwelling of an appropriate size, scale and design with a ridge height no greater than 6.5m similar to properties in the vicinity including no. 168 Washingbay Road located immediately to its west would integrate well into this site with minimal disruption to the rural character of the area. From public views as detailed further above in the 'Characteristics of the Site and Area' a dwelling including garage on this site alongside the lane serving it would benefit from the vegetation bounding the site and topography of the area rising away to its rear helping to screen, enclose and provide it with a backdrop. Accordingly, I consider that this proposal be treated as an exception to policy.

Policy CTY 10 also states 'planning permission granted under this policy will only be forthcoming once every 10 years' and I am content checks have not identified any previous such permissions.





Fig 2: Applicant's farm group at 49 Coole Road.

### Additional considerations

As this is an outline application the details of the siting, size, scale and design of the dwelling can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the location of the site and separation distances that will be retained.

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Flood Maps NI identified no flooding on site.

**Recommendation:** Approve

### Summary of Recommendation:

Approve is recommended

### Approval Conditions

#### Condition 1

Application for approval of the reserved matters shall be made to the Council within 3



years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

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

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

#### Condition 2

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

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

#### Condition 3

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

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

#### Condition 4

The proposed dwelling and curtilage shall be sited within the area shaded brown on Drawing no. 01 bearing the date stamp received 26 JUL 2022.

Reason: In the interest of visual amenity.

#### Condition 5

The proposed dwelling shall have a ridge height of no greater than 6.5 metres above existing ground level.

Reason: In the interest of visual amenity.

#### Condition 6

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: In the interest of visual amenity.

#### Condition 7

The existing natural screenings of this site as indicated in yellow on approved Drawing no. 01 bearing the date stamp received 26 JUL 2022, shall be permanently retained intact unless necessary to provide access and/or visibility splays; or prevent danger to

the public in which case a full explanation shall be given to the Council in writing prior to their removal.

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

**Condition 8**

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. The scheme shall include a native species hedgerow to be planted to the rear of the visibility splays and along all new curtilage boundaries of the area shaded brown. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.

Reason: In the interests of visual and residential amenity.

**Condition 9**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 and shall include sight splays of 2.4m x 100m in both directions onto the public road and a 100m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s):** Emma Richardson

**Date:** 31 May 2023

|   |                   |
|---|-------------------|
| <b>ANNEX</b>  |                   |
| <b>Date Valid</b>   | 26 July 2022      |
| <b>Date First Advertised</b>  | 9 August 2022     |
| <b>Date Last Advertised</b>   | 9 August 2022     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>165 Washingbay Road Coalisland Tyrone BT71 5EQ<br>The Owner / Occupier<br>166 Washingbay Road Coalisland Tyrone BT71 5EQ<br>The Owner / Occupier<br>167 Washingbay Road Coalisland Tyrone BT71 5EQ<br>The Owner / Occupier<br>167A Washingbay Road Coalisland Tyrone BT71 5EQ<br>The Owner / Occupier<br>169 Washingbay Road Coalisland Tyrone BT71 5EQ<br>The Owner / Occupier<br>168 Washingbay Road Coalisland Tyrone BT71 4QE |                   |
| <b>Date of Last Neighbour Notification</b>  | 15 September 2022 |
| <b>Date of EIA Determination</b>  |                   |
| <b>ES Requested</b>   | <events screen>   |
| <b><u>Planning History</u></b><br><br>Ref: M/2003/0788/O<br>Proposals: Proposed one and a half storey dwelling<br>Decision: PG<br>Decision Date: 21-JUL-03<br><br>Ref: LA09/2022/1193/O<br>Proposals: Dwelling and domestic garage based on Policy CTY 10 (Dwelling on a farm).<br>Decision:<br>Decision Date:<br><br>Ref: LA09/2022/1082/RM<br>Proposals: Proposed new dwelling in an existing cluster<br>Decision:<br>Decision Date:  |                   |

Ref: M/2004/1850/O  
Proposals: Dwelling house  
Decision: PR  
Decision Date: 15-APR-05

Ref: M/2003/1383/RM  
Proposals: Proposed 1 1/2 Storey Dwelling  
Decision: PG  
Decision Date: 12-DEC-03

Ref: LA09/2019/1627/F  
Proposals: Proposed new entrance.  
Decision: PG  
Decision Date: 03-SEP-20

Ref: M/2003/1341/F  
Proposals: Retention of premises to be used for breeding, training and kennelling of Greyhounds  
Decision: PG  
Decision Date: 07-APR-04

Ref: M/2005/1109/F  
Proposals: Construction of dwelling  
Decision: PG  
Decision Date: 15-DEC-05

Ref: M/2004/0593/O  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 03-SEP-04

Ref: LA09/2017/0076/RM  
Proposals: Proposed dwelling on a farm  
Decision: PG  
Decision Date: 28-FEB-17

Ref: LA09/2016/0906/O  
Proposals: Proposed dwelling on a farm  
Decision: PG  
Decision Date: 22-NOV-16

Ref: LA09/2021/1255/O  
Proposals: Proposed new dwelling in an existing cluster  
Decision: PG  
Decision Date: 26-NOV-21

Ref: M/2004/1324/O  
Proposals: Site for dwelling  
Decision:  
Decision Date:

Ref: M/1994/0253  
Proposals: Alterations and extension to dwelling  
Decision: PG  
Decision Date:

Ref: M/1979/023301  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: M/1979/0233  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: M/2005/2260/F  
Proposals: Overhead single phase line on wood poles (05/06307)  
Decision: PG  
Decision Date: 16-MAR-06

Ref: M/1993/0291  
Proposals: Site for Dwelling  
Decision: PR  
Decision Date:

Ref: M/2006/1693/F  
Proposals: Retention of change of use from Existing Buildings to Storage of Retail Goods.  
Decision: PR  
Decision Date: 26-FEB-07

Ref: M/2003/0166/RM  
Proposals: Development of Training Pitch  
Decision: PG  
Decision Date: 11-MAR-03

Ref: M/2012/0356/PREAPP  
Proposals: Hurling centre for excellence for East Tyrone at Washingbay Road for Naomh Colum Cill Hurling Club  
Decision: EOLI

Decision Date: 26-JUL-12

Ref: LA09/2015/0248/F

Proposals: Proposed change of use including internal modifications to the existing redundant building. Proposed use includes the assembly and fitting of concrete of Form Work with ancillary offices and storage space

Decision: PG

Decision Date: 16-SEP-15

Ref: M/2005/0110/F

Proposals: Domestic dwelling

Decision: PG

Decision Date: 03-MAY-05

Ref: M/2002/0352/O

Proposals: Development of a training pitch

Decision: PG

Decision Date: 11-JUN-02

### **Summary of Consultee Responses**

Historic Environment Division (HED)-

DFI Roads - Enniskillen Office-Roads outline.docxFORM RS1 STANDARD.doc

Geological Survey NI (DfE)-3157 MUDC Planning. 20m NE of 168 Washingbay Road Coalisland BT71 4QE.doc

DAERA - Omagh-LA09-2022-1193-O.docx

Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.27   |
| <b>Application ID:</b><br>LA09/2022/1209/F  | <b>Target Date:</b> 14 November 2022  |
| <b>Proposal:</b><br>New dwelling house with integrated garage and associated site amenities   | <b>Location:</b><br>180M North East Of 40 Foygh Road<br>Castlecaulfield, Dungannon  |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Mr And Mrs McCausland<br>124 Mullaghmore Road<br>Donaghmore<br>BT70 1RD   | <b>Agent Name and Address:</b><br>Hamill Architects<br>Unit T2, Dungannon Enterprise Centre<br>2 Coalisland Road<br>Dungannon<br>BT71 6JT |
| <b>Executive Summary:</b><br><br>The application is being presented to Committee as it does not fully comply with policy, however works were carried out at the time and confirmation sought from a planning officer that development had commenced and it would be harsh not to allow a dwelling on this site. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response  |
|---------------------|--------------------------------|---|
| Statutory Consultee | DFI Roads - Enniskillen Office | No objection .  |
| Statutory Consultee | DFI Roads - Enniskillen Office | DC Checklist 1.doc<br>Roads Consultation - Full approval.docx |

### Representations:

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

### Summary of Issues

The application is being presented to Committee as it does not fully comply with policy, however works were carried out at the time and confirmation sought from a planning officer that development had commenced and it would be harsh not to allow a dwelling on this site.



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

The site is a 0.49ha parcel of land located on the Foygh Road within the rural countryside approximately 1.9km north of Castlecaulfield and is outwith any settlement limits set down in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is located at a 'T' junction on the Foygh road and comprises an agricultural field with agricultural sheds adjacent to and to the west of it. The north-western boundary is defined by a post and wire fence with hedging and 3 no. mature trees. Mature hedging defines the north-eastern boundary whilst a mature treeline with substantial hedging defines the southern boundary of the site. The site rises from north-east to south-west.

The area is rural in character with a dispersed settlement pattern. Development takes the form of single dwellings with associated outbuildings. There is little development pressure in the area.

## **Description of Proposal**

New dwelling house with integrated garage and associated site amenities

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

### **Policy Consideration**

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

### **Planning History**

Ref: M/2007/1561/RM

Proposals: proposed dwelling

Decision: PG

Decision Date: 18-MAR-08

Ref: M/2004/1221/O

Proposals: Proposed Dwelling

Decision: PG

Decision Date: 04-DEC-04

Ref: M/2003/0138/F

Proposals: 11kv Rural Spur

Decision: PG

Decision Date: 22-MAR-03

### **Representations**

Two (2) no. neighbours were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. No objections or representations have been received to date.

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

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

### **Local Development Plan 2030 - Draft Plan Strategy**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within 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. It does not present any change in policy direction therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. DFI Roads development control offer no objection to the above proposal subject to the proposal being constructed and maintained in accordance with the submitted block plan, namely visibility splays of 2.0m x 55.0m to the north-east and 2.0m x 65m to the south-west.

### **CTY1 of PPS 21 – Development in the Countryside.**

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria

specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

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

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. This development does not meet with any of the specified criteria however it is acknowledged that the principle of development was agreed under the previous application M/2004/1221/O and the reserved matters application was granted for a dwelling on this site on 11 March 2008 under M/2007/1561/RM.

This application is before the Members as it is clear the application does not meet policy. Nevertheless, decision makers can exercise some discretion and can take into account other factors that are material to the decision-making process. In this case it is my consideration that this case could be deemed an exception to policy, based on the supporting evidence provided by the applicant which includes a signed and dated statement from a planning officer of the Department of the Environment at the time of the original application.

A supporting statement has been provided by the applicant as there currently is no physical evidence of works having commenced on the site in accordance with the previous planning permission M/2007/1561/RM. This statement indicates that the applicant's late father carried out sufficient works back in 2010 and in accordance with the guidance at the time, requested that a planning officer (Mr Stephen Cassidy) inspected the site to confirm that work had commenced on the site. This was to satisfy himself that he had implemented sufficient works on the ground to adequately protect his Permission for future use.

The note of comfort from this planning officer states that he had inspected the application and confirmed that work has already started on the site. He further stated that the work involved the provision of sight splays, provision of access, clearing and preparation of the site for the construction of the dwelling and fencing the plot area off. This note has been handwritten and signed by Mr Cassidy on 09 March 2010.

The applicant goes on to state that the land has been let out in con-acre since 2010 with cattle and horses trampling it year on year obviously further disfiguring the building site and together with the passage of time has resulted in the mainstream site works for the best part been effectively lost to the naked eye. They claim that the fact of the matter still

remains true that the commencement of adequate works were carried out at that time, and subsequently witnessed by a member of the Planning Team. The site was then put in abeyance since then and subsequently gifted to the client's son who now wishes to activate the opportunity his late father set about protecting for him all those years ago.

We are aware of the fact that that Stephen Cassidy was employed by the Department as a planning officer at the time in question, and has signed off on the works that are purported to have been carried out before the expiration of M/2007/1561/RM. It has not been possible to verify the authenticity of this note as the original file has since been destroyed. However, I consider that the benefit of the doubt should be given that Mr McCausland carried out works in good faith to secure the site, and sought written confirmation of this in accordance with the guidance at the time. The intent appears to have been there and I consider that because of the signed document provided and taking into account the planning approval on the site, it would be unduly harsh to refuse this current application.

### **CTY 13 Design and Integration of PPS 21**

The design and integration of the application dwelling must now be considered. A two storey dwelling with side projection was originally approved on site under M/2007/1561/RM. This proposed dwelling has a different design to that previously approved, as seen below.



The proposed dwelling is 'L' shaped with the bulk of the dwelling to the north-eastern

elevation. It measures 7.2m in height, with a length of 30m at the main body of the dwelling, which includes a double integrated garage. The windows are vertical in emphasis with a strong relationship of solid to void. The dwelling will have finishes of white smooth render with natural stone to the ground floor and timber cladding features to three of the elevations. The monopitch roof will have copper/red brick standing seam metal cladding and I consider these materials acceptable. I feel that the use of these materials lends itself to aiding integration of the dwelling on site by visually breaking up the bulk of the dwelling, whilst the low profile roof design helps the building follow the natural topography of the site. Although the length exceeds what is usually acceptable in the countryside, the dwelling steps in and there are visible recesses which help to reduce the impact of the length. The site itself aids integration as there is rising land to the south-west with agricultural buildings at a higher level to the proposed dwelling as shown on the submitted site sections.

In addition to this, the only critical views of the site will be when upon it and these are not long-term. When travelling north-west along the Foygh Road the existing mature trees along the south-eastern boundary prevent any critical views of the site. When travelling south-east along the Foygh Road existing field boundaries on the lands surrounding the site prevent any critical views when travelling in this direction. When travelling along the public road to the north-west of the site, views are again restricted to when upon the site. I consider this site is capable of integrating this dwelling without it appearing prominent or out of keeping with the surrounding area, and the contemporary design is acceptable.

Levels as well as site sections have been provided which also demonstrate how the dwelling will integrate into the site and shows the dwelling with a finished floor level of 97.5 which I consider will ensure the dwelling is not prominent in the landscape. The existing boundaries to the site should be conditioned to be retained on any planning permission, augmented by additional planting.

### **Other Material Considerations**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns. In addition, I have no ecological or residential amenity concerns.

As the principle of a dwelling on this site has been accepted under the previous approval, this report has assessed the proposed dwelling under CTY 13 of PPS 21 and I consider that the design of the dwelling and garage is acceptable therefore I recommend approval.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

The vehicular access, including visibility splays of 2.0m x 55.0m to the north-east and 2.0m x 65m to the south-west and any forward sight distance shall be provided in accordance with drawing No. 02 rev. 01 date received 24 MAY 2023, 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.

#### **Condition 3**

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

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

#### **Condition 4**

One dwelling only shall be erected within the red line of the site as identified on Drawing No. 01 date received 01 AUG 2022.

Reason: This dwelling is in substitution for that approved under M/2004/1221/O and M/2007/1561/RM and is not for an additional dwelling on this site.

#### **Condition 5**

All existing trees on the boundaries of the site outlined red on drawing No. 01 date received 01 AUG 2022 and as shown on drawing No. 02 rev. 01 date received 24 MAY

2023, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

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

**Condition 6**

All hard and soft landscape works as detailed on drawing No. 02 rev. 01 date received 24 MAY 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s):** Deirdre Laverty

**Date:** 31 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 1 August 2022   |
| <b>Date First Advertised</b>   | 18 August 2022  |
| <b>Date Last Advertised</b>  | 18 August 2022  |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>36 Foygh Road Castlecaulfield, Dungannon<br>The Owner / Occupier<br>36A Foygh Road Castlecaulfield, Dungannon  |                 |
| <b>Date of Last Neighbour Notification</b>   | 11 October 2022 |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: M/2007/1561/RM<br>Proposals: proposed dwelling<br>Decision: PG<br>Decision Date: 18-MAR-08<br><br>Ref: M/2010/0433/F<br>Proposals: Proposed dwelling & garage amended house design to that previously approved under application M/2008/0304/RM<br>Decision: PG<br>Decision Date: 18-AUG-10<br><br>Ref: M/2008/0304/RM<br>Proposals: Proposed dwelling and domestic garage<br>Decision: PG<br>Decision Date: 16-JUN-08<br><br>Ref: M/2002/0935/F<br>Proposals: 2 Storey Dwelling & Double Garage<br>Decision: PG<br>Decision Date: 26-SEP-02<br><br>Ref: LA09/2022/1209/F |                 |



Proposals: New dwelling house with integrated garage and associated site amenities

Decision:

Decision Date:

Ref: M/2005/0966/O

Proposals: Proposed Dwelling

Decision: PG

Decision Date: 24-JUN-05

Ref: M/2004/1221/O

Proposals: Proposed Dwelling

Decision: PG

Decision Date: 04-DEC-04

Ref: M/2003/0138/F

Proposals: 11kv Rural Spur

Decision: PG

Decision Date: 22-MAR-03

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-No objection .

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Consultation - Full approval.docx

### **Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 02 Rev. 01

Proposed Elevations Plan Ref: 04 Rev. 01

Floor Plans Plan Ref: 05 Rev. 01

Levels and Cross Sections Plan Ref: 06

Site Location Plan Plan Ref: 01

Proposed Floor Plans Plan Ref: 2011-PL-102

Proposed Elevations Plan Ref: 04

Existing Site Survey Plan Ref: 03

Site Layout or Block Plan Plan Ref: 2011-PL-101

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.28  |
| <b>Application ID:</b><br>LA09/2022/1420/F  | <b>Target Date:</b> 26 April 2023  |
| <b>Proposal:</b><br>Proposed extension of existing factory to include new assembly/workshop, paint-line, offices to increase production of existing product. Extension of car parking & associated works. | <b>Location:</b><br>Emerson<br>Ballyreagh Industrial Estate<br>Cookstown               |
| <b>Referral Route:</b> Approve is recommended   |  |
| <b>Recommendation:</b> Approve  |  |
| <b>Applicant Name and Address:</b><br>Emerson<br>Ballyreagh Industrial Estate<br>Cookstown<br>BT80 9DG  | <b>Agent Name and Address:</b><br>ARC-EN<br>3A Killycolp Road<br>Cookstown<br>BT80 9AD |
| <b>Executive Summary:</b>   |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response  |
|-------------------------|---|---|
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09-22-1420 F Emerson Ballyreagh Industrial Estate Cookstown.doc |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Roads Consultation full approval.docx                             |
| Statutory Consultee     | Rivers Agency                           | 745047 - Draft Response.docxDfI Rivers Response 03/11/2022        |
| Statutory Consultee     | NI Water - Strategic Applications       | LA09-2022-1420-F.docx   |
| Statutory Consultee     | NI Water - Strategic Applications       | LA09-2022-1420-F.pdf  |
| Statutory Consultee     | Environmental Health Mid Ulster Council |   |
| Statutory Consultee     | Rivers Agency                           | 745047 - Final Response (2).pdf                                   |
| Statutory Consultee     | NI Water - Strategic Applications       | LA09-2022-1420-F.pdf  |
| Statutory Consultee     | Rivers Agency                           | 100117 - Final Response.pdf                                       |

|   |   |
|---|---|
| <b>Representations:</b>   |   |
| Letters of Support  | 0 |
| Letters Non Committal   | 0 |
| Letters of Objection  | 0 |
| Number of Support Petitions and signatures  |   |
| Number of Petitions of Objection and signatures   |   |
| <b>Summary of Issues</b>  |   |
| <b>Characteristics of the Site and Area</b><br><br><p>The site is located at Unit 4 Ballyreagh Industrial Estate, Sandholes Road, Cookstown. This proposal is an extension to Emerson Factory, which produces Copeland Scroll Compressors for the European heat pump, refrigerator and air conditioning markets. It is located within the existing Ballyreagh Industrial Estate, located in the south west of Cookstown. It is within the settlement limits of Cookstown and the site is zoned for industry/mixed use. The site is within the curtilage of Emerson's existing facility, the land is industrial in use and surrounded by industrial development, including CDE, Keystone Group and Trade Mouldings. The site is accessed via an existing road that serves the wider industrial estate.</p> |   |
| <b>Description of Proposal</b><br><br><p>Proposed extension of existing factory to include new assembly/workshop, paint-line, offices to increase production of existing product. Extension of car parking &amp; associated works. The proposed development will include a total new floorspace of 8090m<sup>2</sup> and will be broken down into 4 parts; Dispatch - 1550m<sup>2</sup>, Scroll extension - 2210sqm, production - 2195m<sup>2</sup> and paintline extension - 1875m<sup>2</sup>, with an internal office on mezzanine floor of 260m<sup>2</sup>.</p>  |   |
| <b>Planning Assessment of Policy and Other Material Considerations</b><br><br><u><b>Policy Consideration</b></u><br><br><p>The proposal will be assessed under the following ;</p><br><br><p>Cookstown Area Plan 2010</p> <p>SPPS - Strategic Planning Policy Statement for NI (2015)</p> <p>PPS3 - Access, Movement &amp; Parking</p> <p>PPS4 - Planning and Economic Development</p> <p>PPS15 - Planning and Flood risk</p>   |   |

## Cookstown Area Plan 2010

The site lies within the settlement limits of Cookstown, where there is a presumption in favour of development. The site is zoned for Industry/Mixed Use and is an extension to an existing well established industry business. The proposal is consistent with CAP policy and Policy ID 1 of the Plan which states permission will normally be granted for industry, storage and distribution where the development meets the key requirements of the Plan.

## SPPS - Strategic Planning Policy Statement for NI (2015)

SPPS sets out the strategic planning policy for a range of planning matters. It places emphasis on supporting sustainable economic growth and those that characterise economic need and planning authorities should take a positive approach to appropriate economic development proposals.

'Economic development, industry and commerce' policies are set out and this application is subject to those. The objectives listed are met with this proposal, it promotes sustainable economic development, facilitates job creation - with at least 120 new jobs being created by the extension and an big investment for the area, also creating 100 construction jobs sustains a vibrant community by supporting rural economic development and promote mixed use development and ensure a high quality and design for new economic development.

This shows the proposal will amount to a considerable economic development in the medium and long term.

## PPS3 - Access, Movement & Parking

The proposal is designed in accordance with standards and will access via the existing network. A transport and parking report were submitted. DFI Roads have been consulted and have provided conditions to be attached to any approval.

## PPS4 - Planning and Economic Development

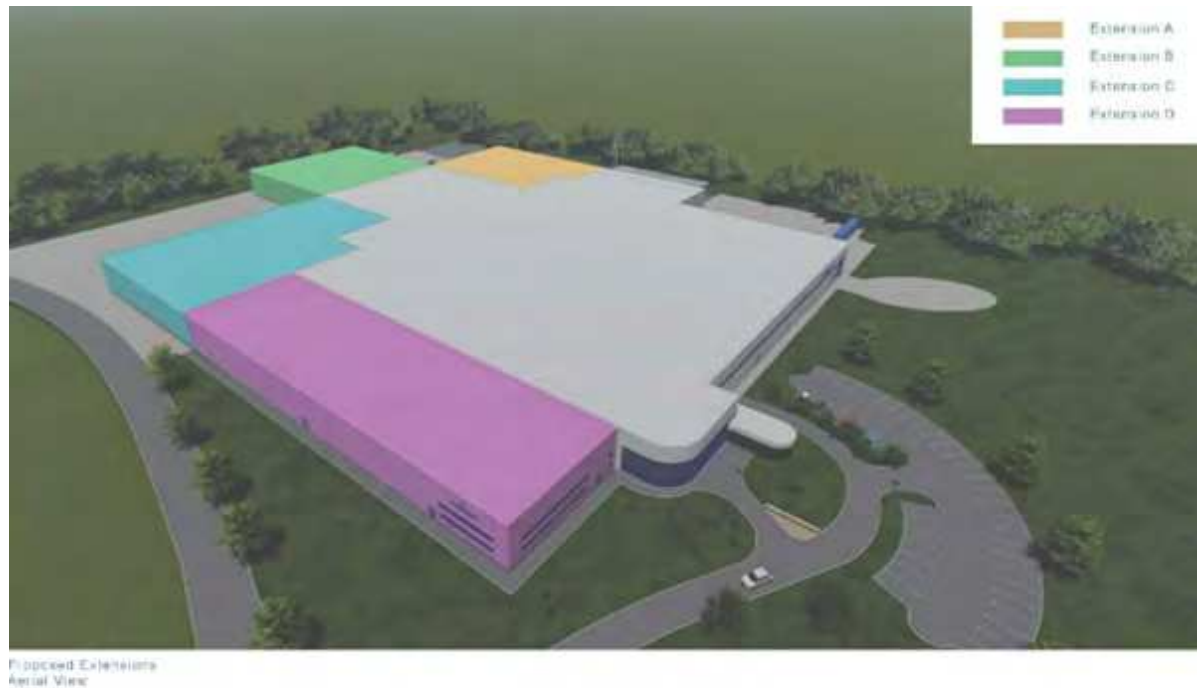
Policy PED1 of PPS4 sets out the criteria for economic development within existing settlements.

There is no suitable site within the town centre or other location for such a use - The site is within a zoned industry/business use are as identified in the Area Plan.

It is a firm rather than a speculative development proposal for business use - This is a

firm proposal by the applicant based on need and agreed sales contracts, so based on demand this extension is required.

The proposal would make a substantial contribution to the economy of the urban area - It will create approx 120 jobs, with a total of 400 jobs in Mid Ulster and 100 additional construction jobs. There will be a large investment in the area and associated works up to £10.7 million.



**Figure 4 Aerial Perspective of Proposed Extensions A, B, C and D.**

PED9 sets out the criteria for economic development. The policy permits the use where certain criteria has been met.

- It is compatible with surrounding land uses.

The surrounding land uses are commercial and industrial and this extension is compatible with the proposed use.

- It does not harm the amenities of nearby residents.

The nearest residential properties are over 200m east of the site. These are separated from the development by the existing industrial estate and agricultural land and the A29. This is a sufficient separation distance. A noise impact assessment was also submitted which concluded that predicted future noise levels associated with the proposed development and it will be well below the existing background level and noise levels will be negligible. Env Health were consulted and have no objections subject to conditions.

- It does not adversely affect the features of the natural or built heritage.

There are no protective designations within the site.

-It is not located in an area of flood risk and would not cause exacerbate flooding.

The proposal is not located within an area of flood risk. A drainage assessment was submitted and Rivers consulted. They have no objections or reason to question the finding which show appropriate site drainage and will not cause any flooding.

- It does not create a noise nuisance.

There will be a negligible increase in noise as a result of this proposal, which was concluded in the NIA.

- It is capable of dealing satisfactorily with any increase in any emissions or effluents related to the project.

The manufacturing processes are undertaken internally and there shall not be adverse emissions from the facility as indicated in the submitted air and odour assessment.

- The existing road network can safely handle any extra vehicular traffic generated or suitable improvement will be made.

- Adequate access arrangements. parking and manoeuvring areas are provided.

Ballyreagh Industrial Estate benefits from adequate access arrangements via Sandholes Road, transport assessment and parking report were submitted and DFI Roads have provided conditions for any approval. There is ample space surrounding the site as indicated on submitted plans. There are currently 153 spaces and this will provide an increase for 259 spaces.

-A movement pattern is provided which respects existing public rights and provides adequate and convenient access to public transport.

Existing is a access which promotes access through walking, cycling and cycle parks.

- The site layout, building design and landscape arrangements are of a high quality and assist with the promotion of sustainability and biodiversity.

The layout respects the existing site context in terms of the extension, existing building and those surrounding it. The proposal will reflect the existing design of the building and materials and finishes remain sympathetic integrating with the existing complex. The extension has been laid out to take account of production flow within the factory in order to separate the office areas from production areas. The layout also allows for ease of goods movement within the site.

No additional landscaping is required necessary as sufficient exists and this is an extension within the existing curtilage.

- Appropriate boundary treatment and means of enclosure are provided.

The site is currently enclosed by a boundary fence and this will be retained, this is

sufficient for the site and proposed extension.

- It is designed to deter crime and promote personal safety.

The site is enclosed by perimeter fencing and access through automatic gates, CCTV is currently installed.

The criteria of PED1 and PED9 have been demonstrated to be met and PPS4 has been adhered to.

#### PPS15 - Planning and Flood risk

A drainage assessment has been submitted and DFI Rivers were consulted. It has been demonstrated the proposal is suitable designed to meet the drainage requirements and they offer no objections.

Approval is recommended with conditions.

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2

The operational development hereby permitted shall not come into effect until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing 03 date stamped 02/08/22 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 other time other than for the parking and movement of vehicles.



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

**Condition 3**

Prior to the commencement of any development the applicant will need to submit an application to NI Water for Wastewater Impact Assessment through Mid Ulster District Council Planning Department to agree an alternative drainage or treatment solution.

Reason: To ensure that a satisfactory, permanent means of sewage disposal is achieved and in the interest of safeguarding residential amenity and public health.

**Condition 4**

Forklift trucks are not permitted to operate within external areas at any time of the day or night.

Reason: To protect nearby residential amenity from excessive noise.

**Condition 5**

Loading and unloading of any vehicle (including HGV's) is not permitted within any external areas at any time of the day or night.

Reason: To protect nearby residential amenity from excessive noise.

**Signature(s):** Emma McCullagh

**Date:** 23 May 2023

| ANNEX  |                   |
|--|-------------------|
| Date Valid   | 28 September 2022 |
| Date First Advertised  | 11 October 2022   |
| Date Last Advertised   | 11 October 2022   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>CDE Group, Kilchrona, Sandholes Road, Cookstown, BT80 9HJ<br>The Owner / Occupier<br>4 Ballyreagh Industrial Estate, Sandholes Road, Cookstown, BT80 9DG<br>The Owner / Occupier<br>CDE Global, Ballyreagh Industrial Estate, Sandholes Road, Cookstown, BT80 9DG<br>The Owner / Occupier<br>Trade Mouldings, Sandholes Road, Cookstown, BT80 9AR<br>The Owner / Occupier<br>Keystone Lintels Ltd, Ballyreagh Industrial Estate, Sandholes Road  |                   |
| Date of Last Neighbour Notification  | 13 October 2022   |
| Date of EIA Determination  |                   |
| ES Requested   | <events screen>   |
| <b><u>Planning History</u></b><br><br>Ref: I/2008/0516/F<br>Proposals: Change of use from ancillary factory storage to ancillary office use, including internal alterations & extension to factory.<br>Decision: PG<br>Decision Date: 27-APR-09<br><br>Ref: LA09/2022/1420/F<br>Proposals: Proposed extension of existing factory to include new assembly/workshop, paint-line, offices to increase production of existing product. Extension of car parking & associated works.<br>Decision:<br>Decision Date:<br><br>Ref: I/2007/0318/F<br>Proposals: New Factory, including offices and car parking spaces.<br>Decision: PG |                   |

Decision Date: 18-DEC-07

Ref: I/2004/1085/F

Proposals: Proposed concrete manufacturing factory, including ancillary staff area, offices & site works

Decision: PG

Decision Date: 15-DEC-04

Ref: LA09/2017/1518/PAN

Proposals: Construction of a new Facility for the assembly of wet processing equipment

Decision: PANACC

Decision Date: 11-MAR-19

Ref: I/2004/1356/O

Proposals: Demolition of existing outhouses and sheds and replaced with a new workshop for the repair and maintenance of motor vehicles

Decision: PG

Decision Date: 07-NOV-05

Ref: I/2006/0936/F

Proposals: Two Manufacturing and Storage Units and Associated Site Works

Decision: PG

Decision Date: 02-JUN-09

Ref: LA09/2021/1734/PAN

Proposals: Proposed development of business park to include up to 16 business units (use class likely B1/B2/B3& B4), access arrangements (provision of right hand turn lane from sandholes road, landscaping, car parking, servicing and ancillary site works.

Decision: PANACC

Decision Date: 10-FEB-22

Ref: LA09/2018/0227/F

Proposals: New underground gas transmission pipeline (intermediate pressure) approximately 3.5 Km in length both in road and in verge with associated temporary site works, including open cut excavation and horizontal directional drilling for pipe installation

Decision:

Decision Date:

Ref: I/2010/0270/F

Proposals: Provision of 4 no. sets of ribbon windows to the front, side and rear elevation to Copeland plant at Ballyreagh ind. Estate Cookstown

Decision: PG

Decision Date: 29-JUL-10

Ref: I/2014/0244/F

Proposals: Proposed extension and alterations to existing Scroll Compressor

manufacturing facility

Decision: PG

Decision Date: 25-NOV-14

Ref: I/2007/0901/F

Proposals: Proposed extension and alterations to existing scroll compressor manufacturing facility.

Decision: PG

Decision Date: 20-AUG-08

Ref: I/2010/0297/F

Proposals: Retention of new waste storage building and bunded oil storage facility. Also retention of alterations to existing building to include raised floor levels and storage area at the Copeland Factory, Cookstown

Decision: PG

Decision Date: 26-JAN-11

Ref: I/1996/0449

Proposals: Site for Factory Unit

Decision: PG

Decision Date:

Ref: I/2009/0429

Proposals: The relocation of the existing internal waste recycle area to a new external waste recycle area, the raising of the floor in the existing waste recycle area with associated elevational changes and the erection of a new 60000 litre oil storage facility with associated bund wall at the Copeland Factory, Ballyreagh Industrial Estate, Sandholes Road, Cookstown.

Decision: 461

Decision Date:

Ref: LA09/2022/0544/PAN

Proposals: Proposed extension of works to the existing industrial building (Emerson/ Copeland facility) and will include new assembly/work shop area, paintline, offices and extension of car parks and associated works

Decision: PANACC

Decision Date: 07-JUL-22

Ref: I/2012/0121/F

Proposals: New factory unit and the re-development of redundant turning head to provide access and parking facilities

Decision: PG

Decision Date: 18-OCT-12

Ref: I/2013/0168/F

Proposals: Reduction and reconfiguration of previously approved factory and offices

(I/2012/0121/F), including the fit out of first floor to provide offices, kitchen and storage. Revised reduced parking layout, including alterations to HGV parking and internal movement pattern. Repositioning of storage areas and oil tanks.

Decision: PG

Decision Date: 29-AUG-13

Ref: I/1995/0338

Proposals: Laying out of Lands for Industrial Plots, Construction of Service Road and Associated Services

Decision: PG

Decision Date: 23-JUL-96

Ref: I/1996/0474

Proposals: Provision of additional access heads, erection of sub-station including access to same and associated works

Decision: PG

Decision Date: 16-JAN-97

Ref: I/1994/0298

Proposals: Industrial Estate for I.D.B

Decision: PG

Decision Date: 15-FEB-95

Ref: I/1992/0160

Proposals: 11 KV O/H Line

Decision: PG

Decision Date:

Ref: LA09/2017/0240/F

Proposals: Erection of workshop and offices for the repair and paint spraying of vehicles car wash facility, staff/visitor car parking, short term storage of vehicles awaiting collection, 2m high security fence and entrance gates and associated site works (Relocation of existing business from Chapel Street, Cookstown)

Decision: PG

Decision Date: 07-JUN-18

Ref: I/2004/1242/F

Proposals: Modifications to existing road layout to provide right turn access

Decision: PG

Decision Date: 15-DEC-04

Ref: I/2004/1190/F

Proposals: New access (service road) and earthworks and land levelling to facilitate the development of industrial land (amended plans)

Decision: PG

Decision Date: 29-JUN-05

Ref: LA09/2022/1135/F

Proposals: PROPOSED DEVELOPMENT OF BUSINESS PARK TO INCLUDE UP TO 1 BUSINESS UNITS (USE CLASS B1/B2/B3 & B4), ACCESS ARRANGEMENTS (PROVISION OF RIGHT HAND TURN LANE) FROM SANDHOLES ROAD, LANDSCAPING, CAR PARKING, SERVICING AND ANCILLARY SITE WORKS

Decision:

Decision Date:

Ref: I/2009/0142/F

Proposals: Retention of change of use for unit 1 from light industrial to office accommodation

Decision: PG

Decision Date: 27-APR-09

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-LA09-22-1420 F Emerson Ballyreagh Industrial Estate Cookstown.doc

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

Rivers Agency-745047 - Draft Response.docxDfI Rivers Response 03/11/2022

NI Water - Strategic Applications-LA09-2022-1420-F.docx

NI Water - Strategic Applications-LA09-2022-1420-F.pdf

Environmental Health Mid Ulster Council-

Rivers Agency-745047 - Final Response (2).pdf

NI Water - Strategic Applications-LA09-2022-1420-F.pdf

Rivers Agency-100117 - Final Response.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Proposed Elevations Plan Ref: 04

Site Layout or Block Plan Plan Ref: 05

Existing Floor Plans Plan Ref: 06

Existing Elevations Plan Ref: 07

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.29  |
| <b>Application ID:</b><br>LA09/2022/1509/F   | <b>Target Date:</b> 31 January 2023  |
| <b>Proposal:</b><br>Proposed Farm Storage Shed   | <b>Location:</b><br>170 M West Of 4 Dunmurry Road<br>Draperstown   |
| <b>Referral Route:</b> Refuse is recommended   |  |
| <b>Recommendation:</b> Refuse  |  |
| <b>Applicant Name and Address:</b><br>Joe McWilliams<br>5 Slievegallion Drive<br>Draperstown<br>BT45 7JR | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>The Creagh<br>Toomebridge<br>BT41 3SQ |
| <b>Executive Summary:</b>  |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response                                 |
|-------------------------|--------------------------------|--|
| Statutory Consultee     | DFI Roads - Enniskillen Office | Full Resp.docx                           |
| Non Statutory Consultee | DAERA - Coleraine              | Consultee Response LA09-2022-1509-F.DOCX |

### Representations:

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

### Summary of Issues

The application does not fully comply with Policy CTY 12 in that it is the first building proposed on the farm holding which the policy is silent on.

### Characteristics of the Site and Area



This site is located within the open countryside, outside any defined settlement limits and within the Sperrins Area of Outstanding Natural Beauty as per the Magherafelt Area Plan 2015. The red line of the application site includes an existing laneway which extends north west from the public road and continues into the north western corner of an existing larger agricultural field. The field is relatively flat with it rising gently in a northern direction. The northern boundary of the site is defined by a low level mature hedge row and fencing with the western boundary defined by a field gate and a hedgerow. The eastern and southern boundaries of the site are currently undefined and extend into the agricultural field. The surrounding area is a mix of residential dwellings, agricultural buildings and fields.

### **Representations**

No third party representations have been made.

### **Description of Proposal**

This is a full planning application for a Proposed Farm Storage Shed.

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

#### **Policy Consideration**

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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

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

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- (b) in terms of character and scale it is appropriate to its location;
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- (d) it will not have an adverse impact on the natural or built heritage; and
- (e) it will not result in detrimental impact on the amenity of residential dwellings outside

the holding or enterprise including potential problems arising from noise, smell and pollution.

Firstly, DAERA were consulted and confirmed the farm business is active and established. With regards to cirteira A the agent has stated that there is a need for the building for the storage of fodder and machinery as this is the first building on the farm that will be within the applicants ownership. It was agreed that there is a need for the building.

In terms of character and scale the shed is to be 4metres high and will be a common style of farm shed for its location and given its siting back from the public road, it is appropriate for its location and will integrate into the landscape. I am content it will not have an adverse impact on the natural or built heritage.

The proposal will be used for the storage of fodder and machinery and any approval granted can be conditioned to ensure that no manure or livestock is to be housed within the shed in order to protect amenity of nearby neighbours and will not cause any issues with smell and pollution.

As the proposal is for a new building, the applicant is also required to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

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

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

As the proposal is to be the first agricultural building on the holding, the proposal cannot comply with the above policy requirements. The policy is silent on the provision for first agricultural buildings and as such this proposal fails to meet the policy criteria. Should members be minded to approve this proposal, it should be noted that this is the only reason the application fails to meet policy CTY 12.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I am content the proposal will integrate with existing boundaries being retained, allowing the building to blend with the landform and existing trees. Additional planting is required, but I am content it does not rely solely on new planting for integration.

Policy CTY 14 states that Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned, I am content the proposal will not be a

prominent feature in the landscape. The proposal is using an existing laneway so this will have no impact on the surrounding area.

**PPS 3: Access, Movement and Parking**

DfI Roads were consulted on the proposal and offered no objection, subject to conditions.

**Other Material Considerations**

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building if approved, would not be sited beside existing farm buildings.

**Signature(s):** Ciaran Devlin

**Date:** 24 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 18 October 2022 |
| <b>Date First Advertised</b>   | 1 November 2022 |
| <b>Date Last Advertised</b>  | 1 November 2022 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>4C Dunmurry Road Draperstown Londonderry BT45 7ED<br>The Owner / Occupier<br>9 Five Mile Straight Draperstown Londonderry BT45 7EB<br>The Owner / Occupier<br>4 Five Mile Straight Draperstown Londonderry BT45 7EB<br>The Owner / Occupier<br>6 Five Mile Straight Draperstown Londonderry BT45 7EB<br>The Owner / Occupier<br>4A Five Mile Straight Draperstown Londonderry BT45 7EB |                 |
| <b>Date of Last Neighbour Notification</b>   | 26 October 2022 |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2019/0661/F<br>Proposals: Dwelling and garage<br>Decision: PG<br>Decision Date: 31-JUL-19<br><br>Ref: H/2005/0868/RM<br>Proposals: Dwelling and Garage<br>Decision: PG<br>Decision Date: 14-OCT-05<br><br>Ref: LA09/2022/1509/F<br>Proposals: Proposed Farm Storage Shed<br>Decision:<br>Decision Date:<br><br>Ref: LA09/2020/1445/O   |                 |

Proposals: Replacement dwelling and garage

Decision: PG

Decision Date: 12-FEB-21

Ref: LA09/2021/0753/RM

Proposals: Replacement dwelling and garage

Decision: PG

Decision Date: 15-JUL-21

Ref: LA09/2018/0782/O

Proposals: Dwelling and garage

Decision: PG

Decision Date: 11-DEC-18

Ref: LA09/2019/1242/F

Proposals: Relocation of dwelling & change of house type from approval

LA09/2019/0661/F. Increase site curtilage

Decision: PG

Decision Date: 14-JAN-20

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx

DAERA - Coleraine-Consultee Response LA09-2022-1509-F.DOCX

### **Drawing Numbers and Title**

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.30   |
| <b>Application ID:</b><br>LA09/2022/1572/O   | <b>Target Date:</b> 24 February 2023  |
| <b>Proposal:</b><br>Proposed site for 2 storey dwelling  | <b>Location:</b><br>Between No's 8 And 14 Drumvale Avenue<br>Cookstown                              |
| <b>Referral Route:</b> Approve is recommended  |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>Mr Fergal Eastwood<br>146 Morgan's Hill Road<br>Cookstown<br>BT80 8BT  | <b>Agent Name and Address:</b><br>Mr Christopher Quinn<br>11 Dunamore Road<br>Cookstown<br>BT80 9NR |
| <b>Executive Summary:</b><br><br>This outline application is brought to the planning committee with a recommendation for approval. It should be noted that the applicant received outline planning permission for the same proposal on the same site on 06/11/2017.<br><br>The objection received in this case maintains that part of the visibility splays cross land owned by the client without their consent. It is advised that the granting of any planning permission does not confer title and it is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.<br><br>The application site contains TPOs. A Tree Survey, Habitat Survey Report and Construction Method Statement have all been submitted by the agent and relevant consultations responses provided in light of these. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                              | Response   |
|-------------------------|--|--|
| Statutory Consultee     | DFI Roads - Enniskillen Office         | RS1 Form a (1).doc<br>Roads Consultation outline approval.docx |
| Non Statutory Consultee | NI Water - Single Units West           | LA09-2022-1572-O.pdf   |
| Statutory Consultee     | Historic Environment Division (HED)    |  |
| Statutory Consultee     | Historic Environment Division (HED)    |  |
| Non Statutory Consultee | MUDC Environment and Conservation Team | AG TPO.docx  |
| Statutory Consultee     | Historic Environment Division (HED)    |  |

### Representations:

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

|  |  |
|--|--|
| Number of Petitions of Objection and signatures  |  |
| <b>Summary of Issues</b> <p>This outline application is brought to the planning committee with a recommendation for approval. It should be noted that the applicant received outline planning permission for the same proposal on the same site on 06/11/2017. The objection received in this case maintains that part of the visibility splays cross land owned by the client without their consent. It is advised that the granting of any planning permission does not confer title and it is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development. The application site contains TPOs. A Tree Survey, Habitat Survey Report and Construction Method Statement have all been submitted by the agent and relevant consultations responses provided in light of these.</p>  |  |
| <b>Characteristics of the Site and Area</b> <p>The site of the proposed development is located within the Cookstown settlement limit, and subject to local landscape policy area 1, as defined in the Cookstown Area Plan 2010. This is a 0.27 hectare area woodland site located in an existing residential cul-de-sac, which consists of detached and semi-detached 2 storey dwellings located on generous plot sizes. The cul-de-sac is identified as Drumvale Avenue, which can be found off the A505 Drum Road. The site sits between nos. 8 and 14 Drumvale avenue. The site topography is flat and is dense with vegetation in the form of mature trees. There is an existing right of way access to dwellings nos. 59 and 61 which runs adjacent to the site along the northern outside edge of the red line (see R.O.W marked yellow on site location map). There is a second existing through access to dwellings nos. 59 and 61 which intersects the application site area from Drumvale Park to the two dwellings (see through access marked green on site location map). West of the site area is the Greenvale Hotel, though this is completely screened from view by the existing vegetation at the site.</p> |  |
| <b>Description of Proposal</b> <p>This is an outline application for the proposed site for a 2 storey dwelling. This application follows a 2017 outline approval at the same site (see planning history).</p>  |  |
| <b>Planning Assessment of Policy and Other Material Considerations</b> <p><b><u>Policy Consideration</u></b></p> <p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p><b><u>Cookstown Area Plan 2010</u></b></p>   |  |



The site of the proposed development is located within the Cookstown settlement limit, and subject to local landscape policy area 1, as defined in the Cookstown Area Plan 2010.

#### **LLPA 1 Ballinderry River**

The site lies north of the Ballinderry River and falls on the inside edge of this landscape designation. Within this area, there will be a presumption against new development apart from change of use to outdoor leisure and recreational uses or development that is ancillary to the enjoyment of the open space. An exception to the above is the possible redevelopment, including suitable alternative land uses, of areas containing existing development. Proposals may be acceptable provided they do not detract from the intrinsic value of the designated area. The proposed represents what is essentially a gap site development in an otherwise built up residential cul-de-sac. I am content that the proposed will not detract from the intrinsic value of this designated area.

The Cookstown Area Plan CON8 deals with the protection of trees. Permission will only be granted where identified trees are protected and appropriately integrated into development proposals where such proposals will not significantly damage root systems / adequate separation distance is achieved between buildings and trees.

Mid Ulster District Council's Environment and Conservation Team have reviewed the submitted CMS, Tree Survey and Habitat Survey Report and are content with the proposed measures to protect, conserve and manage the existing protected trees. A number of planning conditions in relation to tree protection are provided should planning permission be granted in this case.

#### **Relevant Histories**

LA09/2017/0160/O – Between No's 8 and 14 Drumvale Avenue Cookstown BT80 8QZ – Proposed site for 2 Storey Dwelling – Permission Granted – 06/11/17

LA09/2016/0170/O – Between 8 and 14 Drumvale Avenue Drum Road Cookstown – Proposed site for dwelling and garage – Permission Refused – 15/06/16

#### **Representations**

One third party representation has been received. Kearney Sefton Solicitors (on behalf of their client Reamar Properties Limited of 57 Drum Road Cookstown) object to the proposal on the basis that part of the visibility splays allegedly cross land owned by the client and the client does not consent to such visibility splays crossing their property.

The granting of any planning permission does not confer title and it is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development. It is advised that the contents of the objection letter amount to a civil dispute which falls out width the scope of planning.

#### **Other Constraints**

The site is located 160 metres north of the Ballinderry River (Area of Special Scientific

Interest). As discussed, it is not expected that the proposed will detract from the intrinsic value of this designated area.

The site is not adjacent to any listed buildings. It is worth noting that HED were initially consulted with the understanding that the adjacent Greenvale Hotel is a listed building as this flagged up on the system. Mid Ulster District Council's Environment and Conservation Team has confirmed that the building is not listed and therefore a response from HED is not necessary to process this application.

The site comprises a small woodland area subject to TPOs. This application was accompanied with the submission of a Tree Survey Report, Habitat Survey Report and Construction Method Statement. The Mid Ulster District Council's Environment and Conservation Team were consulted and provided no objection to the proposed.

There are no issues pertaining to flooding at the site.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

#### SPPS – Strategic Planning Policy Statement for Northern Ireland

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

#### Planning Policy Statement 7: Quality Residential Environments

The principle of development has been established at this site under LA09/2017/0160/O. Given the objection received in this application and in the interest of reaffirmation, the application is assessed against Policy QD 1 of PPS 7 Quality in new Residential Environments.

Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable. The following is an assessment of the proposal against the nine criteria:

- a) This is an outline application and therefore details of the layout, scale,

proportions, massing and appearance of the proposed dwelling are withheld for the reserved matters stage. I am satisfied that a site of this size can accommodate a dwelling that can be designed in such a way as to respect the surrounding residential context.

- b) There are no features of archaeological or built heritage.
- c) As the development is for 1 dwelling, the provision of public amenity space is not a requirement. The proposal will allow the provision of a minimum area of private amenity space greater than 40m<sup>2</sup>.
- d) The proposal is for a single dwelling and therefore the provision of neighbourhood facilities are not deemed necessary within the site.
- e) The site is within the settlement development limits of Cookstown and therefore will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;
- f) Given this is an outline application, details of proposed private parking provision are not provided. I am content that a site of this size can accommodate private parking provision.
- g) As this is an outline application, design has not been considered.
- h) The site location plan provides an approximate position for the dwelling. The design and layout are withheld until reserved matters stage. The ability to retain the trees will somewhat negate from the closer than usual position of the proposed dwelling to its neighbour at no. 8. Nevertheless it is not expected that the approximate position of the dwelling will have a negative impact on neighbouring amenity and privacy.
- i) I am content that a suitably designed dwelling provided at reserved matters stage can deter crime by ensuring there are no areas which are unsupervised or overlooked.

The proposed complies with Policy QD 1 of PPS 7 at this outline stage.

#### Planning Policy Statement 2: Natural Heritage

The principle of development has been established at this site under LA09/2017/0160/O. Given the objection received in this application and in the interest of reaffirmation, the application is assessed against Policy NH5 of PPS 2 Natural Heritage.

Policy NH5 of PPS 2 provides that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable impact or damage to natural heritage features, including trees.

Given the proposed site contains protected trees, the applicant has submitted a Tree Survey. A Habitat Survey Report and Construction Method Statement has also been submitted for consideration.

Mid Ulster District Council's Environment and Conservation Team have reviewed the CMS, Tree Survey and Habitat Survey Report and are content with the proposed measures to protect, conserve and manage the existing protected trees. A number of planning conditions in relation to tree protection are provided should planning permission be granted in this case.

Given this is the same proposal as was granted planning permission under the LA09/2017/0160/O approval, it was not deemed necessary to consult SES and NIEA. Both SES and NIEA provided no objections in the previous approval.

I am content that the proposed complies with Policy NH5 of PPS 2.

#### Planning Policy Statement 3: Access, Movement and Parking

DFI Roads were consulted and, in their response, stated they have no objection subject to a condition requiring a scale plan and accurate site survey at 1:500 (minimum) to be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the RS1.

#### Other Material Planning Considerations

NI Water were consulted on the proposed development and have recommended the proposal be refused due to the receiving foul sewage network having reached its capacity. However following a discussion with senior planners it was agreed this can be dealt with via a condition being applied to ensure that prior to the commencement of any development a Waste Water impact assessment must be submitted to the council for consultation with NI Water and EH.

#### Recommendation

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

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

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

#### Condition 2

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

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

#### Condition 3

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

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

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

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

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

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

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

#### Condition 4

All proposed tree works shall be carried out in accordance with the submitted Construction Method Statement received on 11 January 2023 and in accordance with BS 5837:2012.

Reason: To ensure protection of trees within the site.

#### Condition 5

A Tree Management and maintenance plan for a minimum of 5 years shall be submitted at Reserved Matters stage and prior to the commencement of any development or works in site and shall be agreed in writing with the Council in accordance with BS 3998:2010.

Reason: To ensure protection of trees within the site.

**Condition 6**

A tree constraint plan to scale 1:500 shall be submitted at Reserved Matters or Full planning application stage, clearly illustrating root protection area for all protected trees.

Reason: To ensure protection of trees within the site.

**Condition 7**

A tree protection plan to scale 1:500 shall be submitted at Reserved Matters or Full planning application stage, clearly indicating position of required protective fencing.

Reason: To ensure protection of trees within the site.

**Condition 8**

All proposed tree works must be carried out in accordance with BS 3998:2010 Tree Works - Recommendations.

Reason: To ensure protection of trees within the site.

**Condition 9**

No building materials shall be stored within the construction exclusion zone or root protection area of any protected tree. No fires shall be lit within the construction exclusion zone or root protection area of any protected tree.

Reason: To ensure protection of trees within the site.

**Condition 10**

No development shall commence on site until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

Reason: In the interests of residential amenity and to ensure there is a satisfactory means of sewage disposal.

**Signature(s):** Benjamin Porter

**Date:** 21 March 2023

|   |                  |
|---|------------------|
| <b>ANNEX</b>  |                  |
| <b>Date Valid</b>   | 11 November 2022 |
| <b>Date First Advertised</b>  | 22 November 2022 |
| <b>Date Last Advertised</b>   | 22 November 2022 |
| <b>Details of Neighbour Notification</b> (all addresses)<br><br>The Owner / Occupier<br>3 Drumvale Avenue Cookstown Tyrone BT80 8QZ<br>The Owner / Occupier<br>14 Drumvale Avenue Cookstown Tyrone BT80 8QZ<br>The Owner / Occupier<br>61 Drum Road Cookstown Tyrone BT80 8QS<br>The Owner / Occupier<br>59 Drum Road Cookstown Tyrone BT80 8QS<br>The Owner / Occupier<br>57 Drum Road Cookstown Tyrone BT80 8QS<br>The Owner / Occupier<br>2 Drumvale Avenue Cookstown Tyrone BT80 8QZ<br>The Owner / Occupier<br>4 Drumvale Avenue Cookstown Tyrone BT80 8QZ<br>The Owner / Occupier<br>6 Drumvale Avenue Cookstown Tyrone BT80 8QZ<br>The Owner / Occupier<br>8 Drumvale Avenue Cookstown Tyrone BT80 8QZ |                  |
| <b>Date of Last Neighbour Notification</b>  | 6 December 2022  |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2017/0367/O<br>Proposals: Proposed Dwelling<br>Decision: PG<br>Decision Date: 08-SEP-17<br><br>Ref: I/2005/0098/O<br>Proposals: 1 dwelling  |                  |

Decision: PG  
Decision Date: 11-MAR-05

Ref: LA09/2015/0991/F  
Proposals: Proposed change of use from offices to proposed chiropractor clinic to existing Grade B1 listed gate lodge  
Decision: PG  
Decision Date: 13-JAN-16

Ref: I/1988/0199  
Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING  
Decision: PG  
Decision Date:

Ref: I/1998/0018  
Proposals: Proposed Change of use from Dwelling to Offices  
Decision: PG  
Decision Date:

Ref: I/1988/0200  
Proposals: EXTENSION AND IMPROVEMENTS TO DWELLING  
Decision: PG  
Decision Date:

Ref: LA09/2015/0998/LBC  
Proposals: Proposed change of use from offices to proposed chiropractor clinic to existing Grade B1 Listed Gate Lodge  
Decision: CG  
Decision Date: 13-JAN-16

Ref: I/1991/0397  
Proposals: Boundary Wall  
Decision: PG  
Decision Date:

Ref: I/2002/0841/F  
Proposals: Proposed extension and alterations to dwelling  
Decision: PG  
Decision Date: 22-FEB-03

Ref: I/1977/0298  
Proposals: DWELLING  
Decision: PG  
Decision Date:

Ref: I/1977/029802



Proposals: SITE FOR DWELLING

Decision: PG

Decision Date:

Ref: I/1977/029801

Proposals: 2 NON-SUBSIDY BUNGALOWS

Decision: PG

Decision Date:

Ref: I/2007/0512/O

Proposals: Demolition of existing dwelling and replacement with 2 no. semi-detached dwellings and 2 no. detached dwellings

Decision: PG

Decision Date: 27-APR-09

Ref: I/2002/0185/F

Proposals: Extension to dwelling, garage, wall raised

Decision:

Decision Date:

Ref: LA09/2017/1286/F

Proposals: Proposed retention of change of use from Retail Sales and plant hire back to its former use as Vehicle Repair Garage

Decision: PG

Decision Date: 27-MAR-18

Ref: I/2011/0496/F

Proposals: Retention of change of use from domestic store to fuel sales and hire business including retention of office building used in conjunction with business

Decision:

Decision Date:

Ref: I/2014/0022/LDE

Proposals: Retail sales & plant hire with ancillary storage & distribution

Decision: PG

Decision Date: 02-APR-14

Ref: I/1977/0138

Proposals: TWO NON-SUBSIDY BUNGALOWS

Decision: WITHDR

Decision Date:

Ref: I/1985/0245

Proposals: ERECTION OF WALL TO HOTEL PREMISES

Decision: PG

Decision Date:

Ref: I/1992/4062

Proposals: Kiosk Type Sub Station

Decision: PDNOAP

Decision Date:

Ref: I/1994/0125

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: I/1979/0395

Proposals: IMPROVEMENTS TO BUNGALOW

Decision: PG

Decision Date:

Ref: I/1995/0342

Proposals: Proposed Dwelling and Garage

Decision: WITHDR

Decision Date:

Ref: I/1999/0321

Proposals: Proposed 2 detached dwelling and garages

Decision: PG

Decision Date:

Ref: I/2007/0639/F

Proposals: Single storey sun room to rear of dwelling.

Decision: PG

Decision Date: 19-NOV-07

Ref: I/2004/0572/O

Proposals: Proposed site for dwelling & garage

Decision: PG

Decision Date: 17-SEP-04

Ref: I/2004/1355/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 20-JAN-05

Ref: I/1992/0407

Proposals: Renovation and extension to dwelling

Decision: PG

Decision Date:

Ref: I/2006/1268/LDP

Proposals: The only building work is a pitched roof replacing a flat roof on the existing working kitchen at the rear of the dwelling

Decision: PG

Decision Date: 02-AUG-07

Ref: I/1976/0256

Proposals: ERECTION OF CAR PARK.

Decision: PG

Decision Date:

Ref: I/1976/0358

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/2000/0143/F

Proposals: Extension to a dwelling

Decision: PG

Decision Date: 15-APR-00

Ref: I/2005/0877/F

Proposals: New garden wall & gates to front of dwelling

Decision: PG

Decision Date: 10-AUG-05

Ref: I/2008/0791/F

Proposals: Proposed first floor extension to side of existing dwelling

Decision: PG

Decision Date: 16-FEB-09

Ref: I/2005/1041/F

Proposals: Conversion of existing internal garage into playroom

Decision: PG

Decision Date: 26-SEP-05

Ref: I/2007/0429/F

Proposals: Proposed sun room to rear of existing dwelling

Decision: PG

Decision Date: 16-AUG-07

Ref: I/1978/0117

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/2005/0696/F

Proposals: New garden wall & gates to front of dwelling

Decision:

Decision Date:

Ref: I/1998/0044

Proposals: Erection of Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/2002/0750/F

Proposals: Proposed conversion of garage into living room

Decision: PG

Decision Date: 18-DEC-02

Ref: I/1995/0298

Proposals: Garage and Alterations to Dwelling

Decision: PR

Decision Date:

Ref: I/2002/0646/A41

Proposals: Proposed conversion of garage into living room

Decision: 208

Decision Date: 16-OCT-02

Ref: I/2004/0683/F

Proposals: Proposed extension to the rear of dwelling

Decision: PG

Decision Date: 25-SEP-04

Ref: I/2007/0006/O

Proposals: Proposed housing development

Decision: PR

Decision Date: 20-SEP-07

Ref: I/2008/0642/F

Proposals: Proposed single storey rear extension and loft conversion to dwelling and replacement garage

Decision: PG

Decision Date: 17-NOV-08

Ref: I/2008/0100/F

Proposals: Proposed single storey rear extension and loft conversion to dwelling

Decision: PG

Decision Date: 07-JUL-08

Ref: I/2002/0201/A41

Proposals: Extension to rear of dwelling

Decision: 205

Decision Date: 10-APR-02

Ref: I/1979/0003

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/2007/0411/F

Proposals: Proposed first floor, front and rear extensions

Decision: PG

Decision Date: 18-SEP-07

Ref: I/2009/0356/F

Proposals: Alterations to entrance of hotel function hall to provide additional toilets, cloaks and entrance lobby.

Decision: PG

Decision Date: 26-MAY-10

Ref: I/1982/0243

Proposals: INTERNAL IMPROVEMENTS TO BASEMENT

Decision: PG

Decision Date:

Ref: I/1982/0206

Proposals: TEMPORARY FUNCTION ROOMS

Decision: PG

Decision Date:

Ref: I/1984/0426

Proposals: REPLACEMENT OF TEMPORARY FUNCTION ROOM WITH PERMANENT STRUCTURE, INCLUDI

Decision: PG

Decision Date:

Ref: I/1987/0050

Proposals: REBUILDING OF FORMER FUNCTION ROOM AND BEDROOM BLOCK (TYRONE SUITE)

Decision: PG

Decision Date:

Ref: I/1987/0355

Proposals: TEMPORARY FUNCTION ROOM

Decision: PG

Decision Date:

Ref: I/1977/0127

Proposals: TOILET BLOCK (GLENAVON HOTEL)

Decision: PG

Decision Date:

Ref: I/1977/0154

Proposals: EXTENSION FOR FUNCTION ROOM, ADDITIONAL BAR  
ACCOMMODATION AND TOILETS AT

Decision: PG

Decision Date:

Ref: I/1987/0034

Proposals: REBUILDING OF FUNCTION ROOM (GLENAVON COURT)

Decision: PG

Decision Date:

Ref: I/2012/0399/F

Proposals: Retention of 3 No. 75mm Litre LPG Tanks

Decision: PG

Decision Date: 14-FEB-13

Ref: I/1987/0013

Proposals: TEMPORARY BUILDING FOR DINING AND BAR FACILITY

Decision: PG

Decision Date:

Ref: I/1993/0273

Proposals: Extension of foyer of function room and erection of  
Toilet Block

Decision: PG

Decision Date:

Ref: I/1993/0297

Proposals: Extension to Store and Office Accommodation for Hotel

Decision: PG

Decision Date:

Ref: I/1981/0117

Proposals: 2 NO 150 SQUARE FEET SPLIT LEVEL DWELLINGS

Decision: PR

Decision Date:

Ref: I/2008/0622/F

Proposals: Telecommunications development consisting of the installation of 1 No. 12m

high Streetworks pole, 3 No. Tri-sector shrouded antenna (1.9m high), 1 No 0.3 diameter dish and 1 No 3107 equipment cabinet

Decision: PG

Decision Date: 16-DEC-08

Ref: I/1983/0080

Proposals: ERECTION OF DWELLING

Decision: PR

Decision Date:

Ref: I/1984/0240

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: I/1979/0173

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/1990/0017

Proposals: Non-Illuminated Free Standing Sign

Decision: PG

Decision Date:

Ref: LA09/2019/1339/TPO

Proposals: Consent for works to a TPO

Decision: WTPOG

Decision Date: 14-NOV-19

Ref: I/1977/0150

Proposals: EXTEND EXISTING GARDEN CENTRE

Decision: PG

Decision Date:

Ref: I/1978/0172

Proposals: EXTENSION TO GARDEN CENTRE

Decision: PG

Decision Date:

Ref: I/1988/0018B

Proposals: Residential Development

Decision: PG

Decision Date:

Ref: I/1991/6076

Proposals: Residential Development Westland Road South / Drum Road Cookstown

Decision: QL

Decision Date:

Ref: I/1990/0011

Proposals: 2 No Semi\_Detached Dwellings

Decision: WITHDR

Decision Date:

Ref: I/1990/0195

Proposals: Erection of wall to front of Historic Building

Decision: PG

Decision Date:

Ref: I/1990/0196

Proposals: Alterations to existing estate entrance and erection of wall to the front of Historic Building

Decision: PG

Decision Date:

Ref: I/1994/0401

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1995/0413

Proposals: Proposed 2 No.dwellings and garages

Decision: WITHDR

Decision Date:

Ref: I/1996/0262

Proposals: Dwelling and garage

Decision: PG

Decision Date:

Ref: I/1975/0357

Proposals: SALES AREA FOR FLOWERS, SHRUBS, GARDEN EQUIPMENT AND TOOLS, AND AREA FOR

Decision: PG

Decision Date:

Ref: I/1996/0128

Proposals: 2 No Semi-detached dwellings

Decision: PG

Decision Date:



Ref: I/1991/0372

Proposals: Proposed entrance to approved building sites

Decision: PR

Decision Date:

Ref: I/1990/0536

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1992/0400

Proposals: 2 No. detached dwellings and garages

Decision: PG

Decision Date:

Ref: I/1992/0109

Proposals: 4 No. Semi-detached dwellings and garages, including new estate road.

Decision: PR

Decision Date:

Ref: I/1994/6011

Proposals: 4 No Dwellings Drum Road Cookstown

Decision: QL

Decision Date:

Ref: I/1994/0264

Proposals: Dwelling and Garage (Amended)

Decision: PG

Decision Date:

Ref: I/1996/0512

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: I/1994/0359

Proposals: Dwelling and Garage

Decision: PR

Decision Date:

Ref: I/2004/0341/F

Proposals: Proposed 2no two storey dwellings, one with integral garage and one with detached garage

Decision: PG

Decision Date: 18-SEP-04

Ref: I/2002/0367/O

Proposals: Proposed site for dwelling

Decision: PG

Decision Date: 15-AUG-02

Ref: I/1996/0540

Proposals: Site for dwelling

Decision: PG

Decision Date:

Ref: I/1980/0232

Proposals: TWO NO NON-SUBSIDY DWELLING HOUSES

Decision: PG

Decision Date:

Ref: I/1984/0241

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: I/1990/0535

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1992/0466

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: I/1986/0033

Proposals: CONVERSION OF EXISTING GARAGE TO PLAYROOM AND ERECTION OF NEW GARAGE

Decision: PG

Decision Date:

Ref: I/1993/4022

Proposals: Domestic Garage

Decision: PAPREQ

Decision Date:

Ref: I/1994/0005

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: LA09/2019/1102/PAD

Proposals: Proposed residential development

Decision: PAD

Decision Date: 01-JAN-20

Ref: I/1998/0314

Proposals: Alterations to function room

Decision: PG

Decision Date:

Ref: I/2004/1186/F

Proposals: Bedroom Extension; alterations to hotel entrance and lobby areas; external terrace (Amended Drawings)

Decision: PG

Decision Date: 10-AUG-05

Ref: I/1983/0050

Proposals: FUNCTION ROOM

Decision: PG

Decision Date:

Ref: I/1982/0279

Proposals: EXTENSION TO HOTEL

Decision: PG

Decision Date:

Ref: I/1992/6052

Proposals: Extension Glenavon House Hotel Drum Road Cookstown

Decision: PREA

Decision Date: 10-MAR-93

Ref: I/1987/0126

Proposals: Z

Decision: HISAPP

Decision Date:

Ref: I/2007/0951/F

Proposals: Extension to Glenavon House Hotel Tyrone suite, Adair suite, Cellar restaurant, fitness suite, first floor bedrooms & associated parking facilities (acoustic report).

Decision: PG

Decision Date: 28-OCT-08

Ref: I/1982/0054

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: WITHDR

Decision Date:

Ref: I/1991/0263

Proposals: Extension to Hotel to provide Country Club, bedroom and conference facilities

Decision: PG

Decision Date:

Ref: I/1976/0420

Proposals: TEMPORARY FUNCTION ROOM

Decision: PG

Decision Date:

Ref: I/1981/0102

Proposals: MEETING ROOM AND OFFICE

Decision: PG

Decision Date:

Ref: I/1986/0456

Proposals: EXTENSION TO HOTEL

Decision: WITHDR

Decision Date:

Ref: I/1987/0210

Proposals: Z

Decision: HISAPP

Decision Date:

Ref: I/1997/0178

Proposals: Wedding/Conference Room

Decision: PG

Decision Date:

Ref: LA09/2015/1038/F

Proposals: Extension to hotel

Decision: PG

Decision Date: 15-DEC-15

Ref: I/1986/0362

Proposals: NEW ENTRANCE

Decision: PG

Decision Date:

Ref: I/1980/0251

Proposals: PROPOSED STORE

Decision: PG  
Decision Date:

Ref: I/1986/0310  
Proposals: EXTENSION TO FUNCTION ROOM  
Decision: WITHDR  
Decision Date:

Ref: I/2014/0045/F  
Proposals: Proposed extension to boiler room  
Decision: PG  
Decision Date: 27-MAY-14

Ref: I/2014/0235/F  
Proposals: Propsed minor alteration to hotel  
Decision:  
Decision Date:

Ref: I/1986/0322  
Proposals: EXTENSION TO HOTEL  
Decision: WITHDR  
Decision Date:

Ref: I/2014/0286/F  
Proposals: Replacement first floor walkway  
Decision: PG  
Decision Date: 08-OCT-14

Ref: LA09/2019/0813/F  
Proposals: Proposed Demolition of Hotel and replacement with 5 No detached Dwellings and Garages  
Decision:  
Decision Date:

Ref: LA09/2016/0855/F  
Proposals: Proposed Extension to Hotel  
Decision: PG  
Decision Date: 13-SEP-16

Ref: I/1999/0517/F  
Proposals: Retail Warehouse Development  
Decision: PG  
Decision Date: 10-NOV-00

Ref: I/2006/0503/F  
Proposals: Change of use application from existing retail warehouse to child activity

centre with additional mezzanine level constructed internally.

Decision: PG

Decision Date: 13-SEP-06

Ref: I/1994/0270

Proposals: Retail Warehouse Development

Decision: PG

Decision Date:

Ref: I/1996/0323

Proposals: Site for Housing Development

Decision: WITHDR

Decision Date:

Ref: LA09/2017/0160/O

Proposals: Proposed site for 2 Storey Dwelling

Decision: PG

Decision Date: 06-NOV-17

Ref: I/1993/0291

Proposals: 3 Display Signs (Non-Illuminated)

Decision: PG

Decision Date:

Ref: LA09/2016/0170/O

Proposals: Proposed site for dwelling and garage

Decision: PR

Decision Date: 15-JUN-16

Ref: I/2007/0977/F

Proposals: Proposed extension to existing creche to replace existing temporary portacabin (amended P2 ownership details)

Decision:

Decision Date:

Ref: I/1991/0081

Proposals: Extension to creche

Decision: PG

Decision Date:

Ref: I/1997/0473

Proposals: Extension to Creche Site and Erection of Portacabin

Decision: PG

Decision Date:

Ref: I/1989/0248

Proposals: Change of Use from Vacant Dwelling to Creche

Decision: PG

Decision Date:

Ref: LA09/2017/1651/LDE

Proposals: Existing Mobile used for after school children attending the Creche

Decision: PG

Decision Date: 26-JAN-18

Ref: I/2014/0051/F

Proposals: Proposed extension to dwelling.

Decision: PG

Decision Date: 14-APR-14

Ref: I/1993/0409

Proposals: Extension to Creche

Decision: PG

Decision Date:

Ref: I/1983/0079

Proposals: ERECTION OF DWELLING

Decision: PR

Decision Date:

Ref: I/1994/0364

Proposals: Dwelling and Garage

Decision: PR

Decision Date:

Ref: I/1990/0557

Proposals: Free Standing Sign

Decision: PG

Decision Date:

Ref: I/1992/0150

Proposals: Residential Development (Amended Layout)

Decision: PG

Decision Date:

Ref: I/2010/0554/F

Proposals: Installation of sewer connection network and associated waste water treatment works

Decision:

Decision Date:

Ref: I/2007/0946/F

Proposals: Proposed housing development consisting of 87 residential units, comprising a mixture of detached, semi-detached dwellings and apartments.  
Decision: PG  
Decision Date: 20-JAN-12

Ref: I/1996/0245  
Proposals: 3 No Dwellings Garages and Estate Roadway  
Decision: PG  
Decision Date:

Ref: I/2006/0976/F  
Proposals: Proposed Dwelling  
Decision: PR  
Decision Date: 20-SEP-07

Ref: I/2008/0099/F  
Proposals: Alteration to change garage to ground floor bedroom  
Decision: PG  
Decision Date: 16-APR-08

Ref: I/2010/0227/F  
Proposals: Amendment to previous planning permission I/2008/0102/F (10 no. 3 storey dwellings) to allow for minor alterations to approved finished floor levels, ridge height and ground levels and amended description to 10 no. 2 storey dwellings.  
Decision: PG  
Decision Date: 26-JAN-11

Ref: I/2008/0102/F  
Proposals: Proposed 10 no.3 storey townhouses  
Decision: PG  
Decision Date: 18-JAN-10

Ref: I/2004/0276/F  
Proposals: Proposed 3 no detached dwellings and garages  
Decision: PG  
Decision Date: 17-MAY-04

Ref: I/2002/0238/F  
Proposals: 2 No. Detached Dwellings  
Decision: PG  
Decision Date: 18-JUL-02

Ref: LA09/2020/0817/F  
Proposals: 2 storey side extension & single storey rear extension to dwelling  
Decision: PG  
Decision Date: 13-OCT-20



Ref: I/2014/0236/F

Proposals: Conversion of existing attached garage to living accommodation & extension above to provide first floor bedroom

Decision: PG

Decision Date: 20-OCT-14

Ref: I/1999/0191

Proposals: Proposed 3 No. Dwellings and Garages

Decision: PG

Decision Date:

Ref: I/1997/0158

Proposals: 2 No. Dwellings and Garages

Decision: PG

Decision Date:

Ref: I/2001/0698/F

Proposals: 3 No Detached dwellings and garages

Decision: PG

Decision Date: 17-JUN-02

Ref: I/1999/0544/F

Proposals: Construction of 2no semi-detached dwellings and repositioning of 4no detached dwellings.

Decision: PG

Decision Date: 03-MAY-00

Ref: I/2002/0386/F

Proposals: Proposed entrance walls and railings to Westbury Park.

Decision: PG

Decision Date: 22-AUG-02

Ref: I/1995/0345

Proposals: Proposed Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/2005/1153/F

Proposals: Alterations to existing dwelling to include conversion of existing garage to living accommodation

Decision: PG

Decision Date: 23-NOV-05

Ref: I/1999/0207

Proposals: Proposed 2 No. Detached Dwellings and Garages

Decision: PG  
Decision Date:

Ref: I/1996/0573  
Proposals: 2 no. dwellings  
Decision: PG  
Decision Date:

Ref: LA09/2017/1243/F  
Proposals: Single storey side extension to dwelling  
Decision: PG  
Decision Date: 07-NOV-17

Ref: I/1995/0147  
Proposals: Erection of 18 No Dwellings and Garages  
Decision: PG  
Decision Date:

Ref: I/2011/0187/F  
Proposals: Proposed 3 no. terraced dwellings, and 4 no. semi-detached dwellings  
Decision: PG  
Decision Date: 25-APR-12

Ref: I/2004/0694/F  
Proposals: Proposed 16 no Apartments  
Decision: PG  
Decision Date: 25-JUN-07

Ref: I/2002/0191/F  
Proposals: Extension to dwelling & new garage  
Decision: PG  
Decision Date: 20-MAY-02

Ref: I/1995/0270  
Proposals: Road improvement scheme  
Decision: PG  
Decision Date:

Ref: I/1994/6101  
Proposals: Proposed change of house type Homing Drive Westland Road Cookstown  
Decision: QL  
Decision Date:

Ref: I/2002/0777/F  
Proposals: Proposed 4 No. Apartments  
Decision: PG

Decision Date: 02-DEC-03

Ref: I/2002/0778/F

Proposals: Proposed 2 No. apartment blocks containing 4 no. apartments each.

Decision: PG

Decision Date: 20-NOV-03

Ref: I/1999/0156

Proposals: Proposed 2 No. Semi-Detached Dwellings

Decision: PG

Decision Date:

Ref: I/1994/0404

Proposals: Change of house type (52 semi-detached dwellings)

Decision: PG

Decision Date:

Ref: I/2014/0089/F

Proposals: Proposed 4No Semi Detatched Dwellings

Decision: PG

Decision Date: 05-JUN-15

Ref: I/2008/0496/F

Proposals: Proposed 4 No. apartments

Decision: PG

Decision Date: 30-OCT-09

Ref: I/1996/0395

Proposals: Dwellings and Garages

Decision: PG

Decision Date:

Ref: I/1996/0488

Proposals: Re-position of hammer head and 3 no. semi - detached dwellings

Decision: PG

Decision Date:

Ref: LA09/2016/1778/NMC

Proposals: Change in finished floor level to 3 of the semi-detached dwellings (under approval I/2014/0089/F)

Decision: CG

Decision Date: 13-FEB-17

Ref: I/1985/037901

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: PG  
Decision Date:

Ref: I/1985/0379  
Proposals: PRIVATE HOUSING DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: I/2005/1322/F  
Proposals: Retrospective planning permission for alterations to existing industrial building to include ancillary offices and external fire escape stairs.  
Decision: PG  
Decision Date: 08-MAR-06

Ref: I/1996/0098  
Proposals: Extension to Factory  
Decision: PG  
Decision Date:

Ref: I/1995/0362  
Proposals: Erection of Factory for manufacture of M.D.F. Mouldings  
Decision: WITHDR  
Decision Date:

Ref: I/2001/0831/F  
Proposals: Single Storey Extension to Existing Workshop for Manufacture of Timber Mouldings  
Decision: PG  
Decision Date: 14-MAY-02

Ref: I/1977/007801  
Proposals: CONVERSION OF LICENSED RESTAURANT TO HOTEL  
Decision: PG  
Decision Date:

Ref: I/1977/0258  
Proposals: 4 NO BUNGALOWS  
Decision: WITHDR  
Decision Date:

Ref: I/1977/0078  
Proposals: CONVERSION OF LICENSED RESTAURANT TO HOTEL  
Decision: PG  
Decision Date:

Ref: I/1991/0090

Proposals: Extension to Hotel

Decision: PR

Decision Date:

Ref: I/1999/0024

Proposals: Proposed Extension to Existing Storage Unit

Decision: PG

Decision Date: 14-MAY-01

Ref: I/2010/0045/F

Proposals: Proposed extension to premises for storage, office and display area.

Decision: PG

Decision Date: 25-MAY-10

Ref: LA09/2020/0231/F

Proposals: Renewal of existing planning permission I/2015/0040/F

Decision: PG

Decision Date: 07-JUL-20

Ref: I/2015/0040/F

Proposals: Proposed extension to premises for storage, office and display area (renewal of existing planning permission)

Decision: PG

Decision Date: 15-MAY-15

Ref: I/1994/0281

Proposals: Reinstatement of fire damaged premises

Decision: PG

Decision Date:

Ref: I/2006/1232/F

Proposals: Demolition of existing workshop, store and offices as shown and replace with 4 no. new workshops/ stores and offices

Decision: PR

Decision Date: 26-MAR-08

Ref: I/1992/0377

Proposals: Change of use from furniture factory to Go-cart track

Decision: PG

Decision Date:

Ref: I/1991/0108

Proposals: Extension to Hotel

Decision: PR

Decision Date:

Ref: I/1994/0006

Proposals: Extension to Warehouse

Decision: PG

Decision Date:

Ref: I/1991/0424

Proposals: Change of use from store to warehouse, offices and store with extension to front

Decision: PG

Decision Date:

Ref: I/1994/0091

Proposals: Extension to store

Decision: PG

Decision Date:

Ref: LA09/2016/1532/F

Proposals: Proposed extension to hotel to provide new Foyer and Lift

Decision: PG

Decision Date: 06-FEB-17

Ref: I/2002/0530/O

Proposals: Domestic Dwelling

Decision: PG

Decision Date: 24-OCT-02

Ref: I/1982/0171

Proposals: CONVERSION OF EXISTING STORE TO DWELLING

Decision: PR

Decision Date:

Ref: I/1983/0191

Proposals: CONVERSION OF STORE TO DWELLING

Decision: PG

Decision Date:

Ref: I/1999/0493/O

Proposals: Domestic dwelling

Decision: PG

Decision Date: 18-JAN-00

Ref: I/2008/0014/O

Proposals: Proposed site for dwelling

Decision: PG

Decision Date: 27-MAY-08

Ref: I/2000/0617/F

Proposals: Change of Use from Old Mill to dwelling house

Decision:

Decision Date:

Ref: I/2013/0158/F

Proposals: Erection of smoking area on existing flat roof at entrance to function room

Decision: PG

Decision Date: 30-SEP-13

Ref: I/2003/0018/F

Proposals: Change of use from an old mill store to a dwelling

Decision: PG

Decision Date: 04-MAY-04

Ref: I/1975/0076

Proposals: ERECTION OF PRIVATE RESIDENCES FOR OWNERS AND ADMINISTRATIVE STAFF

Decision: PG

Decision Date:

Ref: I/1975/007601

Proposals: ERECTION OF 2 NO DWELLING HOUSES

Decision: PG

Decision Date:

Ref: I/2008/0001/F

Proposals: Single storey bay window extension to front of dwelling.

Decision: PG

Decision Date: 14-MAY-08

Ref: I/1993/6068

Proposals: Proposed Retail Units Omagh Road Cookstown

Decision: PRER

Decision Date: 16-DEC-93

Ref: I/1984/0359

Proposals: CAR PARK AND YARD

Decision: PG

Decision Date:

Ref: I/2007/0981/F

Proposals: Proposed bay window extension to dwelling.

Decision: PG

Decision Date: 19-MAR-08

Ref: I/2006/0849/F  
Proposals: GF Extension to include wc room and lobby  
Decision: PG  
Decision Date: 21-DEC-06

Ref: I/2005/0911/LDP  
Proposals: Ground Floor WC & WHB  
Decision: PG  
Decision Date: 18-JUL-05

Ref: I/1979/0231  
Proposals: FURNITURE FACTORY  
Decision: PG  
Decision Date:

Ref: I/1990/0268  
Proposals: Dwelling and Garage  
Decision: PR  
Decision Date:

Ref: LA09/2019/0142/F  
Proposals: Proposed extension to rear of dwelling.  
Decision: PG  
Decision Date: 13-MAR-19

Ref: I/1975/0048  
Proposals: CONVERSION OF ATTIC ACCOMMODATION TO BEDROOMS  
Decision: PG  
Decision Date:

Ref: I/2010/0470/A  
Proposals: Free standing sign  
Decision: CG  
Decision Date: 24-JUN-11

Ref: LA09/2019/0764/PAN  
Proposals: Proposed residential development  
Decision: PANACC  
Decision Date: 24-JUN-19

Ref: I/2014/0203/A  
Proposals: Banner  
Decision:  
Decision Date:

Ref: LA09/2022/1094/F



Proposals: Proposed residential development of 48 dwellings and associated development. Scheme to include the formation of a new main access to Old Rectory Park off Sandholes Road and the closing-up of the existing access road.

Decision:

Decision Date:

Ref: LA09/2022/1572/O

Proposals: Proposed site for 2 storey dwelling

Decision:

Decision Date:

Ref: LA09/2022/1106/F

Proposals: Proposed Replacement Dwelling and Carport

Decision:

Decision Date:

Ref: LA09/2022/1588/F

Proposals: single storey flat roof extension to front of existing dwelling to provide open plan kitchen/dining/living area

Decision:

Decision Date:

Ref: I/2005/1251/F

Proposals: Proposed dwelling and garage (amended plans).

Decision: PG

Decision Date: 08-MAR-06

Ref: LA09/2015/1291/F

Proposals: Proposed dwelling and detached garage

Decision: PG

Decision Date: 07-APR-16

Ref: I/1993/0024

Proposals: Site for dwelling

Decision: PR

Decision Date:

Ref: I/2011/0283/F

Proposals: Demolition of existing conservatory and replacement with one and a half storey extension.

Decision: PG

Decision Date: 14-OCT-11

Ref: I/1987/0440

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2018/0313/RM

Proposals: Proposed dwelling

Decision: PG

Decision Date: 21-JUN-18

Ref: I/2006/0772/O

Proposals: Proposed 4no semi detached dwellings and garage

Decision: PR

Decision Date: 09-JAN-07

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-RS1 Form a (1).docRoads Consultation outline approval.docx

NI Water - Single Units West-LA09-2022-1572-O.pdf

Historic Environment Division (HED)-

Historic Environment Division (HED)-

MUDC Environment and Conservation Team-AG TPO.docx

Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.31   |
| <b>Application ID:</b><br>LA09/2022/1686/O  | <b>Target Date:</b> 20 March 2023   |
| <b>Proposal:</b><br>Dwelling and garage   | <b>Location:</b><br>61 Ballynakilly Road<br>Coalisland<br>BT71 6JJ                                      |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Mr Terry McCann<br>62 Ballynakilly Road<br>Coalisland<br>BT71 6JJ | <b>Agent Name and Address:</b><br>Karen Mollaghan<br>89 Main Street<br>Garvagh<br>Coleraine<br>BT51 5AB |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response          |
|---------------------|--------------------------------|-------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Outline resp.docx |

### Representations:

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

### Summary of Issues

No representations received. Contrary to CTY 2a of PPS 21.

### Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the south east of the settlement limits of Coalisland and the North west of Ballynakilly and outside all areas of constraint as depicted by the DSTAP 2010. The site lies along the main Ballynakilly road and the red line includes a portion of lands set back from the roadside. The site had a

post and wire fence along rear boundary and is enclosed along the N and S sides by the existing buildings which enclose the existing yard area.

### **Description of Proposal**

Outline planning permission is sought for dwelling and garage under CTY 2a of PPS 21.

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

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 63, 65, 61A, 61 and 63A Ballynakilly Road. At the time of writing, there were no representations received.

##### Planning History

There is not considered to be any relevant planning associated with the site itself.

There is relevant planning history associated with the land to the east and is discussed throughout the report.

LA09/2021/1350/F - Lands To The Rear Of 61 Ballynakilly Road, Coalisland - Extension to existing yard with new shed for proposed expansion of existing established vehicle mechanic business – PERMISSION GRANTED

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

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 3: Access, Movement and Parking
- PPS 21: Sustainable Development in the Countryside
- Local Development Plan 2030 - Draft Plan Strategy

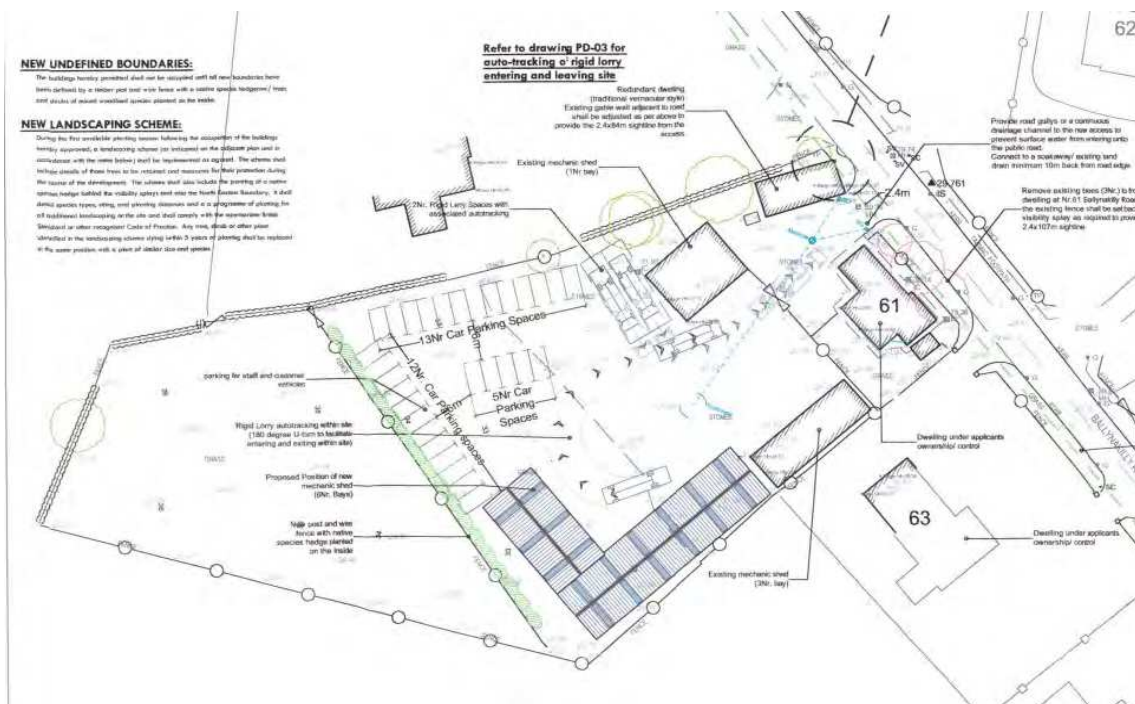
The Dungannon and South Tyrone 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided 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

dwelling. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. The cluster appears easily as a visual entity in the local landscape. The site is not associated with any focal point nor is it located at a crossroads and thus fails on this criterion.

The identified site is also not considered to be bounded on two sides. There was a recent approval for expansion of the mechanics yard (under LA09/2021/1350/F) which appears to have one part of the shed recently constructed but not the main bulk which would bound this application site and the development to the north mainly bounds the access arrangement to this site, rather than the actual site. The approved site layout plan is shown below in figure 1. Photo 1 shows the photograph provided from the agent which shows what has been built on site.

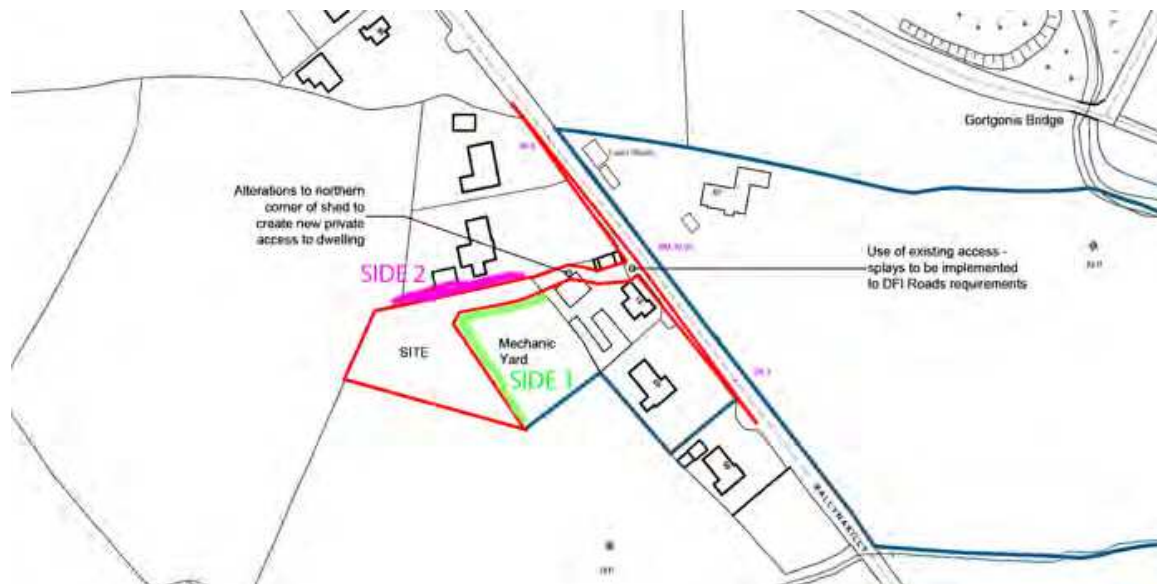


**Figure 1 – the development which was approved, which should provide bounding to the east of the site however not all of what was approved was evident on site yet. See Photo 1 below.**



**Photo 1 – Shows a portion of the development approved under LA09/2021/1350/F constructed.**

Figure 2 below shows what the agent provided when asked where they felt the site was bounded on two sides by development. As noted before, if the development which was approved previously was constructed on site I would be content that it was bounded on this end, however the northern boundary is still only slightly bounded and mainly is the access which bounds with development to the north. It is my consideration that the proposed development may extend slightly but overall could be absorbed into the existing cluster without significantly altering the existing character or adversely impacting on the residential amenity. I am content a dwelling could be designed within the red line of the site which would avoid issues such as privacy or overlooking concerns with neighbouring properties.



**Figure 2 – The agent provided this map to highlight where they felt the development was bounded on two sides.**

It is also necessary for the proposal to be considered against the requirements of CTY 13 and CTY 14 of PPS 21, whereby it 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. This proposal is for an outline application thus no design has been stipulated at this time however given the character of the area and noting that the dwellings at either side of the red line of the site either single or 1.5 storey, I feel a ridge height restriction of 6m would be appropriate should approval be forthcoming. The existing landscaping will be conditioned to be retained where possible with full details of proposed landscaping along the remainder of the boundaries to also be included with the RM application.

The proposal intends to create a new access onto Ballynakilly Road, DfI Roads were consulted and have raised no concerns subject to condition.

Having considered all of the above, I consider that the development fails on some of the

criterion held within CTY 2a of PPS 21 and as such is recommended for refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and is not located at a cross-roads. 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 visually intrude into the open countryside.

**Signature(s):** Sarah Duggan

**Date:** 24 May 2023



| <b>ANNEX</b>  |                  |
|---|------------------|
| <b>Date Valid</b>   | 5 December 2022  |
| <b>Date First Advertised</b>  | 22 December 2022 |
| <b>Date Last Advertised</b>   | 22 December 2022 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>63 Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>65 Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>61A Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>59A Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>59 Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>62 Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>61 Ballynakilly Road Coalisland Tyrone BT71 6JJ<br>The Owner / Occupier<br>63A Ballynakilly Road Coalisland Tyrone BT71 6JJ |                  |
| <b>Date of Last Neighbour Notification</b>  | 23 March 2023    |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | <events screen>  |
| <b><u>Planning History</u></b>  |                  |
| <b>Summary of Consultee Responses</b>   |                  |
| DFI Roads - Enniskillen Office-Outline resp.docx  |                  |

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.32  |
| <b>Application ID:</b><br>LA09/2022/1687/F   | <b>Target Date:</b> 20 March 2023  |
| <b>Proposal:</b><br>Retention of commercial access and extension to storage yard approved under LA09/2021/0899/F   | <b>Location:</b><br>30 Tullyodonnell Road<br>Rock<br>Dungannon<br>BT70 3JE   |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mr Paul McGoldrick<br>30 Tullyodonnell Road<br>Rock<br>Dungannon<br>BT70 3JE | <b>Agent Name and Address:</b><br>Mrs Carol Gourley<br>Unit 7 Cookstown Enterprise Centre<br>Sandholes Road<br>Cookstown<br>BT80 9LU |
| <b>Executive Summary:</b>  |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response   |
|-------------------------|---|--|
| Statutory Consultee     | Rivers Agency                           | Substantive reply - 05/05/2023291526 - Final reply.pdf |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Roads Consultation full approval.docx                  |
| Statutory Consultee     | Rivers Agency                           | 906081 - Final reply.pdf                               |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | Planning response.pdf                                  |
| Statutory Consultee     | DFI Roads - Enniskillen Office          |  |
| Non Statutory Consultee | Environmental Health Mid Ulster Council |  |

### Representations:

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

## **Summary of Issues**

One representations has been received in relation to this application and relates to the following issue:-The location of the proposed extension opposite the objectors entrance. Although the objector states that they do not want the proposed development being located opposite the entrance to their house. They did not elaborate on why or raise any specific reason for the objection. It is noted that both Environmental Health and DfI Roads have not raised issues of concern with regards to noise, dust or road safety.

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

The proposal site is located in the rural countryside, outside any settlement limits defined within the Cookstown Area Plan 2010. The designated settlement limits of the village of the Rock are located south of the application site. The surrounding area is rural in character with the predominant land use being agricultural fields, however residential dwellings are located east of the application site. St Patrick GAC grounds and Sacred Heart RC Church are located a short distance to the south. The proposed site comprises a hard-cored portion of land adjacent to a number of industrial buildings. The site is accessed via large metal gates directly on to Tullyodonnell Road. A river runs adjacent to the site along the western boundary. The topography of the site is relatively flat.

## **Description of Proposal**

The proposal, is for the 'Retention of commercial access and extension to storage yard approved under LA09/2021/0899/F'.

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

### **Policy Consideration**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The following documents provide the primary policy context for the determination of this application: Regional Development Strategy 2030 Strategic Planning Policy Statement for Northern Ireland Cookstown Area Plan 2015 Planning Policy Statement 3: Access, Movement and Parking Planning Policy Statement 4: Planning and Economic Development The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight. Representations Press advertisement and neighbour notification has been carried out in line with the Council's statutory duty. At the time of writing, one third party objection was received as noted above. History on Site LA09/2020/1579/LDE -

Retention of No 2 workshops, ancillary canteen building, mobile office building and ancillary commercial yard - 30 Tullydonnell Road, Dungannon, BT70 3JE - Permitted Development LA09/2021/0402/F - Retention of workshop, storage building, portable office cabin & machine testing shed used in association with established engineering business (certified under LA09/2020/1579/LDE) - Approved

21.01.2022 LA09/2021/0899/F - Retention of hardcore area used in association with established engineering business (certified under LA09/2020/1579/LDE) - Approved

31.08.2022 Key Policy Considerations/Assessment The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Cookstown Area Plan 2015 - The site lies in the rural countryside outside any designated settlement with no other specific designations or zonings. The Strategic Planning Policy Statement for Northern Ireland states that the guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. SPPS does not introduce any new policy considerations which would impact on the assessment of this proposal, as such existing policy will be applied.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4 - Planning and Economic Development. PPS 4 advises that economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' in the Planning (Uses Classes) Order (NI) 2015. The engineering use on site has been established through the previous granted CLUD application LA09/2020/1579/LDE which determined there was sufficient evidence to demonstrate that the business use and operational development of 2 workshops, ancillary canteen building, mobile office building and ancillary commercial yard was immune from enforcement action and therefore lawful. A further application was then approved under LA09/2021/0402/F for the retention of workshop, storage building, portable office cabin & machine testing shed used in association with established engineering business (certified under LA09/2020/1579/LDE). That approval extended the premises northwards up to the subject site. A further approval was granted under LA09/2021/0899/F for an extension to the yard to provide additional external storage for the business.

PPS4 - Policy PED 3 Expansion of an Established Economic Development Use in the Countryside states permission will be granted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of enterprise. In exceptional circumstances a major expansion will be granted where it is demonstrated that; -relocation of the enterprise is not possible for particular operational or employment reasons; -the proposal would make a significant contribution to the local economy; and -the development would not undermine rural character. In all

cases, measures to aid integration into the landscape will be required for both the extension and the existing site. The provision of a new boundary hedgerow along the northern and eastern boundaries, which has already been provided, will provide adequate screening of the site and allow the proposed storage area to integrate into the surrounding landscape. The proposal is for an extended yard area to accommodate outside storage of materials. The enlarged storage yard measures approximately 80m x 40m, which includes the existing yard measuring 40m x 35m, and is bounded by a post and wire fence with a new hedge planted in around the boundary. The proposal is located on a low lying site below road level and although there are views into the site on approach from the north, the provision of the boundary hedge will lessen the visual impact to an acceptable level. The proposed site will account for approximately 29% of the overall complex and is not considered to be a major expansion and therefore satisfies this policy. As well as the policy requirements of Policy PED 3, it is also necessary for the proposed development to comply with Policy PED 9. Policy PED 9: General Criteria for all Economic Development lists 13 criteria proposals should meet; a) the proposal is compatible with surrounding land use; An engineering firm is established on this site. The proposed expansion will assist in the efficient running of the existing business use in terms of operations carried out on site, as reflected in the P1 form. The proposed extension extends to the rear of the site, it is considered given the existing use which has approval, the proposal is compatible for this site and locality. b) it does not harm the amenities of nearby residents; Environmental Health have not raised any objections with respect detrimental impact on nearby neighbours subject to conditions. Although one 3rd party objections has been received, this only stated that the objector was unhappy with the site being located opposite the entrance to their house. They did not elaborate on why or raise any specific reason for the objection. c) it does not adversely affect features of the natural or built heritage; No built or natural heritage designations have been identified in close proximity of the site. d) it is not located in an area at flood risk and will not cause or exacerbate flooding; It was noted that the application site appeared to be partially located within a floodplain therefore DfI Rivers Agency were consulted. Rivers Agency assessed the flood risk and drainage assessment and did not raise any issues of concern. e) it does not create a noise nuisance; Environmental Health advised that the nearest 3rd party sensitive receptor is located approx. 40m from this proposed development. To ensure residential amenity is not negatively impacted at this location, Environmental Health Department proposed a number of planning conditions. f) it is capable of dealing satisfactorily with any emission or effluent; Environmental Health have raised no concern that the proposal will not deal satisfactorily with any emission or effluent. As the proposal is for a storage yard, it is not anticipated that it will create any emission or effluent. g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified; DfI Roads did not raise any issues of concern. h) adequate access arrangements, parking and manoeuvring areas are provided; i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport; DfI Roads were consulted on this application and have responded with no objections subject to conditions. 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, associated infrastructure and landscape arrangements are acceptable for this site and locality given the existing

established business on site. k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;The provision of a substantial boundary hedgerow is proposed around the northern and eastern boundaries and in time will provide adequate screening to the site. The provision and retention of this hedgerow should be conditioned in any approval.i) is designed to deter crime and promote personal safety;It is the responsibility of the developer to ensure that the proposal is designed to deter crime and promote personal safety. There is an existing security fencing surrounding the original site while a new automatic gate and fence has been provide at the proposed access point onto the Tullyodonnell Road. m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.The proposal will satisfactorily integrate into the countryside as it will read with existing buildings and storage yard and existing and proposed landscaping will assist with screening.The proposal is, in my opinion, acceptable as it meets all the criteria of the above policies and therefore is considered to be capable of approval subject to the conditions listed below:-

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

Reason: This is a retrospective application.

#### **Condition 2**

The site hereby approved shall be used only for storage purposes in connection with the applicant's adjacent business and for no other purpose in Use Class B4 of the Schedule to the Planning (Use Classes) Order (NI) 2015.

Reason: To prohibit a change to an unacceptable use within this Use Class, to prevent the subdivision of the site and to protect nearby residential amenity from noise and odour.

#### **Condition 3**

The existing natural screenings along the northern and eastern boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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



**Condition 4**

If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

**Condition 5**

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

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

**Condition 6**

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 uploaded to the Planning Portal on 5th December 2022, within three months of the date of this decision notice. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 7**

There shall be no site operation at the proposed development site outside 08:00 hours - 18:00 hours Monday to Friday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

**Condition 8**

There shall be no deliveries or despatch of goods to the proposed development outside 08:00 hours - 18:00 hours Monday to Friday, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect nearby residential amenity from noise.

**Signature(s):** Malachy McCrystal

**Date:** 31 May 2023

| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 5 December 2022  |
| <b>Date First Advertised</b>   | 20 December 2022 |
| <b>Date Last Advertised</b>  | 20 December 2022 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>51 Tullyodonnell Road Dungannon Tyrone BT70 3JE<br>The Owner / Occupier<br>32 Tullyodonnell Road Dungannon Tyrone BT70 3JH   |                  |
| <b>Date of Last Neighbour Notification</b>   | 13 December 2022 |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: I/2005/0926/O<br>Proposals: Proposed dwelling and detached domestic garage<br>Decision: PG<br>Decision Date: 11-AUG-06<br><br>Ref: I/1976/0331<br>Proposals: EXTENSION TO LABOURER'S COTTAGES<br>Decision: PG<br>Decision Date:<br><br>Ref: I/1993/0296<br>Proposals: Dwelling<br>Decision: PG<br>Decision Date:<br><br>Ref: I/1996/0330<br>Proposals: Extension to dwelling<br>Decision: PG<br>Decision Date:<br><br>Ref: I/2005/0114/F<br>Proposals: Provision to enlarge existing bathroom to side of dwelling and provide new |                  |

store

Decision: PG

Decision Date: 15-MAR-05

Ref: LA09/2022/1687/F

Proposals: Retention of commercial access and extension to storage yard approved under LA09/2021/0899/F

Decision:

Decision Date:

Ref: LA09/2021/0402/F

Proposals: Retention of workshop, storage building, portable office cabin & machine testing shed used in association with established engineering business (certified under LA09/2020/1579/LDE).

Decision: PG

Decision Date: 21-JAN-22

Ref: I/2012/0185/F

Proposals: Proposed extension to garage to facilitate playroom and WC

Decision: PG

Decision Date: 03-JUL-12

Ref: I/2006/0960/F

Proposals: Renovation and extension of existing dwelling and garage

Decision:

Decision Date:

Ref: I/1986/0422

Proposals: 11 KV RURAL SPUR

Decision: PG

Decision Date:

Ref: I/1990/0241

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/2000/0511/F

Proposals: New Domestic Garage

Decision: PG

Decision Date: 05-OCT-00

Ref: I/1996/0412

Proposals: Renewal Of Planning Application I/93/0296

Decision: PG

Decision Date:

Ref: I/1998/0131

Proposals: Erection of Dwelling

Decision: PG

Decision Date:

Ref: I/1987/0242

Proposals: PROPOSED DWELLING

Decision: PG

Decision Date:

Ref: LA09/2021/0899/F

Proposals: Retention of hardcore area used in association with established engineering business (certified under LA09/2020/1579/LDE)

Decision: PG

Decision Date: 02-SEP-22

Ref: I/2001/0230/O

Proposals: Proposed dwelling

Decision: PR

Decision Date: 23-NOV-01

Ref: I/2004/0861/O

Proposals: Dwelling house

Decision: PR

Decision Date: 25-NOV-04

Ref: I/2007/0295/RM

Proposals: Proposed dwelling and detached domestic garage.

Decision: PG

Decision Date: 16-OCT-07

Ref: LA09/2018/0314/F

Proposals: Replacement of previous planning permission and foundation works I/2005/0926/O with an alternative site located approx 100m to the South of the original footprint

Decision: PG

Decision Date: 01-AUG-18

### **Summary of Consultee Responses**

Rivers Agency-Substantive reply - 05/05/2023291526 - Final reply.pdf

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

Rivers Agency-906081 - Final reply.pdf

Environmental Health Mid Ulster Council-Planning response.pdf

DFI Roads - Enniskillen Office-

Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

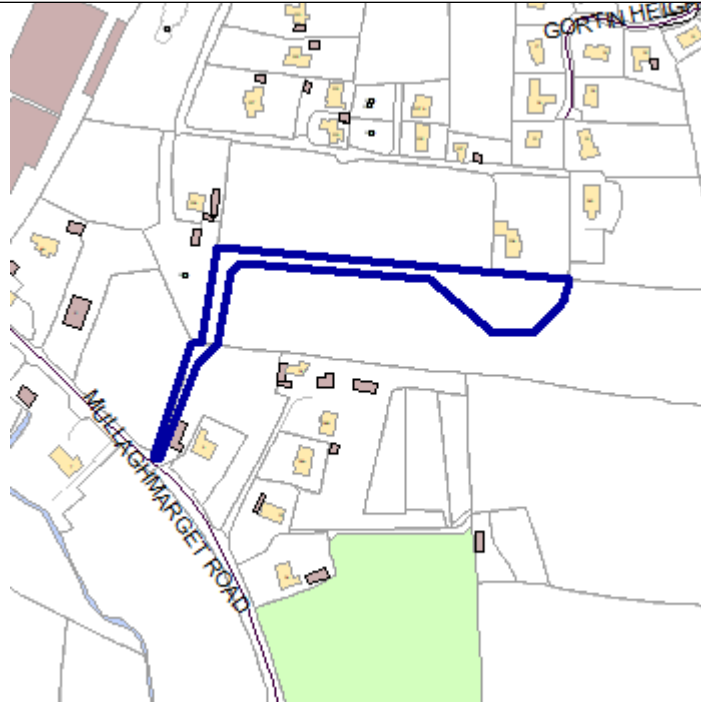


## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.33  |
| <b>Application ID:</b><br>LA09/2022/1730/O   | <b>Target Date:</b> 30 March 2023  |
| <b>Proposal:</b><br>Outline Planning Permission for Dwelling & Detached Garage (Replacement)   | <b>Location:</b><br>Approx 45M SW of 239 Coalisland Road<br>Dungannon                              |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mr JP Canavan<br>14 Mullaghmarget Road<br>Bush<br>Dungannon<br>BT71 6QX  | <b>Agent Name and Address:</b><br>Mr Eamonn Cushnahan<br>4 Glenree Avenue<br>Dungannon<br>BT71 6XG |
| <b>Executive Summary:</b><br><br>Planning, further to additional information received from the agent during the processing of this application, is reasonably content that the walls in the case of the dwelling on site are substantially complete in accordance with Policy CTY3 of PPS21. This is however a borderline case and as such is being presented to Committee for consideration to have a benchmark for substantially intact dwellings. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response  |
|-------------------------|--------------------------------|---|
| Statutory Consultee     | DFI Roads - Enniskillen Office | FORM RS1<br>STANDARD.docDC<br>Checklist 1.docRoads<br>outline.docx                        |
| Non Statutory Consultee | Geological Survey NI (DfE)     | 3279 MUDC Planning.<br>Approx 45M SW of 239<br>Coalisland Road<br>Dungannon, BT71 6EP.doc |

### Representations:

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

### Summary of Issues



## Characteristics of the Site and Area

The site is located within the rural countryside, one field south of Edendork settlement limits, as identified in the Dungannon and South Tyrone Area Plan 2010.



Figs 1&2: Site outlined red and circled red to the south of Edendork settlement limits, respectively.



Fig 3: Site outlined red

The site is an irregular shaped plot cut from a much larger agricultural field. It occupies an elevated hilltop position in the surrounding landscape, set back approx. 250m from and accessed off the Mullaghmarket Road via an agricultural lane.

The site contains the remains of what appears to be a small derelict dwelling with a simple rectangular floor plan. It has no roof and partial stone walls. A chimney breast is visible in its most substantially complete north gable and red bricks are visible to a fireplace in its opposite south gable. See Figs 4, 5 & 6, further below.





Fig 4: Photo taken 1<sup>st</sup> December 2022 shows a perspective view of the dwelling to be replaced. This photo was taken from within the Planning Statement submitted alongside this application but depicts the dwelling on the date of site inspection.



Fig 5 & 6: Photos taken 1<sup>st</sup> December 2022 shows the chimney breast in dwellings north gable; and red bricks to a fireplace in the dwellings south gable, respectively. It is unclear if the grate in the second photo is associated with the fireplace. These photos were also taken from within the Planning Statement submitted alongside this application but depict the dwelling on the date of site inspection.

Views of the site are limited from the surrounding road network despite its elevated

position due to its substantial set back, the undulating topography of the area and the intervening vegetation and buildings in the wider vicinity that all come together to screen it. That said there will be a critical view of the site from the Mullaghteige Road at its junction with the Mullaghmarget Road, located approximately 350m west of the site.

Whilst the site is rural in nature bound largely by agricultural land interspersed with single detached dwellings and ancillary buildings, it overlooks development within the settlement limits of Edendork to its north and a small group of houses and ancillary buildings to its southwest. Whilst the lane serving the site passes along the curtilage of a few houses including nos. 8 Mullaghmarget Road; 229 Coalisland Road and 229A Coalisland Road the site itself sits immediately south of no. 239 Coalisland Road, a dormer bungalow (see Figs 7 & 8, below).



Figs 7 & 8: Views of no. 239 Coalisland Road from the west and east, respectively.

## Description of Proposal

This is an outline planning application for a proposed replacement dwelling and garage at lands approximately 45m southwest of 239 Coalisland Road Dungannon.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

## Planning Policy Statement 21: Sustainable Development in the Countryside Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### Relevant Planning History

N/A

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. To date no objections have been received from any interested third party.

### Consultations

1. DFI Roads were consulted in relation to access arrangements, movement and parking and have no objection to this proposal subject to standard conditions and informatives. Accordingly, I am content the access arrangements, can be conditioned, to comply with the requirements of PPS 3 Access, Movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines. GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI's "Shafts and Adits Database" indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

### Key Policy Considerations

Dungannon and South Tyrone Area Plan – The site is located in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside – Is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in CTY1 of PPS21 and include a replacement dwelling in accordance with Policy CTY3.

Policy CTY3 – Replacement Dwellings states planning permission will be granted for a



replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

Bearing in mind the above, whilst Planning was reasonable content based on the evidence submitted within the Planning Statement accompanying the application at the outset and having carried a site inspection that the building on site displays the essential characteristics of a small derelict dwelling with a simple rectangular floor plan as detailed in 'Characteristics of the Site and Area', Planning was not content its walls were substantially complete as such the proposal fail to meet the criteria of Policy CTY3. In coming to this conclusion Planning had considered the proposal against the Department's benchmark case in Armagh referred to within the then Minister for the Environment, Alex Attwood's Ministerial Statement titled 'Review into the operation of PPS21 Sustainable Development in the Countryside'.



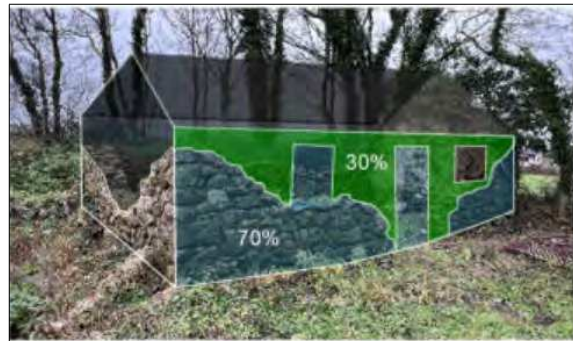
Fig 9: Image of Department's benchmark case in Armagh

The agent was advised of Planning's opinion above and subsequently submitted additional information to demonstrate that the dwelling to be replaced could be considered substantially intact for further consideration.

The agent detailed that his clients dwelling to be replaced is more intact than the Armagh benchmark set by the Department. That an extract from the Development Control Officer's Professional Planning Report in that case indicates the building would have been 2-storey and has been reduced in height to first floor level with the gables removed. That extract indicates it was a 2-storey dwelling with no gables or chimneys intact and no reference was made to internal features. That with the latter in mind it's reasonable to suggest that slightly less than 50% of the walls are intact.

Further to the above the agent provided images of what he believed the form and extent of the complete structure on site would have been and they demonstrate the dwelling to be replaced is circa 67.5% intact (see Figs 11 & 12, further below). He detailed that these images were informed by the existing gable that was fully intact bar the chimney

that he believed had been pushed into the footprint of dwelling to avoid the ‘chimney tax’ but which was still internally visible. That he has assumed the location of the door and windows from the typical form the Ulster Cottage would have taken and shown an image of a cottage which stands in the Ulster American Folk Park (see Fig 12, further below).



The image to the left is a study on the front wall (facing west) of the dwelling to be replaced.

Blue denotes: Structure intact  
Green denotes: Structure missing

We have calculated, if you omit a reasonable amount for the doorway and 2No. windows then, this wall is 70% intact.



The image to the left is a study on the gable wall (facing north) of the dwelling to be replaced.

Blue denotes: Structure intact  
Green denotes: Structure missing

We have calculated this wall to be 95% intact with only the upper most peke missing (chimney).

Fig 10: Images of what agent believes the form and extent of the complete structure on site would have been.



The image to the left is a study on the rear wall (facing east) of the dwelling to be replaced.

Blue denotes: Structure intact  
Green denotes: Structure missing

We have calculated this wall to be 65% intact. We have assumed that no windows existed in this rear wall.



The image to the left is a study on the rear wall (facing east) of the dwelling to be replaced.

Blue denotes: Structure intact  
Green denotes: Structure missing

We have calculated this wall to be 40% intact. It appears this gable also had a chimney which we suspect was demolished to avoid the ‘chimney tax’.

Fig 11: Images of what agent believes the form and extent of the complete structure on site would have been.





Fig 12: Cottage which stands in the Ulster American Folk Park

The agent advised he considered the proposal similar to the Armagh example in that the structure on site had long ago been a dwelling; it had no roof; while it had 4 walls, they are not 100% complete; and it had been completely overgrown with vegetation internally and externally but that it had been removed to allow assessment of the structure. He said that whilst the walls to the Armagh example are higher than those to this application it was originally a 2-storey dwelling therefore the assessment of whether the walls are substantially intact should be a comparison between what they currently are and what they were believed to have been. That the information we have on the 2-storey Armagh example would suggest its walls are slightly less than 50% intact and were considered substantially intact therefore it would be reasonable to consider at circa 67.5% intact the walls of the dwelling on site should be considered substantial intact. That his clients should not be penalised because their dwelling, when 100% intact and occupied, was smaller than that of the Armagh example.

Having taken account of the additional info above I consider the agent has made a valid argument and I am reasonably content that the walls in the case of the dwelling on site are substantially complete in accordance with Policy CTY3. This is however a borderline case, therefore whilst I have continued to detail below how it complies with remainder of the replacement criteria within Policy CTY3, I am presenting it to Committee for consideration to have benchmark for substantially intact dwellings.

I consider the curtilage created by the site around the dwelling to be replaced, given it does not have an established curtilage, reasonable by modern day standards. I believe a modest replacement dwelling on the site with a ridge height no greater than 6.5 metres above the highest existing ground level on the site to take account of the adjacent dwelling, no. 239 Coalisland Road, could integrate onto the site and into the surrounding landscape without having a significantly greater impact than the existing dwelling provided it be of an appropriate siting, size, scale and design. As detailed earlier in the 'Characteristics of the Site and Area' views of the site are limited from the surrounding road network despite its elevated position due to its substantial set back, the undulating topography of the area and the intervening vegetation and buildings in the wider vicinity that all come together to screen it. That said there will be a critical view of the site from the Mullaghteige Road at its junction with the Mullaghmarget Road, located

approximately 350m west of the site. This is a long-distance view from which a dwelling on site with a ridge height no greater than 6.5m above ground level should read with the adjacent dwelling to its north and some vegetation between the two properties to provide it with a sense of enclosure and balance in the landscape. Additional landscaping to new curtilage boundaries can also be sought to enclose the site in the interests of visual and residential amenity.

As this is an outline application the details of the siting, size, scale and design of the dwelling could be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should integrate onto the site in accordance with CTY13 and with minimal disruption to the rural character of the area in accordance with CTY14.

I'm content all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.

I believe a suitably designed scheme should not have any unreasonable impact on neighbouring properties in terms of overlooking or overshadowing, with particular attention given to no. 239 Mountjoy Road, given the separation distance that can be retained.

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

Flood Maps NI indicate no flooding on site.

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

**Taking all the above into consideration I would recommend the approval of this application.**

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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



be approved.

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

Condition 2

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

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

Condition 3

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

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

Condition 4

The dwelling hereby permitted shall not be commenced until the existing building, coloured green on approved Drawing No. 01 bearing the date stamp received 14 DEC 2022 has been demolished, and all rubble and foundations have been removed.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

Condition 5

The proposed dwelling shall have a ridge height no greater than 6.5 metres above the highest existing ground level on the site.

Reason: In the interest of visual and residential amenity.

Condition 6

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: In the interest of visual and residential amenity.

Condition 7

The existing natural screenings of this site, highlighted yellow on Drawing No. 01 bearing the date stamp received 14 DEC 2022, shall be permanently retained intact unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

Reason: In the interest of visual and residential amenity.

Condition 8

During the first available planting season following the commencement of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and a native species hedgerow to be planted along all new curtilage boundaries; and detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site to comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and native species.

Reason: In the interest of visual and residential amenity.

**Condition 9**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form attached to the DFI comments dated 26 JAN 2023 on the Planning Portal and shall include sight splays of 2.4m x 60m in both directions onto the public road and a 60m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s):** Emma Richardson

**Date:** 30 May 2023

|  |                  |
|--|------------------|
| <b>ANNEX</b>   |                  |
| <b>Date Valid</b>  | 15 December 2022 |
| <b>Date First Advertised</b>   | 3 January 2023   |
| <b>Date Last Advertised</b>  | 3 January 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>241 Coalisland Road Dungannon Tyrone BT71 6EP<br>The Owner / Occupier<br>7 Mullaghmarket Road Dungannon Tyrone BT71 6QX<br>The Owner / Occupier<br>229 Coalisland Road Dungannon Tyrone BT71 6EP<br>The Owner / Occupier<br>8 Mullaghmarket Road Dungannon Tyrone BT71 6QX<br>The Owner / Occupier<br>229A Coalisland Road Dungannon Tyrone BT71 6EP<br>The Owner / Occupier<br>239 Coalisland Road Dungannon Tyrone BT71 6EP<br>The Owner / Occupier<br>10 Mullaghmarket Road Dungannon Tyrone BT71 6QX |                  |
| <b>Date of Last Neighbour Notification</b>   | 22 May 2023      |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: M/2004/1149/O<br>Proposals: Proposed dwelling<br>Decision:<br>Decision Date:<br><br>Ref: M/1975/0209<br>Proposals: ERECTION OF DWELLING HOUSE<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1996/0171<br>Proposals: Dwelling  |                  |

Decision: PG  
Decision Date:

Ref: LA09/2022/1730/O  
Proposals: Outline Planning Permission for Dwelling & Detached Garage (Replacement)  
Decision:  
Decision Date:

Ref: M/1994/0475  
Proposals: Site for Dwelling  
Decision: WITHDR  
Decision Date:

Ref: LA09/2017/0334/O  
Proposals: 1 1/2 storey detached dwelling and detached garage  
Decision: PG  
Decision Date: 12-JUN-17

Ref: M/2012/0097/RM  
Proposals: Proposed two storey dwelling  
Decision: PG  
Decision Date: 23-APR-12

Ref: M/2008/1193/O  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 11-OCT-11

Ref: M/2008/1026/F  
Proposals: New roof covering to main roof, including new pitched roof above rear return (above kitchen and rear bedroom)  
Decision: PG  
Decision Date: 23-OCT-08

Ref: M/1995/0067  
Proposals: Site for dwelling  
Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docDC Checklist 1.docRoads outline.docx  
Geological Survey NI (DfE)-3279 MUDC Planning. Approx 45M SW of 239 Coalisland Road Dungannon, BT71 6EP.doc

|   |
|---|
|   |
| <b>Drawing Numbers and Title</b>  |
| Site Location Plan Plan Ref: 01<br>Site Layout or Block Plan Plan Ref: 02 |
| <b>Notification to Department (if relevant)</b>                           |
| Not Applicable  |

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

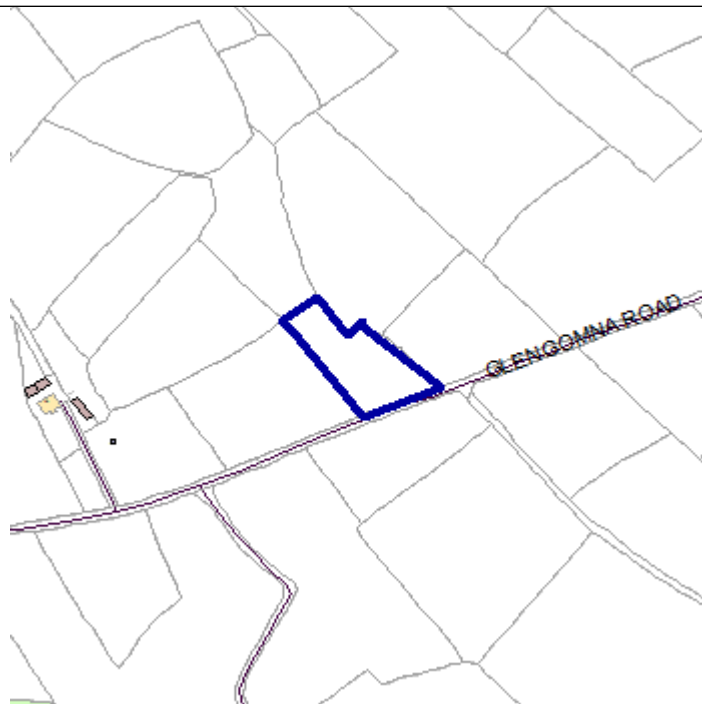


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.34   |
| <b>Application ID:</b><br>LA09/2022/1736/O  | <b>Target Date:</b> 30 March 2023   |
| <b>Proposal:</b><br>Proposed dwelling and garage  | <b>Location:</b><br>Approx 210M SE of 59 Glengomna Road<br>Draperstown<br>BT45 7JQ  |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Sean Donnelly<br>50 Killowen Drive<br>Magherafelt<br>BT45 6DS   | <b>Agent Name and Address:</b><br>TC Town Planning<br>Unit C12<br>The Business Centre<br>80-82 Rainey Street<br>Magherafelt<br>BT45 5AJ |
| <b>Executive Summary:</b><br><br>The proposed is for an outline dwelling and garage under Policy CTY 6 - Personal and Domestic Circumstances. With due sympathy to the circumstances of the case, It is recommended that the proposed be refused for the following reason:<br><br>It is deemed that there is insufficient evidence to suggest that a new dwelling at the proposed site is a necessary response to the particular circumstances of the case. The supporting statement would indicate that care can still be provided at the applicant's current address. It has been agreed that the proposed does not comply with Policy CTY 6 of PPS 21.<br><br>It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                           | Response          |
|---------------------|-------------------------------------|-------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office      | Outline resp.docx |
| Statutory Consultee | Historic Environment Division (HED) |                   |
| Statutory Consultee | Historic Environment Division (HED) |                   |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately

2.3 miles west and outside of the Draperstown settlement limit as defined in the Magherafelt Area Plan 2015. The red-lined site area is 0.36 hectares and encompasses the eastern section of a larger field which is also under the ownership of the applicant. The site occupies a roadside position, with the proposed access via the Glengomna Road. The site is surrounded by agricultural fields on all sides, with the existing boundaries along the northern, eastern and southern sections of the site marked by mature hedgerow with some scatterings of trees. The western red line boundary is unmarked. The site slopes gently up from the road. The wider rural environment consists mostly of agricultural fields, with a low and dispersed pattern of dwellings.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage. The application is submitted with a supporting statement for a dwelling under Policy CTY 6 - Personal and Domestic Circumstances of the PPS 21.

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

#### **Policy Consideration**

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

#### **Magherafelt Area Plan 2015**

The site of the proposed development is located in the rural countryside approximately 2.3 miles west and outside of the Draperstown settlement limit as defined in the Magherafelt Area Plan 2015. The site falls within the Sperrins AONB.

#### **Relevant Histories**

None

#### **Representations**

No third party representation have been received to date.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for Independent Examination. In light of this, the



draft Plan Strategy does not yet carry determining weight.

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling in the countryside for personal and domestic circumstances. This application is therefore assessed under Policy CTY 6 of PPS 21.

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

- a) The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
- b) There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

With regard to part A, It is accepted that the special personal circumstances of the applicant supported by the appropriate medical evidence has been provided in the statement of case. Details of the level of care required in relation to the medical conditions pertaining to the applicant is also provided, including the identity of the carers. However, an explanation that is sufficient enough as to why care can only be provided at the proposed site location and how genuine hardship would be caused if planning permission were refused is not forthcoming. The supporting statement would indicate that care can still be provided at the applicant's current address at Killowen Drive. The supporting statement only provides a case that the proposed site location on the Glengomna Road close to the brother's farm would be beneficial both for the applicant and the applicant's brother and sister-in-law. This is not what the policy asks. Rather, the policy asks that such sites be a necessary response to the particular circumstances with

an explanation as to why care can only be provided at this location.

With regard to part B, the supporting statement provides that some alternative solutions have been explored. The applicant had lived with his partner in Moneymore though due to his medical conditions could not settle. Consideration was given to living within the brother's farm cluster though it was deemed that this would still cause issues pertaining to the applicant's hyper-sensitivity to noise as detailed in the medical evidence. It does not appear that long-term rental opportunities have been explored by the applicant / carers.

Having assessed the statement of case with the senior planner it has been agreed that the proposed outline dwelling fails to meet Policy CTY 6 of PPS 21.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site is complete with long-established natural boundaries in the form of hedgerow with a decent backdrop of scatterings of trees along the northern boundary. It is therefore a site that would not rely primarily on the use of new landscaping. I am content that ancillary works and any future dwelling at the site could be designed in such a way as to integrate with the surrounding locality. The proposed complies with Policy CTY 13 at this outline stage.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. The proposed complies with Policy CTY 14 at this outline stage.

#### Planning Policy Statement 2 – Natural Heritage

Policy NH 6 of PPS 2 provides guidance on proposals sited within Areas of Outstanding Natural Beauty. The policy provides that planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality. I am content that the siting of the proposal utilizes the corner of a field and is sympathetic to the surrounding locality. This is an outline application, though any future reserved matters proposal at this site should be to a scale and design that is in keeping and sympathetic with the surrounding rural beauty by exhibiting local architectural styles, local materials, design and colours. The proposal complies with Policy NH 6 of PPS 2 at this outline stage.

#### Planning Policy Statement 3 – Access, Movement and Parking

The proposed outline involves the creation of a new access onto a public road. DfI Roads were consulted and, in their response, stated they have no objection subject to a condition. The proposal complies with Policy NH 6 of PPS 2 at this outline stage.

Recommendation

With due sympathy to the circumstances of this case, it is noted that the proposed fails to comply with Policy CTY 6 of PPS 21. It is therefore recommended that this application be refused.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case has not been provided.

**Signature(s):** Benjamin Porter

**Date:** 16 May 2023

| ANNEX   |                  |
|---|------------------|
| Date Valid  | 15 December 2022 |
| Date First Advertised   | 3 January 2023   |
| Date Last Advertised  | 3 January 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>57 Glengomna Road Draperstown Londonderry BT45 7JQ<br>The Owner / Occupier<br>59 Glengomna Road Draperstown Londonderry BT45 7JQ  |                  |
| Date of Last Neighbour Notification   | 22 December 2022 |
| Date of EIA Determination   |                  |
| ES Requested  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: H/2003/1468/F<br>Proposals: Proposed replacement dwelling.<br>Decision: PG<br>Decision Date: 11-OCT-04<br><br>Ref: H/1982/0110<br>Proposals: ALTERATIONS AND ADDITIONS TO HOUSE<br>Decision: PG<br>Decision Date:<br><br>Ref: H/1983/0342<br>Proposals: BUNGALOW<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2015/0510/O<br>Proposals: Proposed off site replacement chalet dwelling (offset due to lack of site curtilage and adjacent right of ways inhabits in-situ development)<br>Decision: PG<br>Decision Date: 01-DEC-15<br><br>Ref: LA09/2018/0567/RM |                  |

Proposals:

Off site replacement dwelling with a detached domestic garage

Decision: PG

Decision Date: 16-AUG-18

Ref: LA09/2018/1631/F

Proposals: Variation of condition No.3 , Retention of existing dwelling as a domestic store (Amended Description)

Decision: PG

Decision Date: 19-FEB-19

Ref: LA09/2021/1045/F

Proposals: Proposed sheep house / machinery store and domestic garage

Decision:

Decision Date:

Ref: H/2004/0538/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 24-NOV-05

Ref: H/2004/0534/O

Proposals: Site of dwelling and garage.

Decision:

Decision Date:

Ref: H/1978/0474

Proposals: HV O/H LINE

Decision: PG

Decision Date:

Ref: H/2010/0304/O

Proposals: Site of proposed dwelling and garage on a farm for residential purposes

Decision: PG

Decision Date: 28-SEP-10

Ref: H/1991/0158

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: LA09/2022/1736/O

Proposals: Proposed dwelling and garage

Decision:

Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
Historic Environment Division (HED)-  
Historic Environment Division (HED)-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

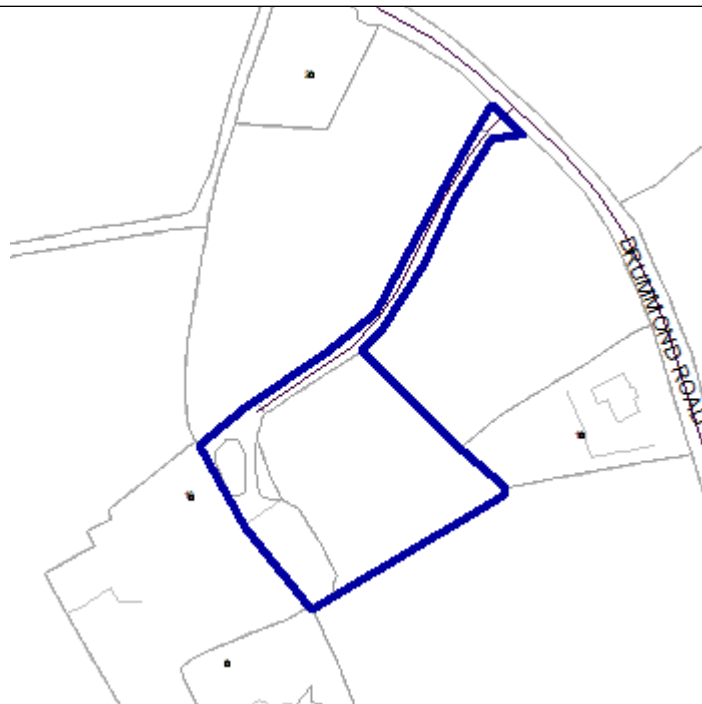


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.35   |
| <b>Application ID:</b><br>LA09/2022/1740/O  | <b>Target Date:</b> 31 March 2023   |
| <b>Proposal:</b><br>Site for farm dwelling and garage   | <b>Location:</b><br>50M East of 18 Drummond Road<br>Dungannon BT70 3JZ                      |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Mr Norman Watt<br>18 Drummond Road<br>Dungannon<br>BT70 3JZ   | <b>Agent Name and Address:</b><br>Mr Eamonn Moore<br>10 Knockmoyle<br>Cookstown<br>BT80 8XS |
| <b>Executive Summary:</b><br><br>As detailed in the main body of the report whilst Mr Watt is not the active farmer and therefore the proposal does not comply with Criterion (1) of CTY 10, I consider it reasonable that the site is for his son in law Mr Timothy Reid who has been the active and established farmer of the farmlands and buildings at 18 Drummond Road since 2015. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response              |
|-------------------------|--------------------------------|-----------------------|
| Statutory Consultee     | DFI Roads - Enniskillen Office | Outline resp.docx     |
| Non Statutory Consultee | DAERA - Omagh                  | LA09-2022-1740-O.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010, approx. 2.2km south of the Rock and approx. 3.2km west of the A29 road, a protected route between Cookstown and Dungannon.



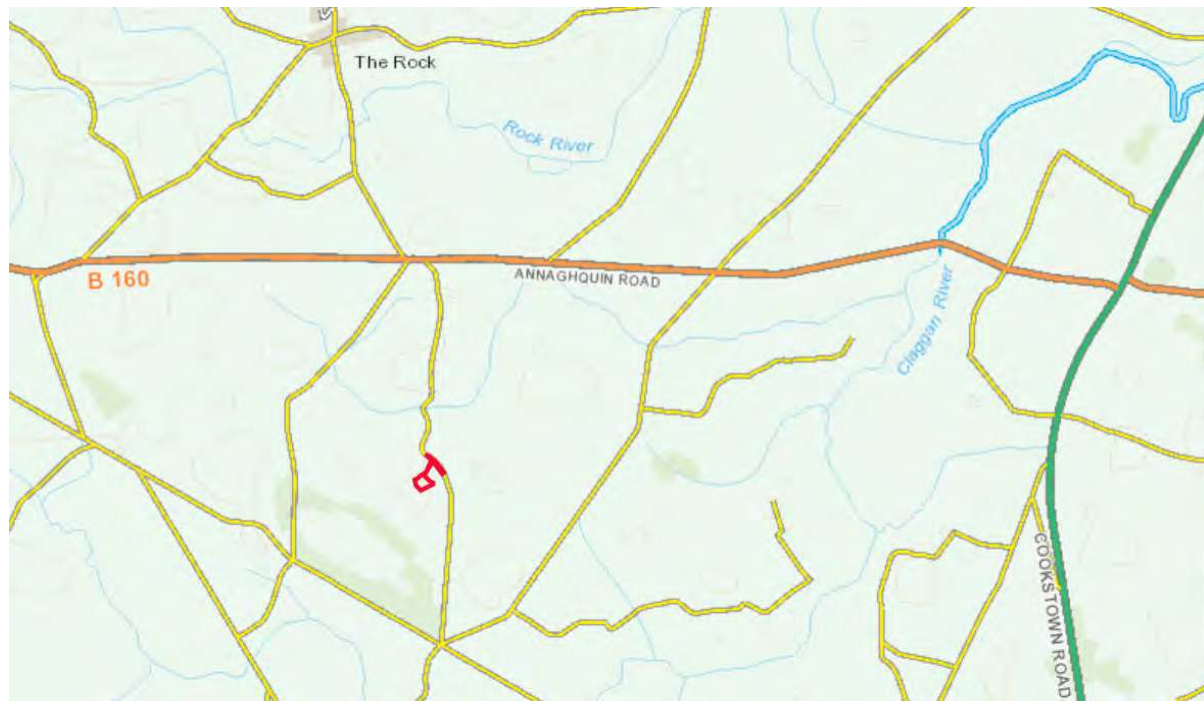


Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively square shaped plot comprising primarily the rear / southwest half of a large field situated adjacent the Drummond Road. It is set back from, elevated above, and accessed off the Drummond Road via an existing lane serving the applicant's farm holding located immediately southwest of the site at 18 Drummond Rd

(see Fig 3, below). The southwest part of the site includes a small portion of the applicant's adjacent farmyard.

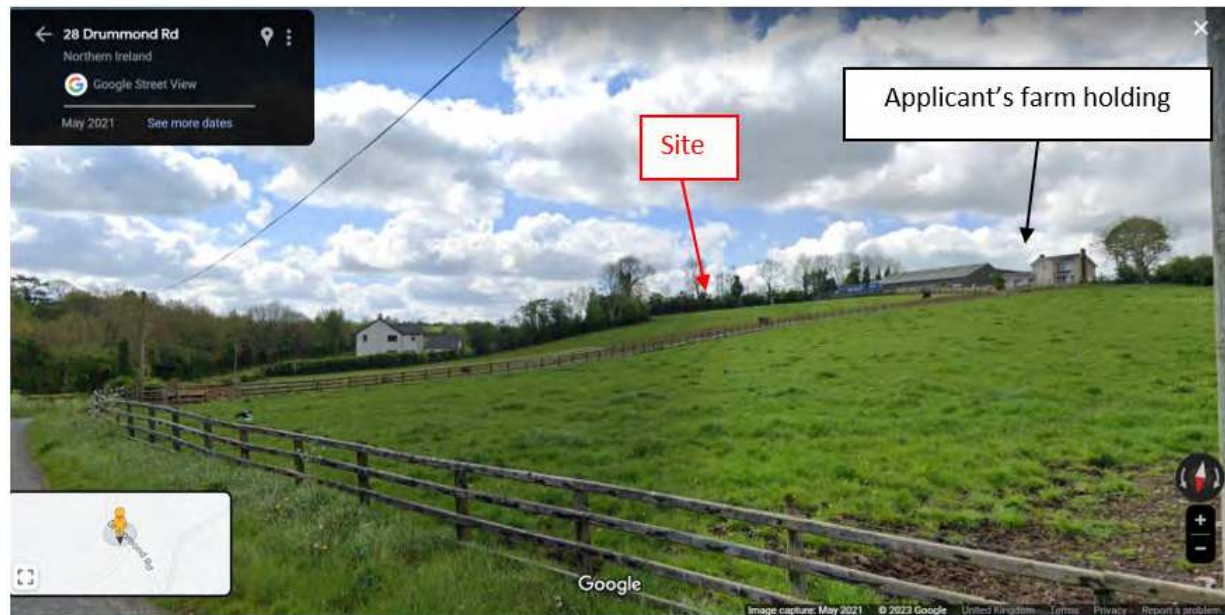


Fig 3: Site identified beside applicants farmholding at 18 Drummond Road

The site is bound to the southwest by the applicant's farm holding including dwelling and number of agricultural buildings / sheds. The southeast boundary of the site is defined by thick mature trees and vegetation. The northeast boundary is also defined in part at its corner with the southeast boundary by thick mature trees and vegetation. The northwest boundary is defined by the lane serving the site, which is bound to both sides by wooden d-rail fencing.

Critical views of the site will be from the Drummond Road on both approaches to its access due to its elevated nature. From these views the existing vegetation and the applicant's farm holding both bounding the site provide it with a sense of enclosure, screening, and backdrop.

The area surrounding the site is rural in character comprising largely undulating agricultural lands interspersed by detached dwellings, ancillary buildings and farm groups.

### Description of Proposal

This is an outline application for a dwelling and garage on lands 50m East of 18 Drummond Road Dungannon.

This proposal was initially submitted under Policy CTY 8 of PPS 21 which allows for the development of a small gap site within an otherwise substantial and continuously built-up frontage however as Planning's opinion was that it did not comply with Policy CTY8 as the site is not located within a line of roadside development with a common frontage to road the agent was advised and asked if all other cases for a dwelling in the countryside

been explored and subsequently submitted a farm case for the proposal under Policy CTY 10 of PPS 21.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Relevant Planning History**

N/A

### **Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject to standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside this application. DAERA advised the farm business identified on P1C Form and Farm maps,

belonging to the applicant's son in law Mr Timothy Reid, was established on the 24<sup>th</sup> September 2012. It has a category 3 status that is not entitled to claim land payments. The proposed site is located on land not claimed by any farm business.

**Dungannon and South Tyrone Area Plan 2010** - The site lies in the rural countryside outside any designated settlement with the Plan.

**The Strategic Planning Policy Statement for Northern Ireland (SPPS)** - The SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

**Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside** - PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. These include dwellings on farms in accordance with Policy CTY 10 of PPS 21.

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

1. the farm business is currently active and has been established for at least 6 years,

The farm case submitted alongside this application details that whilst the applicant Mr Watt owns the farmlands and buildings on the lands at 18 Drummond Road, he no longer farms the lands due to ill health. Since 2015 it has been his son in law Mr Timothy Reid, for whom along with his daughter the site is sought, that farms the lands and uses the buildings on the lands with Mr Watt at times helping. Mr Timothy Reid has a farm business Id number that DEARA confirmed has been established since 2012. As his business has a category 3 status not entitled to claim land payments a number of documents were submitted, including animal birth certificates and various feed and vet bills, which I am reasonably content demonstrate he has been and is currently actively farming the lands at 18 Drummond Road that on the date of my site inspection were in good agricultural condition. Mr Timothy Reid lives in rented accommodation at 42 Newmills Road Dungannon, approx. 3 miles east of the farmlands and buildings he farms. Mr Timothy Reid has no available lands at 42 Newmills Road Dungannon for his farm business and owns no other lands. The farmlands at 18 Drummond Road are currently in the process of being transferred into his name. His primary farming activity is working with, breeding and building a stock of Pedigree Cattle. He farms the land at 18 Drummond Road and uses buildings on the lands for vehicle and equipment storage and for animal welfare such as feeding and shelter when required.

Taking account of the above whilst Mr Watt is not the active farmer and therefore the proposal does not comply with Criterion (1) of CTY 10, I consider it reasonable that the site is for his son in law Mr Timothy Reid who has been the active and established farmer of the farmlands and buildings at 18 Drummond Road since 2015.

2. no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

3. the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group(s).

I am content a dwelling on this site will visually link and cluster with the applicant's farm group located immediately to its southwest at 18 Drummond Road. And as such Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character. CTY 13 outlines permission will only 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 and CTY14 where it does not cause a detrimental change to, or further erode the rural character of an area. I consider a dwelling and garage would integrate onto this site and into the surrounding landscape without significant detriment to the existing rural character of the area benefiting from the existing vegetation and the applicant's farm holding both bounding the site providing it with a sense of enclosure, screening, and backdrop to public views. As this is an outline application the details of the siting, size, scale and design of the dwelling can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing given the location of the site and separation distances that will be retained.

Policy CTY 10 also states 'planning permission granted under this policy will only be forthcoming once every 10 years' and I am content checks have not identified any previous such permissions.

### **Additional considerations**

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Flood Maps NI identified no flooding on site.

**Recommendation:** Approve

As detailed in the main body of the report whilst Mr Watt is not the active farmer and therefore the proposal does not comply with Criterion (1) of CTY 10, I consider it reasonable that the site is for his son in law Mr Timothy Reid who has been the active and established farmer of the farmlands and buildings at 18 Drummond Road since 2015.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

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

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

**Condition 4**



No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: In the interest of visual amenity.

**Condition 5**

The existing natural screenings of this site as indicated in yellow on approved Drawing no. 01 received 16 DEC 2022, shall be permanently retained intact unless necessary to provide access and/or visibility splays; or prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal.

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

**Condition 6**

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. The scheme shall include a native species hedgerow to be along all new curtilage boundaries of the site. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.

Reason: In the interests of visual and residential amenity.

**Condition 7**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 form attached to the DFI comments dated 16 JAN 2023 on the Planning Portal and shall include sight splays of 2.4m x 45m in both directions onto the public road and a 45m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

**Signature(s):** Emma Richardson

**Date:** 30 May 2023

| ANNEX  |                  |
|--|------------------|
| Date Valid   | 16 December 2022 |
| Date First Advertised  | 10 January 2023  |
| Date Last Advertised   | 10 January 2023  |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>8 Drummond Road Dungannon Tyrone BT70 3JZ<br>The Owner / Occupier<br>12 Drummond Road Dungannon Tyrone BT70 3JZ<br>The Owner / Occupier<br>20 Drummond Road Dungannon Tyrone BT70 3JZ<br>The Owner / Occupier<br>18 Drummond Road Dungannon Tyrone BT70 3JZ<br>The Owner / Occupier<br>22 Drummond Road Dungannon Tyrone BT70 3JZ    |                  |
| Date of Last Neighbour Notification  | 21 December 2022 |
| Date of EIA Determination  |                  |
| ES Requested   | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: M/1979/0748<br>Proposals: RENOVATIONS TO DWELLING<br>Decision: PG<br>Decision Date:<br><br>Ref: M/2003/1186/O<br>Proposals: proposed site for two-storey dwelling & domestic garage<br>Decision: PG<br>Decision Date: 02-DEC-03<br><br>Ref: M/2006/2088/RM<br>Proposals: New dwelling and domestic garage<br>Decision: PG<br>Decision Date: 19-JUN-07<br><br>Ref: M/1979/0856 |                  |



Proposals: 11KV O/H LINE

Decision: PG

Decision Date:

Ref: M/1984/0462

Proposals: JOINERY WORKSHOP AND OFFICE

Decision: PG

Decision Date:

Ref: LA09/2022/1740/O

Proposals: New Dwelling and Garage under Policy CTY 8 - Ribbon Development

Decision:

Decision Date:

Ref: M/1989/0269

Proposals: Extension to dwelling

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

DAERA - Omagh-LA09-2022-1740-O.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.36   |
| <b>Application ID:</b><br>LA09/2022/1743/O   | <b>Target Date:</b> 3 April 2023  |
| <b>Proposal:</b><br>Proposed dwelling and garage   | <b>Location:</b><br>Approx 30M West of 5 Carrydarragh Road<br>Moneymore |
| <b>Referral Route:</b> Refuse is recommended   |   |
| <b>Recommendation:</b> Refuse  |   |
| <b>Applicant Name and Address:</b><br>Mr Randall Crooks<br>8 McKinney park<br>Cookstown<br>BT80 9RD  | <b>Agent Name and Address:</b><br>No Agent                              |
| <b>Executive Summary:</b><br><br>The current application is presented as a refusal, having failed to meet the requirements of policy CTY 8 - Ribbon Development. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                           | Response                                 |
|---------------------|-------------------------------------|--|
| Statutory Consultee | Historic Environment Division (HED) |  |
| Statutory Consultee | Historic Environment Division (HED) |  |
| Statutory Consultee | DFI Roads - Enniskillen Office      | DC Checklist.docRS1 Form a (1).doc       |
| Statutory Consultee | Historic Environment Division (HED) |  |
| Statutory Consultee | Rivers Agency                       | 161902 - Final response.pdf              |
| Statutory Consultee | DFI Roads - Enniskillen Office      | Roads Consultation outline approval.docx |

### Representations:

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

## **Summary of Issues**

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

The application site is located at lands approximately 30m west of No. 5 Carrydarragh Road and falls within the open countryside. The front (south-western) boundary of the site runs parallel to Ballymully River and is defined by scattered trees and vegetation which extend along the northern and western boundary. The eastern boundary is currently undefined,

I note the immediate and wider setting is characterised predominately agricultural land uses with a scattering of residential dwellings.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage at lands approximately 30m west of No. 5 Carrydarragh Road, Moneymore.

### **Representations**

One neighbour notification letter was issued in relation to this application however, no objections have been received to date.

### **Consultations**

- DfI Roads were consulted and have no objection to the proposal subject to the inclusion of conditions.
- Historic Environment Division (Historic Monuments) were consulted due to the proximity to a megalithic tomb approximately 90m north-east of the application site. They are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
- Rivers Agency were consulted and responded highlighting that the site lies partially within the 1 in 100 year fluvial flood plain. They have advised that development is only suitable to that part of the site which is found to be outside the determined flood plain.
- SES were consulted informally and have advised that no formal consultation was required based on the location, type and nature of the proposal.

### **Planning History**

There is not considered to be any relevant planning history associated with the site.

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

### **Policy Consideration**

#### **Magherafelt Area Plan 2015**

The site falls within the open countryside, approximately 0.7km west of the settlement limits of Moneymore as defined in the Magherafelt Area Plan 2015. The site falls within a site of local nature conservation importance (designation COU03/44). Policy CON 3 Sites of Local Nature Conservation Importance has been considered and it is concluded that the proposal would have limited impact on the designation.

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

The Strategic Planning Policy Statement provides a regional framework of planning policy that will be considered in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

#### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. The application to be considered is for a dwelling and garage under the provisions of policy CTY 8 – Ribbon Development.

Policy CTY 8 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 application is seeking an infill site between No. 5 Carrydarragh Road to the east and the shed buildings to the west of the application site. In my opinion, the development mentioned does not constitute the definition of a substantially built-up frontage. No. 5 Carrydarragh Road is set back from the roadside and therefore does not have road frontage, and the additional development to the west is separated from the application site by a river. The proposal therefore fails to meet infill policy.



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

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

*A new building will be unacceptable where;*

- (a) It is a prominent feature in the landscape; or*
- (b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) It relies primarily on the use of new landscaping for integration; or*
- (d) Ancillary works do not integrate with their surroundings; or*
- (e) The design of the building is inappropriate for the site and its locality; or*
- (f) It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

It is considered that a dwelling could be accommodated on the proposed site provided it is of a size and scale comparable to the dwellings in the vicinity. Furthermore, as the site is screened along the front (south-western) boundary, I am content that the site has the capacity to absorb a dwelling of suitable size and scale.

### **CTY 14 – Rural Character**

*Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

*A new building will be unacceptable where:*

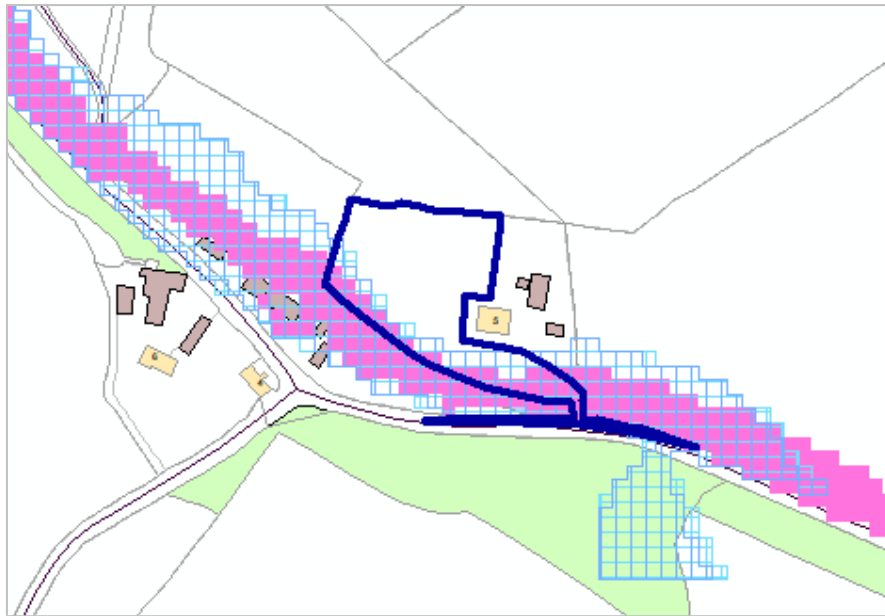
- (a) It is unduly prominent in the landscape; or*
- (b) It results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) It does not respect the traditional pattern of settlement exhibited in that area; or*

*(d) It creates or adds to a ribbon of development (see Policy CTY 8); or  
(e) The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

It is considered that the site, if approved, would add to a ribbon of development and result in a suburban style build-up when viewed with the existing dwellings.

### **Planning Policy Statement 15 – Planning and Flood Risk**

DfI Rivers have provided comment on this application stating that the site lies partially within the 1 in 100 fluvial flood plain. I note that a dwelling could be accommodated within the northern portion of this site.



### **Planning Policy Statement 2 – Natural Heritage**

Policy NH 4 – Sites of Nature Conservation Importance – Local has been considered and the proposal is not considered likely to have a significant adverse impact on the area.

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

HED have advised that the proposal is satisfactory to PPS 6 archaeological policy requirements.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

### **Habitats Regulations Assessment**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21 - Development in the Countryside in that the proposed site does not represent a substantial and built-up frontage and would, if permitted, result in ribbon development along the Carrydarragh Road.

#### **Reason 3**

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

#### **Reason 4**



The proposal is contrary to Planning Policy Statement 2, Planning and Nature Conservation in that the site lies within in SLNCI and it has not been adequately demonstrated that the development will not adversely affect the nature conservation interests of the area by way of submission of a biodiversity checklist.

**Signature(s):** Zoe Douglas

**Date:** 23 May 2023

|  |                  |
|--|------------------|
| <b>ANNEX</b>   |                  |
| <b>Date Valid</b>  | 19 December 2022 |
| <b>Date First Advertised</b>   | 10 January 2023  |
| <b>Date Last Advertised</b>  | 10 January 2023  |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>5 Carrydarragh Road Moneymore Magherafelt BT45 7YX   |                  |
| <b>Date of Last Neighbour Notification</b>   | 5 January 2023   |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: H/2002/0612/O<br>Proposals: Site of Dwelling & Garage<br>Decision: PG<br>Decision Date: 29-MAY-03<br><br>Ref: LA09/2022/1743/O<br>Proposals: Proposed dwelling and garage<br>Decision:<br>Decision Date:<br><br>Ref: I/1999/4003<br>Proposals: Agricultural Store<br>Decision: PDNOAP<br>Decision Date:<br><br>Ref: H/2003/0941/RM<br>Proposals: Dwelling and garage.<br>Decision: PG<br>Decision Date: 26-NOV-03 |                  |

**Summary of Consultee Responses**

Historic Environment Division (HED)-  
Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-DC Checklist.docRS1 Form a (1).doc  
Historic Environment Division (HED)-  
Rivers Agency-161902 - Final response.pdf  
DFI Roads - Enniskillen Office-Roads Consultation outline approval.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.37   |
| <b>Application ID:</b><br>LA09/2022/1762/F  | <b>Target Date:</b> 7 April 2023  |
| <b>Proposal:</b><br>Proposed development of the existing playing field to incorporate pedestrian trim trail, formalized car parking area, access link to the existing children's playpark to the north of the site. It will also include the provision of a 70sqm service building, new polytunnel and rainwater collection system. | <b>Location:</b><br>Existing Playing Field and Allotment Are Within Park View, Castledawson, BT45 8AT |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Mr Johnny McNeill<br>76-78 Burn Road<br>Cookstown<br>Cookstown<br>BT80 8DT  | <b>Agent Name and Address:</b><br>No Agent  |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response  |
|-------------------------|---|---|
| Non Statutory Consultee | Environmental Health Mid Ulster Council |   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council |   |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Dfl Roads do not offer an objection.<br><br>Conditions not required |
| Statutory Consultee     | Historic Environment Division (HED)     |   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09 2022 1762 F playing field Castledawson.doc                     |

### Representations:

|  |    |
|--|----|
| Letters of Support                         | 0  |
| Letters Non Committal                      | 0  |
| Letters of Objection                       | 37 |
| Number of Support Petitions and signatures |    |
| Number of Petitions of Objection           |    |

|  |  |
|--|--|
| and signatures   |  |
| <b>Summary of Issues</b> <p>The applicant is Johnny McNeill on behalf of MUDC. 37 letters of objections have been received. These objections were in relation to part of the development that linked the site to Ashbourne to the South with the removal of a small hedge row. The application was then since amended to remove this link and no further letters of objection were received. The issues identified by objectors have now been resolved as the proposal does not involve the removal of the hedgerow along the southern boundary.</p>   |  |
| <b>Characteristics of the Site and Area</b> <p>The site is located within the settlement limits of Castledawson, on an area zoned as existing open space as per the Magherafelt Area Plan. The red line of the application site is an existing play field and allotments to the south east of the site. The surrounding area is residential with the application site located within an existing housing development and bounded on all sides by dwellings. The north, west and southern boundaries are defined by a mix of trees, hedges and fencing to enclose the site. A large green fence encloses the existing allotment area.</p>   |  |
| <b>Description of Proposal</b> <p>This is a full planning application for the proposed development of the existing playing field to incorporate pedestrian trim trail, formalized car parking area, access link to the existing children's playpark to the north of the site. It will also include the provision of a 70sqm service building, new polytunnel and rainwater collection system.</p>  |  |
| <b>Planning Assessment of Policy and Other Material Considerations</b> <p><b><u>Policy Consideration</u></b></p> <p>Magherafelt Area Plan 2015<br/> Strategic Planning Policy Statement for Northern Ireland (SPPS)<br/> PPS 3: Access, Movement and Parking<br/> PPS 6: Planning, Archaeology and the Built Heritage<br/> PPS 8: Open Space, Sport and Outdoor Recreation</p> <p>The site is located within the settlement limits of Castledawson within an area of existing open space. The Magherafelt Area Plan has no specific policy relating to existing open space, rather it states that planning applications will be determined in accordance with the provisions of prevailing regional planning policy.</p> <p>Policy COY 1 of the Magherafelt Area Plan states, Planning permission will be granted for community uses within settlement development limits provided all the following</p> |  |

criteria are met:

- there is no significant detrimental effect on amenity;
- the proposal does not prejudice the comprehensive development of surrounding lands, particularly on zoned sites;
- the proposals are in keeping with the size and character of the settlement and its surroundings;
- where necessary, additional infrastructure is provided by the developer; and,
- there are satisfactory access, parking and sewage disposal arrangements.

As the proposal is for the upgrading of an existing open space to include an additional pedestrian trail around the outside of the playing field, upgrades to car parking and additional access I am content the proposal fully complies with the above policy. The service building and polytunnel will not result in the loss of any existing open space and is ancillary to the overall use of the site and complies with the above policy.

The SPPS recognises that open space, sport and outdoor recreation is important to society now and in the future. Everyone, particularly children, older people and people with disabilities should have easy access to open space and the opportunity to participate in sport and outdoor recreational activity or simply enjoy and have contact with nature. Planning authorities should carefully consider development proposals for all sport and outdoor recreational activities. Relevant planning considerations will include: location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport; floodlighting; landscaping, public safety (including road safety); nature conservation, biodiversity, archaeology or built heritage.

I am content that the proposal complies with all above considerations, and is unlikely to have any impact on residential amenity through the inclusion of a walking trail and a service building associated with the existing allotments. Environmental Health were consulted and had no objection to the proposal. I am content the proposal complies with the criteria contained within the SPPS.

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

DfI Roads were consulted as the proposal includes formalized car parking. DfI Roads responded to state they had no objection to the proposal.

#### PPS 6: Planning, Archaeology and the Built Heritage

HED were consulted due to the site being located within close proximity to an archaeological buffer zone. HED responded to confirm they had assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

#### PPS 8: Open Space, Sport, and Outdoor Recreation

Policy OS1 deals with the protection of Open Space. I am content that the proposal will enhance the existing open space for the wider community and enhance the existing space. Although the proposal includes a Polytunnel and Service Building, I am content these are small scale ancillary developments and will not result in the loss of open space. As such the proposal complies with Policy OS 1.

**Other Material Considerations**

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

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions****Condition 1**

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

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

**Condition 2**

All hard and soft landscaping comprised in the approved details of landscaping on stamped drawing No.02 Rev A shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside.

**Condition 3**

If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Signature(s):** Ciaran Devlin

**Date:** 15 May 2023



| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 23 December 2022 |
| <b>Date First Advertised</b>   | 28 March 2023    |
| <b>Date Last Advertised</b>  | 10 January 2023  |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner / Occupier<br>5 Parker Gardens Castledawson Londonderry BT45 8AS<br>The Owner / Occupier<br>4 Parker Gardens Castledawson Londonderry BT45 8AS<br>The Owner / Occupier<br>2 Parker Gardens Castledawson Londonderry BT45 8AS<br>The Owner / Occupier<br>22 Parker Avenue Castledawson Londonderry BT45 8AR<br>The Owner / Occupier<br>20 Parker Avenue Castledawson Londonderry BT45 8AR<br>The Owner / Occupier<br>18 Parker Avenue Castledawson Londonderry BT45 8AR<br>The Owner / Occupier<br>16 Parker Avenue Castledawson Londonderry BT45 8AR<br>The Owner / Occupier<br>27 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>25 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>23 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>21 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>29 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>31 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>39 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>37 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>44 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>46 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier<br>48 Park View Castledawson Londonderry BT45 8AT<br>The Owner / Occupier |                  |

50 Park View Castledawson Londonderry BT45 8AT  
The Owner / Occupier  
52 Park View Castledawson Londonderry BT45 8AT  
The Owner / Occupier  
54 Park View Castledawson Londonderry BT45 8AT  
The Owner / Occupier  
7 Riverside South Castledawson Londonderry BT45 8BE  
The Owner / Occupier  
9 Riverside South Castledawson Londonderry BT45 8BE  
The Owner / Occupier  
40 Ashbourne Castledawson Londonderry BT45 8HP  
The Owner / Occupier  
41 Ashbourne Castledawson Londonderry BT45 8HP  
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42 Ashbourne Castledawson Londonderry BT45 8HP  
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19 Ashbourne Castledawson Londonderry BT45 8HP  
The Owner / Occupier  
10 Ashbourne Castledawson Londonderry BT45 8HP  
The Owner / Occupier  
9 Ashbourne Castledawson Londonderry BT45 8HP  
The Owner / Occupier  
4 Ashbourne Castledawson Londonderry BT45 8HP

|   |                 |
|---|-----------------|
|   |                 |
| <b>Date of Last Neighbour Notification</b>  | 7 March 2023    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/1987/0524<br>Proposals: HOUSING DEVELOPMENT<br>Decision: PG<br>Decision Date:<br><br>Ref: H/2003/0712/F<br>Proposals: Rear extensions, multi-element improvement works and car hardstanding.<br>Decision: PG<br>Decision Date: 05-MAR-04<br><br>Ref: H/1975/0351<br>Proposals: 11KV O/H LINE (AMENDED) (DIVERSION) (C.6946A<br>Decision: PG<br>Decision Date:<br><br>Ref: H/2010/0298/F<br>Proposals: Proposed single storey rear extension and associated works<br>Decision: PG |                 |

Decision Date: 11-AUG-10

Ref: LA09/2022/1762/F

Proposals: Proposed development of the existing playing field to incorporate pedestrian trim trail, formalized car parking area, access link to the existing children's playpark to the north of the site and link to the housing development to the south of the site. it will also include the provision of a 70sqm service building, new polytunnel and rainwater collection system.

Decision:

Decision Date:

Ref: H/1975/0201

Proposals: SUBSTATION (MC/T.5621)

Decision: PG

Decision Date:

Ref: H/1998/0654

Proposals: ALTERATIONS AND ADDITIONS TO DWELLING

Decision: PG

Decision Date:

Ref: H/2003/0709/F

Proposals: Provision of temporary accommodation (6 Mobiles) for the duration of improvement works in the Parker Avenue/Gardens area.

Decision: PG

Decision Date: 05-MAR-04

Ref: H/2011/0055/F

Proposals: Fencing, tool shed, poly tunnel and toilets etc for proposed allotments

Decision: PG

Decision Date: 27-MAY-11

Ref: H/1975/0391

Proposals: SUBSTATION AND AMENDMENT MC/T 5621A

Decision: PG

Decision Date:

Ref: H/1991/0397

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/2007/0621/F

Proposals: Change of use from domestic flats to Community Centre, extended to provide disabled lift access and stairwell. Functions to include social area, games room and ITC suite.

Decision: PG  
Decision Date: 22-JAN-08

Ref: H/2012/0051/F  
Proposals: Change of use from grassed area to proposed playpark incorporating childrens play equipment  
Decision: PG  
Decision Date: 08-MAY-12

Ref: H/2012/0033/F  
Proposals: Change of use from grassed area to proposed playpark incorporating childrens play equipment  
Decision:  
Decision Date:

Ref: H/1978/0248  
Proposals: SOCCER PITCH, CAR PARK AND PLAY AREA  
Decision: PG  
Decision Date:

Ref: H/2006/0114/F  
Proposals: Improvements to 68 No Existing NIHE Dwellings & Environmental Improvements to overall Estate (inc New Road Layouts & General Landscaping)  
Decision: PG  
Decision Date: 30-OCT-06

Ref: H/1989/0027  
Proposals: CHANGE OF HOUSE TYPES (SITES 1 & 2)  
Decision: PG  
Decision Date:

Ref: H/1996/0632  
Proposals: IMPROVEMENTS/ALTERATIONS TO EXISTING DWELLINGS INCLUDING DECANT SITE  
Decision: PG  
Decision Date:

### Summary of Consultee Responses

Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-  
DFI Roads - Enniskillen Office-Dfl Roads do not offer an objection.

Conditions not required  
Historic Environment Division (HED)-  
Environmental Health Mid Ulster Council-LA09 2022 1762 F playing field

Castledawson.doc

**Drawing Numbers and Title**

Proposed Plans Plan Ref: 02 Rev A  
Site Layout or Block Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Elevations and Floor Plans Plan Ref: 04  
Elevations and Floor Plans Plan Ref: 05  
Elevations and Floor Plans Plan Ref: 06

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.38  |
| <b>Application ID:</b><br>LA09/2022/1777/O  | <b>Target Date:</b> 7 April 2023   |
| <b>Proposal:</b><br>2 storey dwelling with detached garage on a farm under policy CTY10   | <b>Location:</b><br>Adjacent to and South of No.14 Tullylinton Road<br>Dungannon<br>BT70 2AS   |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr R Hopper<br>9 Elm Lane Bush<br>Dungannon<br>BT71 6FT   | <b>Agent Name and Address:</b><br>Mr Barry Maguire<br>39 Carland Road<br>Dungannon<br>BT71 4AA |
| <b>Executive Summary:</b><br><br>I recommend refusal to Committee as the proposal is contrary to CTY 1 and CTY 10 of PPS 21 as it has not been demonstrated that the farm business is currently active and has been established for at least 6 years. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response              |
|-------------------------|--------------------------------|-----------------------|
| Statutory Consultee     | DFI Roads - Enniskillen Office | Outline resp.docx     |
| Non Statutory Consultee | DAERA - Omagh                  | LA09-2022-1777-O.docx |

### Representations:

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

### Summary of Issues

I recommend refusal to Committee as the proposal is contrary to CTY 1 and CTY 10 of PPS 21 as it has not been demonstrated that the farm business is currently active and has been established for at least 6 years.

### Characteristics of the Site and Area



The site is located within the rural area approximately 1.3km north-west of Ballygawley along the Tullylinton Road and is outwith any settlement limits as set down in the Dungannon and South Tyrone Area Plan 2010. The site is a 0.19ha parcel of land, located to the south of an existing farm grouping consisting of a derelict dwelling and associated farm sheds. The site is roughly square shaped, with the southern boundary of the site undefined as it is cut out of the larger agricultural field. The western boundary is defined by mature hedging, as is the eastern (roadside) boundary with mature trees also along this boundary. The northern boundary of the site is defined by an existing agricultural building. The site rises from south to north and from east to west. There is little recent development pressure in the area, with existing development taking the form of mostly single storey dwellings with associated outhouses.

### **Description of Proposal**

Proposed 2 storey dwelling with detached garage on a farm under policy CTY10

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

#### **Policy Consideration**

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

#### **Relevant history**

There are no relevant histories to consider.

#### **Representations**

One (1) neighbouring property was identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. The neighbour notification letter that was sent out to No. 14 Tullylinton road has been returned as the dwelling is derelict at present, as noted at the time of site inspection. To date no letters of representation have been received.

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

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

## **Mid Ulster District Council Draft Plan Strategy 2030**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within 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. It does not present any change in policy direction therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto Tullylinton Road. DFI Roads have been consulted and have no objections subject to a plan at 1:500 scale to be submitted as part of the reserved matters application, showing sightlines of 2.4m x 60m and a forward sight distance of 60m in both directions as per the RS1 form.

### **Planning Policy Statement 21 - Sustainable Development in the Countryside**

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

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

CTY 10 of PPS21 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

*(a) the farm business is currently active and has been established for at least 6 years*

DAERA have been consulted and have advised that the Farm Business ID provided has been in existence for the required 6 year period. They have also informed us that the proposed site is located on land that is not under the control of the farm business identified on the application form, the land was claimed by another farm business in 2022.

The agent was requested on 7<sup>th</sup> March 2023 to provide evidence for us to determine that the farm business is currently actively farming. Utility bills have been provided that show payment to NI Water twice yearly for the supply of fresh water to the fields throughout the farm. These bills date back to 13<sup>th</sup> March 2018 (for the billing period 1<sup>st</sup> October 2017 – 31<sup>st</sup> March 2018) which falls short of the required 6 years. In addition, they are addressed to a different name and address than that of the applicant. As the evidence provided does not show active farming by the applicant over the requisite timeframe I am not satisfied that the farm business is currently active and established for at least 6 years and criterion (a) of the policy has not been met.

*(b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008*

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off within the past ten years.

*(c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.*

The proposed site is located adjacent to and to the south of an existing established farm grouping, and therefore clusters with it. A new building on this site will visually link with the existing farm grouping when travelling along the public road.

### **CTY 13 – Integration and Design of Buildings in the Countryside and CTY 14 – Rural Character**

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application. When travelling north along the public roads views are limited until upon the site given the curvature of the road and the existing roadside boundary. A two storey dwelling here as proposed will read with the existing farm buildings. When travelling south there are no critical views again until upon the site due to the existing farm grouping. Even if some of the roadside vegetation is removed to facilitate sightlines there will not be any critical views. A new dwelling here will not be a prominent feature in this landscape and will be in keeping with the existing character of the area. I am satisfied the proposal meets policy CTY 13. Existing and proposed levels will have to be

provided with any approval, along with a comprehensive landscaping plan, including details of what vegetation will have to be removed, what is to be retained and what additional planting to mitigate against any removal is proposed.

CTY 14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A proposed dwelling on this site will not be unduly prominent in the landscape as it will be screened from any long term views. A dwelling here will not contribute to a localised sense of build-up and respects the tradition pattern of settlement. I have no concerns with the creation of ribboning and am content that the proposed dwelling in this location will not erode the rural character of this area. I consider the proposal complies with CTY 14.

### **Other Considerations**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns.

I spoke with the agent on 19<sup>th</sup> April 2023 about the possibility of a replacement dwelling at this site given the existing derelict dwelling within the farm holding however it was not considered a viable option by his client as he does not wish to have to demolish as it would be too costly. I hold the view that the application has failed to demonstrate that there is an active and established business for the required period as such it fails under CTY 10 and I must recommend refusal.

As the proposal fails to meet CTY 10 of PPS 21 it also fails to meet CTY 1 of PPS 21 and I therefore recommend refusal.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that there is an active and established farm business for the past 6 years.

**Signature(s):** Deirdre Laverty

**Date:** 30 May 2023

|  |                  |
|--|------------------|
| <b>ANNEX</b>   |                  |
| <b>Date Valid</b>  | 23 December 2022 |
| <b>Date First Advertised</b>   | 12 January 2023  |
| <b>Date Last Advertised</b>  | 12 January 2023  |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>RNN - 14 Tullylinton Road Dungannon BT70 2AS   |                  |
| <b>Date of Last Neighbour Notification</b>   | 20 January 2023  |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2022/1777/O<br>Proposals: 2 storey dwelling with detached garage on a farm under policy CTY10<br>Decision:<br>Decision Date: |                  |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Outline resp.docx<br>DAERA - Omagh-LA09-2022-1777-O.docx   |                  |
| <b>Drawing Numbers and Title</b><br><br>Site Location Plan   Plan Ref: 01<br>Site Location Plan   Plan Ref: 02<br>Site Location Plan   Plan Ref: 03                          |                  |
| <b>Notification to Department (if relevant)</b><br><br>Not Applicable  |                  |





## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.39   |
| <b>Application ID:</b><br>LA09/2023/0034/F   | <b>Target Date:</b> 26 April 2023   |
| <b>Proposal:</b><br>Amended Rear Pedestrian Access to Shop<br>& First Floor Apartment  | <b>Location:</b><br>108 and 108B Main Street<br>Fivemiletown<br>BT75 0PW  |
| <b>Referral Route:</b> Approve is recommended  |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>Mr Gary Coote<br>108 Main Street<br>Fivemiletown<br>BT75 0PW   | <b>Agent Name and Address:</b><br>Mr Neil Irvine<br>Unit 5<br>The Buttermarket<br>132 Main Street<br>FIVEMILETOWN<br>BT75 0PW |
| <b>Executive Summary:</b><br><br>One no. objection has been received with concerns over a new pedestrian access at this location and the associated safety concerns. |   |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|                   |           |          |

### Representations:

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

### Summary of Issues

One objection has been received and fully considered within the main body of this report

### Characteristics of the Site and Area

The site is located at No. 108 and 108B Main Street within the development limits of Fivemiletown as identified in the Dungannon and South Tyrone Area Plan 2010. At present on site is a two storey corner terrace building with grey tiled walls at first floor level with some timber cladding and grey roughcast render to the first floor. There is an

associated single storey garage to the rear (south) of the site. The building is occupied by Gary Coote Meats at ground floor level with residential accommodation at first floor level. The Cooneen Road runs along the western boundary of the site with Main Street to the north. The surrounding area has a mixture of land uses including residential, retail and community as the site lies within the centre of Fivemiletown and within the Area of Townscape Character (ATC).

### **Description of Proposal**

Amended rear pedestrian access to shop & first floor apartment

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

#### **Policy Consideration**

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

#### **Relevant Histories**

Ref: LA09/2021/1364/F

Proposals: Change of use from domestic garage to food preparation, storage & distribution.

Decision: PG

Decision Date: 08-APR-22M

Ref: LA09/2017/0413/F

Proposals: Removal of internal stairs to create extension to retail area, relocation of staff toilet

Decision: PG

Decision Date: 24-APR-17

#### **Representations**

Eight (8) no. neighbour notifications have been carried out as well as press advertisement in line with the Council's statutory duty. An objection was received 30 March 2023 to the proposal on the following grounds:

1. The proposed access to the entrance door to the first floor apartment is via a very narrow passageway. Although there is currently an access door for the exclusive

use of staff in the butcher shop, this proposal will bring tenants, and other members of the public who wish to visit those tenants, through a potentially dangerous confined area.

Presently, the applicant has several large gas cylinders housed against the wall of our property, as well as an oil tank, extractor fans and other pipework. The potential for a serious accident/fire is going to be significantly increased by members of the public accessing this passageway day or night.

2. There is no indication on these plans of fire exits for tenants living in this apartment. Does the applicant intend for the new doorway to also serve as a fire escape, or will he have to install a fire stairwell in this passageway as well? This has the potential for the public to actually use the fire stairwell as a regular access to the apartment, directly in front of our living room window. This will severely impact our privacy and security.
3. Will there be security provided for limiting who can enter this access route to the new doorway? Will the gate be locked at the passageway entrance (particularly at night) and only accessible by tenants? What security will there be for the two access gates fronting onto the Spout Road?
4. There is also the issue of noise levels within this confined space with the increase of people entering and leaving. Sound will reverberate into our property.
5. The present access door to the butcher shop is currently shielded by a wall and roof. The proposed side elevation shows only steps and railings. Extending those steps and platform area will mean that tenants will be at a level that they have direct viewing through our living room window, literally within touching distance. This will have a direct impact on our privacy and security. Would this wall and roof be extended to cover and shield both doorways?

Having considered that objections raised above, the agent was requested to provide screening to the doorway to ensure the proposal would not result in any adverse impacts on the adjoining neighbouring property. Amended plans were received which showed a 2m high closed board fence to the side of the stairwell and the objector was re-notified of this. A further objection was subsequently received 28 March 2023 on the following grounds:

Firstly, the proposed amendments have not addressed our original objections to access by the public through this narrow passage way and entering via a new doorway.

This application should be considering the safety and feasibility of this public access in the first instance.

The applicant merely proposes replacing an existing block wall with roof with an open 2 metre high close board fence. This will not provide permanent and adequate screening of the existing door and proposed access door.

If the additional access door is to be granted then the existing wall and roof should be fully extended to provide complete screening and thus prevent the privacy and safety of our window being compromised.

From further consideration of the objections received, it would appear the objector is of

the opinion this is all new development rather than an amendment to the existing covered porch on site. I contacted the objector directly, and during the conversation 23 May 2023 I explained that it would appear the objection refers to a new access here and all the associated concerns with it. I clarified with him that this doorway has always been the main access to the apartment above the shop, and this is not a new access to it. An additional door into the ground floor shop is proposed beside this existing doorway. The main change is the reorientation of the stairs and the covered porch to them. We discussed the merits of the proposed fence and I explained that it would provide adequate screening for anyone entering the apartment, similar to that currently in place. At the fence height shown there would not be direct views into their window as there would have been if the initially proposed handrail was approved. The objector is now content, so long as there are no views into his window and that the proposed closed board fence is conditioned to be put up and will always be retained to ensure privacy is protected.

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being located within the development limits of Fivemiletown which gives favourable consideration to proposals, subject to criteria outlined within the plan policy. The site is also located within an Area of Townscape Character and there are no other specific designations or zonings. Policy SETT 1 is relevant.

Plan Policy SETT 1 – Settlement Limits states that favourable consideration will be given to development proposals within settlement limits including zoned sites provided the following criteria are met:

- the proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials;
- the proposal respects the opportunities and constraints of the specific site and its surroundings and, where appropriate, considers the potential for the creation of a new sense of place through sensitive design;
- there is no significant detrimental affect on amenities;
- there is no significant conflict with recognised conservation interests;
- there are satisfactory arrangements for access, parking and sewage disposal;
- where appropriate, any additional infrastructure necessary to accommodate the proposal is provided by the developer; and
- the proposal is in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan.

Part 3 of the Plan indicates that the design of development proposals within the Area of Townscape Character should be in keeping with the historic built form.

Plan Policy CON 5 - Areas of Townscape Character states that planning permission will be granted to development proposals in these areas where they are sympathetic to the

historic built form in terms of scale, form, massing, design detailing and materials and will not detract from the overall character and appearance of the area.

I feel that the proposal is sensitive to the size, character and function of Fivemiletown in terms of scale, form, design and use of materials as it is minor in nature and is to the rear of the building. The alterations proposed under this scheme will not affect the external appearance of the building and from views along Fivemiletown Main Street which is a critical consideration in terms of streetscape and the Area of Townscape Character designation. I consider it meets all the criteria within SETT1 and CON 5.

### **Local Development Plan 2030 - Draft Plan Strategy**

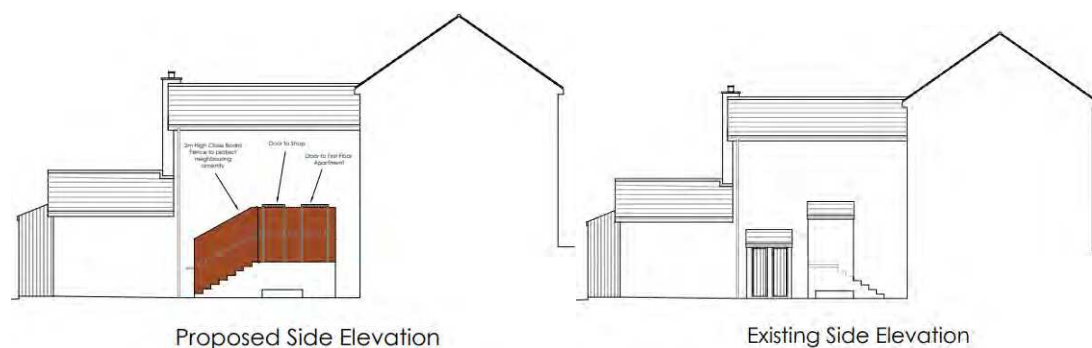
The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within 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. No conflict arises between the provisions of the SPPS and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum). I am content that as the proposal complies with SETT 1 the main consideration is now EXT 1 of PPS7.

### **PPS 7 (Addendum): Residential Extensions and Alterations**

Planning Policy EXT 1 of PPS7 details that planning permission will be granted for a proposal to extend or alter a residential property where a number of criteria are met.



The proposal involves an alteration to the existing access to a first floor apartment as well as a new door into the shop at the same location. The existing walled porch

surrounding the access stairwell and doorway is to be removed and the steps are being reconfigured so access is from the south as opposed to the north. A 2m high closed board fence will define the stairwell ensuring there are no direct views from the stairway into the window on the adjoining property which sits at an elevated height from the ground. The existing boiler rooms are being removed to facilitate the development. The scale, massing and design are sympathetic with the built form and appearance of the existing property and I consider this is acceptable. The proposal will not detract from the appearance and character of the surrounding area as there are no critical views from any public vantage point save when approaching the doorway from the rear of the building.

I have no overshadowing concerns. There are no overlooking concerns now as the proposed fence will prohibit direct views into the window on the adjoining property. I do not feel that the proposal will unduly affect the privacy or amenity of neighbouring residents. No vegetation removal is required to facilitate development; consequently there is no unacceptable loss to trees or other landscape features. The proposal will not impact on amenity space as it is replacing like for like. There will be no negative impact on parking and manoeuvring of vehicles within the site.

#### **PPS 6 (Addendum): Areas of Townscape Character**

The key consideration for the Council with regard to ATCs will be to ensure that development proposals respect the appearance and qualities of each townscape area and maintain or enhance their distinctive character.

Policy ATC 2 - New Development in an Area of Townscape Character of PPS 6 states that development proposals in an ATC will only be permitted where the development maintains or enhances its overall character and respects the built form of the area. I am of the opinion the proposal maintains the overall character of the area and respects the built form.

#### **Other material considerations**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Overall, I am content the proposal will not detract from the character of the existing properties or the surrounding area and the scale, form and design are considered acceptable. The proposed development will not have a negative impact on the integrity of the existing streetscape or the sensitivity associated with this protected area. I am satisfied this proposal meets policy and I recommend approval.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions****Condition 1**

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

**Condition 2**

The proposed fence as detailed on Drawing No. 04 rev. 01 date received 08 Mar 2023 shall be erected prior to the new doorway becoming operational.

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

**Signature(s):** Deirdre Lavery

**Date:** 26 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 11 January 2023 |
| <b>Date First Advertised</b>   | 26 January 2023 |
| <b>Date Last Advertised</b>  | 26 January 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br><br>The Owner / Occupier<br>104 Main Street Fivemiletown BT75 0PW<br>The Owner / Occupier<br>118 Main Street Fivemiletown BT75 0PW<br>The Owner / Occupier<br>120A Main Street Fivemiletown BT75 0PW<br>The Owner / Occupier<br>103 Main Street Fivemiletown BT75 0PW<br>The Owner / Occupier<br>107 Main Street Fivemiletown BT75 0PW<br>The Owner / Occupier<br>5 Ballylurgan Fivemiletown BT75 0PT<br>The Owner / Occupier<br>Centra Cooneen Road Fivemiletown BT75 0ND |                 |
| <b>Date of Last Neighbour Notification</b>   | 15 March 2023   |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: M/1988/0276<br>Proposals: COMMERCIAL GARAGE AND SHOWROOM<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1979/0044<br>Proposals: SITES FOR 2 DWELLING HOUSES<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1993/0699<br>Proposals: Erection of Domestic Garage  |                 |



Decision: PG  
Decision Date:

Ref: M/1998/0302  
Proposals: Environmental Improvement Scheme  
Decision:  
Decision Date:

Ref: LA09/2023/0034/F  
Proposals: Amended Rear Pedestrian Access to Shop & First Floor Apartment  
Decision:  
Decision Date:

Ref: LA09/2021/1364/F  
Proposals: Change of use from domestic garage to food preparation, storage & distribution.  
Decision: PG  
Decision Date: 08-APR-22

Ref: M/2007/1253/F  
Proposals: Premises to remain as a butchers. Main works will involve dropping the front window cills to maximise light & vision  
Decision: PG  
Decision Date: 24-NOV-07

Ref: LA09/2017/0413/F  
Proposals: Removal of internal stairs to create extension to retail area, relocation of staff toilet  
Decision: PG  
Decision Date: 24-APR-17

Ref: M/1990/0275  
Proposals: Change of use of part of dwelling to shop including extension to both  
Decision: PG  
Decision Date:

Ref: M/1980/0274  
Proposals: IMPROVEMENTS TO DWELLING  
Decision: PG  
Decision Date:

Ref: M/2007/1233/A  
Proposals: Shop signage & projecting Sign  
Decision: CG  
Decision Date: 30-NOV-07

|   |
|---|
|   |
| <b>Summary of Consultee Responses</b>   |
| -   |
| <b>Drawing Numbers and Title</b><br><br>Site Layout or Block Plan Plan Ref: 02<br>Proposed Floor Plans Plan Ref: 03<br>Proposed Elevations Plan Ref: 04<br>Existing Floor Plans Plan Ref: 05<br>Proposed Plans Plan Ref: 06<br>Site Location Plan Plan Ref: 01<br>Proposed Elevations Plan Ref: 04 r 1<br>Proposed Floor Plans Plan Ref: 03 r 1 |
| <b>Notification to Department (if relevant)</b><br><br>Not Applicable   |

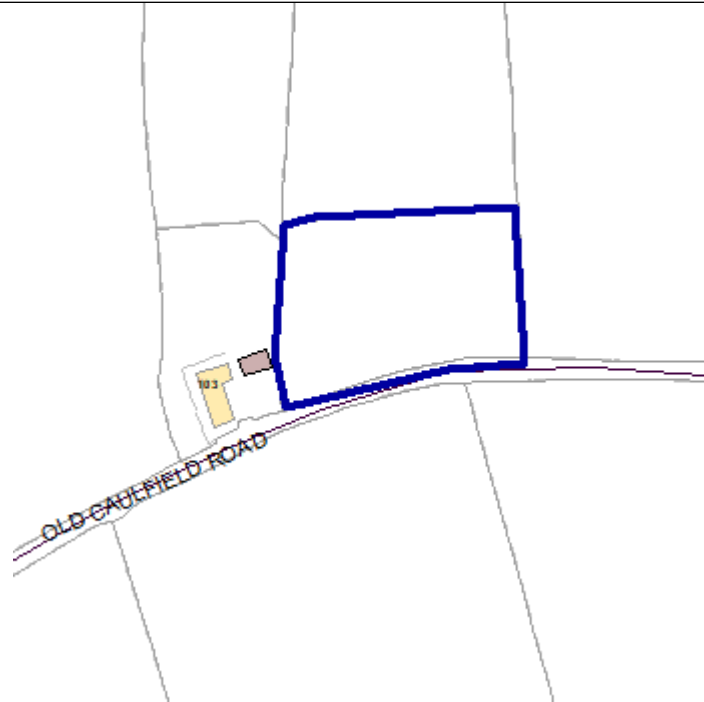


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.40   |
| <b>Application ID:</b><br>LA09/2023/0045/O  | <b>Target Date:</b> 28 April 2023   |
| <b>Proposal:</b><br>Proposed dwelling and domestic garage   | <b>Location:</b><br>Lands immediately East and adjacent to<br>103 Old Caulfield Road<br>Castlecaulfield<br>BT70 3NQ |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Eugene McKenna<br>44 Frenchmans Lane<br>Catlecaulfield<br>Dungannon<br>BT70 3DF   | <b>Agent Name and Address:</b><br>McKeown and Shields<br>1 Annagher Road<br>Coalisland<br>BT71 4NE                  |
| <b>Executive Summary:</b><br><br>No third party representations have been received.<br><br>The applicant Mr McKenna lives at 44 Frenchmans Lane and he stated he owns no land around it. Their farm holding comprises 3 fields on the Old Caulfield Road. There is a dwelling and garage at No.103 but this is not within the applicant's ownership. There are no buildings to cluster or visually link with but a dwelling at this site would not be detrimental to rural character. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                           | Response              |
|-------------------------|-------------------------------------|-----------------------|
| Statutory Consultee     | DFI Roads - Enniskillen Office      | Outline resp.docx     |
| Non Statutory Consultee | DAERA - Omagh                       | LA09-2023-0045-O.docx |
| Statutory Consultee     | Historic Environment Division (HED) |                       |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the

Dungannon and South Tyrone Area Plan 2010. The site is 0.3km east of the settlement limits of Castlecaulfield and 2.28km west of the settlement limits of Dungannon. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. There is minimal development pressure within the surrounding area from the construction of single dwellings. To the west and abutting the boundary of the site is a single storey dwelling and outbuilding at No.103. The site itself is an agricultural field with a flat topography and along the roadside boundary is low hedging and a post and wire fence.

### **Description of Proposal**

This is an outline application for proposed dwelling and domestic garage at lands immediately East and adjacent to 103 Old Caulfield Road, Castlecaulfield.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

There are no planning histories at the application site.

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

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

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes farm dwelling opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA confirmed the farm business ID as stated on the P1C form has been in existence for over 6 years and the farm is a Category 1 farm business. DAERA confirmed the applicant has not claimed DAERA farm subsidies for the past 6 years and the site is not on land that is under the control of the farm business as stated on the P1C form and the site was claimed by another farm business in 2022.

The applicant provided a supporting statement to demonstrate active farming that is currently occurring on the farm holding. It is stated that the applicant Mr Eugene McKenna farmed these lands himself during the years 2017, 2018 and 2019. The following evidence has been provided to substantiate these claims.

#### 2016

Invoice from Parklands Veterinary Ltd for medicines for beef herd and the applicant's name Mr Eugene McKenna and his address at 44 Frenchmans Lane is on the invoice.

#### 2017

Invoices from Capper from 2017 for cattle blend and flaked maize 20kg bags.

Invoices from Dungannon Farmers Mart for bullocks dated 08/11/2017 and 26/07/17.

The applicant's name Mr Eugene McKenna and his address at 44 Frenchmans Lane is on the invoices.

Invoices from Parklands Veterinary Ltd for medicines for beef herd and the applicant's name Mr Eugene McKenna and his address at 44 Frenchmans Lane is on the invoices. They are dated 31/03/2017, 24/06/2017 and 19/07/2017.

#### 2018

Invoices from Dungannon Farmers Mart for bullocks dated 15/08/2018.

Invoices from Parklands Veterinary Ltd for medicines dated 01/02/2018, 17/04/2018, 07/05/2018.

Invoice from JB Plant & Tool Hire for hire of a mini digger on 31/01/2018 and woodchipper on 07/04/2018.

Invoice from D & E McElroy hedge cutting services for hedge cutting on 25/07/2018.

Receipts from Capper for cattle blend on various dates in 2018.

#### 2019

Receipts from Capper for cattle blend on various dates in 2019.

Invoices from Dungannon Farmers Mart for bullocks dated 04/12/2019.

Invoices from Parklands Veterinary Ltd for medicines dated 21/06/2019, 16/02/2019.

Invoice from D & E McElroy hedge cutting services for hedge cutting on 22/03/2019.

Invoice from McCann Concrete Products Ltd for a 16-gallon drinker dated 26/04/2019.

Invoice from T & A Cassidy agricultural contractors for spraying rushes on 31/12/2019.

I have assessed the evidence and I am content enough evidence was submitted that the applicant was farming the site on 2017, 2018 and 2019.

A conacre agreement was submitted for Ruairi McKenna from April 2020 to October 2020; April 2021 to October 2021; April 2022 to October 2022.

I am content the applicant has submitted sufficient evidence to show that he is gaining an income from the land as it is rented out in con-acre.

The applicant Mr Eugene McKenna has submitted the following evidence to show he is maintaining the land in good agricultural condition.

Receipt from R McCann carpentry and building contractors for cutting hedges on 14/12/2020.

Receipt from R McCann carpentry and building contractors for cleaning sheughs and placing drainpipes and stones in January 2021.

Receipt from Kane's construction Ltd for digging trenches for water pipe, excavator and

supply and fit new water drinker.

I am content the farm business is current active and has been established for at least 6 years.

The applicant has submitted farm maps from 2008 which shows the application site and 2 fields to the rear. The applicant has stated this is the only land he owns. I completed various history checks on the applicant and DAERA number and I am content no sites or development opportunities have been sold off from the farm holding.

There is a dwelling and garage at No.103 Old Caulfield Road but this is not within the applicant's ownership. In the supporting statement it is confirmed this dwelling at 103 is not on the farm holding and is within third party ownership. The applicant Mr Eugene McKenna has stated he lives at 44 Frenchmans Lane and is 552m west of Castlecaulfield as shown in figure 1 below. The applicant has stated he owns no land around this dwelling and two outbuildings at No.44. The applicant has no other buildings on the farm holding to cluster or visually link with so fails this part of the policy in CTY 10. The lands beside 103 Old Caulfield Road is Mr McKenna's wife's grandparents' family farmlands and Mr McKenna purchased these lands.

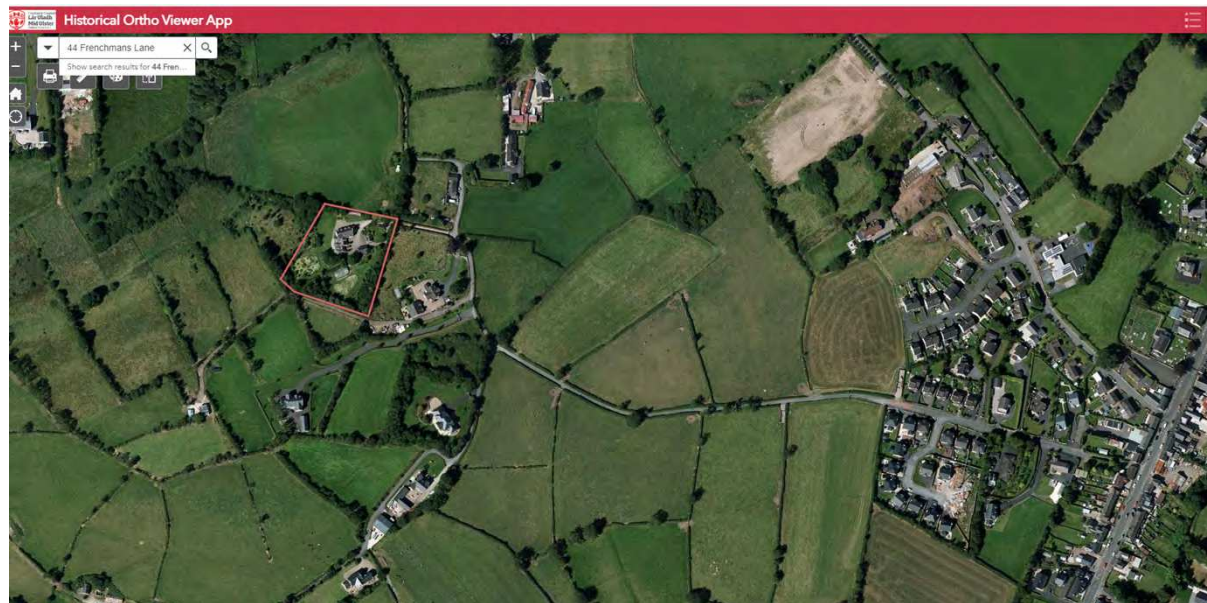


Figure 1 – Image from orthos showing 44 Frenchmans Lane in relation to Castlecaulfield to the east.

The policy states consideration may be given to another site on the farm holding if there are health and safety reasons or verifiable plans to expand the farm at this location. The applicant has submitted no evidence to demonstrate either criterion or has stated there are no other sites available on the farm holding.

However, I would like to make members aware that the applicant has demonstrated he has an active and established farm business for over six years. He has no established group of buildings on his farmland beside No.103 and he owns none of the land around the buildings at 44 Frenchmans Lane. The application site is an agricultural field on the



Old Caulfield Road which is a lightly trafficked road. I consider it is appropriate to restrict the curtilage of the proposed dwelling and garage to reduce the potential for further dwellings creating ribbon development. I am of the opinion another dwelling in this location will not have a detrimental impact on rural character.

As this is an outline application the precise location of the access has not been shown which can be reserved for the reserved matters stage.

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

The application site is an agricultural field with a roadside frontage onto Old Caulfield Road which is a minor country road. There is hedging and a post and wire fence along the roadside and a post and wire fence along the boundary with No.103. Along the remaining boundaries are established hedging. There is hedging along the roadside boundary which will need to be removed for the visibility splays, but this can be conditioned to re-planted at the reserved matters stage. Figure 1 shows the only long-distance view of the site along Mullaghcreevy Road.



Figure 2 – Long distance view of the application site.

The dwelling at No.103 Old Caulfield Road is a modest single storey dwelling, so I consider it is appropriate to condition the dwelling in this approval to a ridge height of 5.5m above finished floor level. A single storey dwelling on this site would integrate into the landscape and not create unacceptable neighbour amenity to No. 103 through overlooking or loss of light.

### **CTY 14 – Rural Character**

As stated earlier in the assessment, I am content the proposal will not be a prominent feature in the landscape.

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

#### **Policy AMP 2 – Access to Public Roads**

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. The site does not exit onto a protected route, so I have no concerns in that regard. DFI Roads were content with the proposal subject to visibility splays of 2.4m x 45m in both directions and 45m forward sight distance.

#### **Other Considerations**

I completed a check on the statutory map viewers, and I am content there are no other ecological, flooding or built heritage issues at the site.

The site is within the statutory 200m buffer zone of archaeological site and monument TYR054:008 – enclosure. HED were consulted and responded with no concerns.

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

Approve is recommended

Approval is recommended.

#### **Approval Conditions**

##### **Condition 1**

As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserve 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 later of the following dates:-

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

Reason. Time Limit

##### **Condition 2**

Approval of the details of the design and external appearance of the buildings, access 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.

#### Condition 3

No development shall take place until a plan indicating floor levels of the proposed dwelling and garage in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

#### Condition 4

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 45m in both directions and 45m forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

#### Condition 5

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those hedgerows to be retained and measures for their protection during the course of development. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

#### Condition 6

The curtilage of the proposed dwelling and garage shall be as indicated in yellow on the approved drawing 01 date received 13 JAN 2023 and the remainder of the site outlined in red on approved drawing 01 date received 13 JAN 2023 shall be retained for agricultural use.

Reason: In the interests of visual amenity.

#### Condition 7

The existing natural screenings of the site, as indicated in green, on approved drawing 01 date received 13 JAN 2023 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of

visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Condition 8**

The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape.

**Condition 9**

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

**Signature(s):** Gillian Beattie

**Date:** 25 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 13 January 2023 |
| <b>Date First Advertised</b>  | 26 January 2023 |
| <b>Date Last Advertised</b>   | 26 January 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>103 Old Caulfield Road Dungannon BT70 3NQ   |                 |
| <b>Date of Last Neighbour Notification</b>  | 19 January 2023 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2023/0045/O<br>Proposals: Proposed dwelling and domestic garage<br>Decision:<br>Decision Date:<br><br>Ref: M/1988/0216<br>Proposals: EXTENSION TO DWELLING<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1992/0272<br>Proposals: Erection of Dwelling<br>Decision: PR<br>Decision Date: |                 |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Outline resp.docx<br>DAERA - Omagh-LA09-2023-0045-O.docx<br>Historic Environment Division (HED)-  |                 |

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

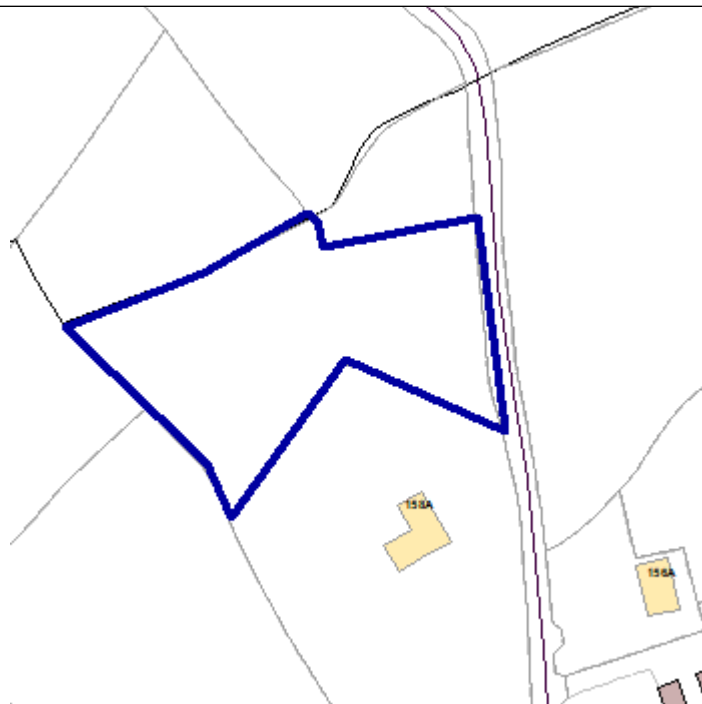


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.41  |
| <b>Application ID:</b><br>LA09/2023/0073/O  | <b>Target Date:</b> 5 May 2023   |
| <b>Proposal:</b><br>Proposed dwelling and domestic store on farm  | <b>Location:</b><br>Lands 70M North of 158A Washingbay Road<br>Coalisland                          |
| <b>Referral Route:</b> Approve is recommended   |  |
| <b>Recommendation:</b> Approve  |  |
| <b>Applicant Name and Address:</b><br>Martin Hughes<br>156 Washingbay Road<br>Coalisland  | <b>Agent Name and Address:</b><br>McKeown and Shields<br>1 Annagher Road<br>Coalisland<br>BT71 4NE |
| <b>Executive Summary:</b><br><br>No third party representations have been received.<br><br>The applicant has an active and established farm business. There is a group of farm buildings at No.156 Washingbay Road where the applicant lives but he owns no land around these buildings and there are no other farm buildings on the holding. There is already substantial development to the south along this stretch of Washingbay Road so a suitably sited and designed dwelling at this site will not have a detrimental impact on rural character. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                           | Response              |
|-------------------------|-------------------------------------|-----------------------|
| Statutory Consultee     | DFI Roads - Enniskillen Office      | Outline resp.docx     |
| Statutory Consultee     | Historic Environment Division (HED) |                       |
| Non Statutory Consultee | DAERA - Omagh                       | LA09-2023-0073-O.docx |

### Representations:

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

### Summary of Issues

No third party representations have been received and I am content the proposal complies with all the criteria in CTY 10, CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.



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

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, single dwellings and groups of farm buildings. To the north of the site there is minimal development pressure from the construction of single dwellings and to the south there is more development with at least ten single dwellings along the roadside. The application site is an agricultural field with a relatively flat topography and there is established hedging along all boundaries of the site.

## **Description of Proposal**

This is an outline application for proposed dwelling and domestic store on farm at Lands 70m North of 158A Washingbay Road, Coalisland.

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

### **Policy Consideration**

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

### **Representations**

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

### **Planning History**

There are no planning histories at the application site.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council

submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes farm dwelling opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA confirmed the farm business ID as stated on the P1C form has been in existence for over 6 years and the farm is a Category 1 farm business. The applicant has not claimed farm subsidies for the past six years and DAERA confirmed the site is located on land not claimed by any farm business. Mr Domonic Ryan has submitted evidence to demonstrate the land has been taken in con-acre for the past six years and he farms the site by grazing cattle on the land and taking silage from the land. I am content as the applicant is renting the land in con acre to another farmer, he is gaining an income from the land and there is an active farm business at the farm holding.

The applicant Mr Hughes has submitted invoices to demonstrate that he is actively maintaining the land on the farm holding.

Invoice from KD plant hire dated 21<sup>st</sup> September 2021 for the hire of a digger and cutting hedges.

Invoice from KD plant hire on the 8<sup>th</sup> March 2020 for levelling top soil in a field.

Invoice from KD plant hire on the 10<sup>th</sup> April 2019 for the hire of a digger and stoning a

field.

Invoice from KD plant hire on the 15<sup>th</sup> September 2018 for hire of a digger for cutting hedges and tidying up ground.

I cannot verify the validity of the receipts provided but on the balance of probability I am content the land is currently being farmed and maintained in good agricultural condition. I am content enough evidence has been submitted to show that the farm business as stated on the P1C form has been active and established for the past six years. I consider there is a farm business at the site as the applicant is drawing an income from the land.

I have carried out a planning history search of the farm holding, and I am satisfied that no dwellings or development opportunities have been sold off from the farm holding within the past 10 years.

The applicant Mr Hughes has stated on the P1C form that he lives at No.156 Washingbay Road which is 97m to the southeast of the application site. No. 156 comprises of a farm dwelling and agricultural sheds to the rear. I am content there is an established group of buildings on the farm and Mr Hughes has provided land registry details to show he owns the land at No.156. The applicant has provided farm maps to demonstrate all the land owned on the farm holding. There is a single agricultural field adjacent to No.156 and land registry details have confirmed this is not within the applicant's ownership. The applicant has stated he owns no land beside the farm buildings at No. 156 and I am content it has been established there are no buildings to cluster or visually link with. The policy in CTY 10 states that exceptionally consideration will be given to alternative sites on the holding provided there are no other groups of buildings on the farm and where the following criteria is met. If it is shown there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. It has been confirmed there are no other buildings on the farm holding which the applicant can cluster or visually link with. The applicant has not stated there are health and safety reason or plans to expand the farm business to the application site. Therefore, I am of the opinion the proposal does not meet any of the criteria in CTY 10 so CTY13 and CTY14 are the determining factors.

I would like to make members aware that the applicant has demonstrated he has an active and established farm business for over six years. He has an established group of buildings on the farm holding but he owns none of the land around the farm buildings. The application site is an agricultural field at the end of a row where there are already several dwellings on both sides of this section of the Washingbay Road. I consider it is appropriate to condition that the proposed dwelling and garage is sited to the rear of the field for integration and to reduce the potential for further ribbon development along the road. I am of the opinion another dwelling in this location will not have a detrimental impact on rural character as already stated previously there is a build-up of development to the south of the site.

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

The application site is an agricultural field where the topography slopes moderately from the north to the south and runs adjacent to the public road which also slopes

downwards. There is an established gorse hedging along all boundaries at the site. To the south of the site there are a row of dwellings on both sides of the road and there is moderate development pressure along this stretch of Washingbay Road to the south but to the north is mainly agricultural fields. To the rear of the site is a flat portion of land where there are three boundaries of established hedging. I consider siting the dwelling in this location is more acceptable and the dwelling will integrate better than siting the dwelling at the roadside. A dwelling to the rear of the application site would be well screened from public views and the curtilage restricted to ensure the access runs along the existing natural boundaries. The predominant house type along this stretch of road is single storey interspersed with the odd one and half storey and two storey dwelling. I consider a single storey dwelling would be more acceptable to the rear of the site as it would not project above the existing skyline to the north in long distance views and protect the amenity of the adjacent dwelling. Overall, I am of the opinion that a dwelling and garage will integrate at this site and not be a prominent feature in the landscape.

#### **CTY 14 – Rural Character**

I am content the proposal will not be a prominent feature in the landscape as it is sited back from the roadside. There is already a lot of development along Washingbay Road to the south of the site, so I am content the development will not result in a suburbanised build-up of development as the immediate area is already developed with single dwellings. I consider a single storey dwelling at this site would match the pattern of settlement in the area as it is predominantly single storey dwellings along the road.

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

##### **Policy AMP 2 – Access to Public Roads**

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. The site does not exit onto a protected route, so I have no concerns in that regard. DFI Roads were consulted as the applicant is proposing a new access to the site and they had no concerns subject to visibility splays of 2.4m x 45m in both directions. The exact location of the access has been reserved for the reserved matters stage.

#### **Other Considerations**

The site is within the statutory 200m buffer zone of an archaeological site and monument TYR047:011 which is an enclosure. HED were consulted and responded with no concerns about the proposal.

The site is not adjacent to or within the boundary of a Ramsar so I have no NED concerns.

There is no flooding at the site, so I have no concerns in this regard.

**Summary of Recommendation:**

Approve is recommended

Approval is recommended.

**Approval Conditions****Condition 1**

As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted shall be begun by whichever is later of the following dates:-

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

Reason. Time Limit

**Condition 2**

Approval of the details of the design and external appearance of the buildings, access 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.

**Condition 3**

No development shall take place until a plan indicating floor levels of the proposed dwelling and garage in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

**Condition 4**

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 45m in both directions and 45m forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

**Condition 5**

During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those hedgerows to be retained and measures for their protection during the course of development. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

**Condition 6**

The curtilage of the proposed dwelling and garage shall be as indicated in yellow on the approved drawing 01 date received 20 JAN 2023 and the remainder of the site outlined in red on approved drawing 01 date received 20 JAN 2023 shall be retained for agricultural use.

Reason: In the interests of visual amenity.

**Condition 7**

The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

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

**Condition 8**

The depth of the underbuilding between finished floor level and ground level shall not exceed 0.3m at any point.

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

**Signature(s):** Gillian Beattie

**Date:** 10 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 20 January 2023 |
| <b>Date First Advertised</b>  | 31 January 2023 |
| <b>Date Last Advertised</b>   | 31 January 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>158A Washingbay Road Coalisland BT71 4QE  |                 |
| <b>Date of Last Neighbour Notification</b>  | 25 January 2023 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2023/0073/O<br>Proposals: Proposed dwelling and domestic store on farm<br>Decision:<br>Decision Date:<br><br>Ref: M/1995/0151<br>Proposals: Extension to Dwelling<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1984/0525<br>Proposals: BUNGALOW<br>Decision: PG<br>Decision Date:<br><br>Ref: M/1981/0102<br>Proposals: ERECTION OF BUNGALOW<br>Decision: PG<br>Decision Date: |                 |

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
Historic Environment Division (HED)-  
DAERA - Omagh-LA09-2023-0073-O.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Location Plan Plan Ref: 02  
Farm Boundary Map Plan Ref: 03  
Site Location Plan Plan Ref: 01 Rev 1

**Notification to Department (if relevant)**

Not Applicable



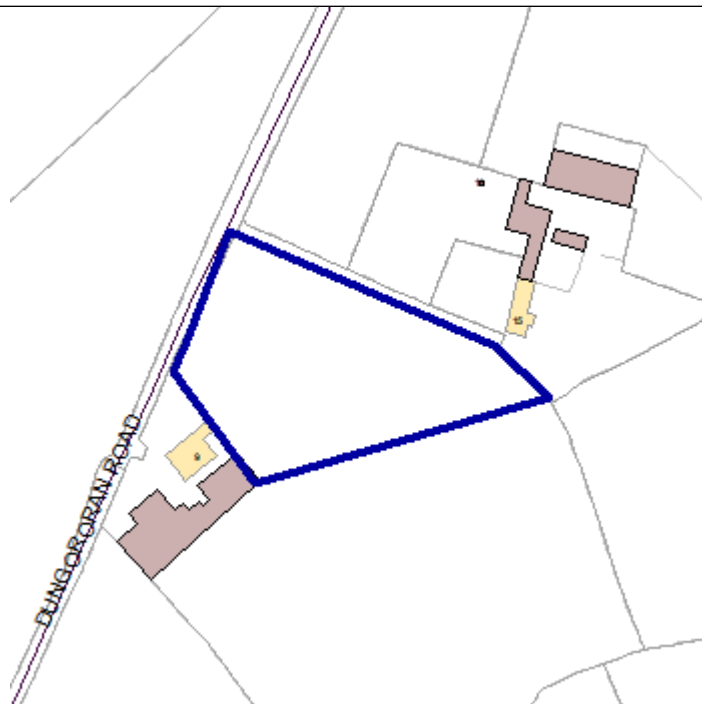


## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.42   |
| <b>Application ID:</b><br>LA09/2023/0076/O   | <b>Target Date:</b> 8 May 2023  |
| <b>Proposal:</b><br>Proposed new infill dwelling and garage  | <b>Location:</b><br>Land between No 6 and No 15 Dungororan Road, Dungannon                        |
| <b>Referral Route:</b> Refuse is recommended   |   |
| <b>Recommendation:</b> Refuse  |   |
| <b>Applicant Name and Address:</b><br>Miss Jessica Brown<br>65 Lurganeden Road<br>Pomeroy<br>Dungannon<br>BT70 2TS   | <b>Agent Name and Address:</b><br>Mr Mervyn McNeill<br>30 Knowehead Road<br>Ballymena<br>BT43 7LF |
| <b>Executive Summary:</b><br><br>The current application is presented as a refusal, having failed to meet the requirements of policy CTY 8 - Ribbon Development. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                           | Response   |
|---------------------|-------------------------------------|--|
| Statutory Consultee | Historic Environment Division (HED) |  |
| Statutory Consultee | Historic Environment Division (HED) |  |
| Statutory Consultee | Historic Environment Division (HED) |  |
| Statutory Consultee | DFI Roads - Enniskillen Office      | DC Checklist 1.doc<br>FORM RS1<br>STANDARD.doc<br>Roads outline.docx |

### Representations:

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

### Summary of Issues

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

The application site is located in the open countryside at lands between No. 6 and No. 15 Dungororan Road. The front boundary which runs along the Dungororan Road is defined by an established hedgerow which extends along the northern boundary shared with No. 15 Dungororan Road. The south-eastern boundary shared with No. 6 is defined by a wall approximately 1.5m in height as well as the outbuildings of the neighbouring dwelling. The rear boundary is currently defined as it forms part of a larger agricultural field.

I note the immediate and wider setting is characterised predominately agricultural land uses with a scattering of residential dwellings and associated outbuildings.

### **Description of Proposal**

This is an outline application for a proposed infill dwelling and garage located at land between No. 6 and No. 15 Dungororan Road, Dungannon.

### **Representations**

Two neighbour notification letters were issued in relation to this application however, no objections have been received to date.

### **Consultations**

- DfI Roads were consulted and have no objection to the proposal subject to the inclusion of a condition.
- Historic Environment Division (Historic Buildings) were consulted due to the proximity of the application site to the Former Kerrib National School, Pomeroy Road (HB13/14/014). They have provided a response stating that the proposal is satisfactory to SPPS and PPS 6 of archaeological policy requirements.

### **Planning History**

There is not considered to be any relevant planning history associated with the site.

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

#### **Policy Consideration**

#### **Cookstown Area Plan 2010**

The site falls within the open countryside, approximately 4.35km southeast of the settlement limits of Pomeroy, and 3.65km southwest of The Rock as defined in the Cookstown Area Plan 2010. There are no other zonings or designations on the site.

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

The Strategic Planning Policy Statement provides a regional framework of planning policy that will be considered in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

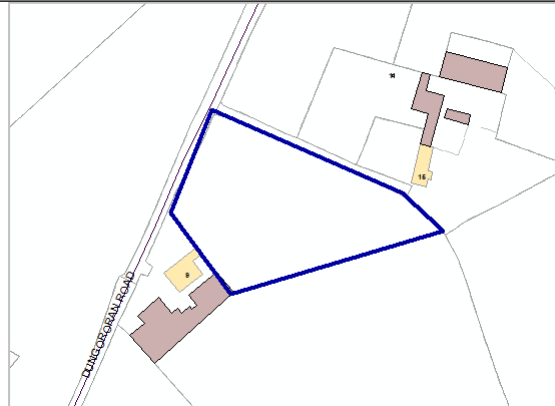
### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. The application to be considered is for a dwelling and garage under the provisions of policy CTY 8 – Ribbon Development.

Policy CTY 8 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 application is seeking an infill site between No. 9 Dungororan Road to the southwest and No. 15 to the northeast of the application site. In my opinion, the development mentioned does not constitute the definition of a substantially built-up frontage.

I am content that the dwelling and outbuilding at No. 9 Dungororan Road represent two buildings. This is followed by the application site and then No. 15 Dungororan Road which is set back from the roadside. No. 15 does not have road frontage and therefore the proposal therefore fails to meet infill policy. The agent has submitted a statement of case (uploaded to Public Access on 15/05/23) wherein they acknowledge that No. 15 Dungororan Road does not form part of the built-up frontage. They also mention an additional site located in front of No. 15 for which development has not yet commenced. This site cannot be considered as no work has commenced, however, it should also be noted that the new dwelling still does not have road frontage therefore, it would have no impact on the recommendation regardless.



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

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

*A new building will be unacceptable where;*

- (a) It is a prominent feature in the landscape; or*
- (b) The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) It relies primarily on the use of new landscaping for integration; or*
- (d) Ancillary works do not integrate with their surroundings; or*
- (e) The design of the building is inappropriate for the site and its locality; or*
- (f) It fails to blend with the landform, existing trees, buildings, slopes, and other natural features which provide a backdrop; or*
- (g) In the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

The current proposal is for outline planning permission and details of the design have not been submitted at this stage. It is considered that the site has the capacity to absorb a dwelling of suitable size and scale.

### **CTY 14 – Rural Character**

*Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.*

*A new building will be unacceptable where:*

- (a) It is unduly prominent in the landscape; or*
- (b) It results in a suburban style build-up of development when viewed with existing and approved buildings; or*
- (c) It does not respect the traditional pattern of settlement exhibited in that area; or*
- (d) It creates or adds to a ribbon of development (see Policy CTY 8); or*
- (e) The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.*

This application is not deemed acceptable under any of the policy headings in PPS 21 and it is therefore considered that a new dwelling at this location will cause a detrimental change to the rural character of this area which is contrary to CTY 14 as it will result in a suburban style build-up of development when viewed with existing buildings in the area.

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

HED have advised that the proposal is satisfactory to PPS 6 archaeological policy requirements.

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

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

### **Habitats Regulations Assessment**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21 - Development in the Countryside in that the proposed site does not represent a substantial and built-up

frontage and would, if permitted, result in ribbon development along the Carrydarragh Road.

**Reason 3**

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

**Signature(s):** Zoe Douglas

**Date:** 24 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 23 January 2023 |
| <b>Date First Advertised</b>   | 7 February 2023 |
| <b>Date Last Advertised</b>  | 7 February 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>9 Dungororan Road Pomeroy Dungannon Tyrone BT70 3EQ<br>The Owner / Occupier<br>15 Dungororan Road Dungannon Tyrone BT70 3EQ  |                 |
| <b>Date of Last Neighbour Notification</b>   | 27 January 2023 |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: M/1997/4087<br>Proposals: Renovations to Dwelling<br>Decision: PDNOAP<br>Decision Date:<br><br>Ref: M/2005/1994/F<br>Proposals: Retention of dwelling and garage (re-orientation to supercede application - M/2004/1109/RM)<br>Decision: PG<br>Decision Date: 26-NOV-05<br><br>Ref: M/2004/1109/RM<br>Proposals: Proposed dwelling & garage<br>Decision: PG<br>Decision Date: 01-NOV-04<br><br>Ref: M/2004/2172/O<br>Proposals: Dwelling House<br>Decision: PG<br>Decision Date: 18-OCT-05<br><br>Ref: M/2008/1116/RM |                 |



Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 22-DEC-08

Ref: M/2006/0905/O

Proposals: Dwelling

Decision: PR

Decision Date: 12-OCT-06

Ref: M/2009/1052/O

Proposals: Single detached retirement dwelling

Decision: PG

Decision Date: 23-JUN-10

Ref: M/2012/0359/F

Proposals: Detached retirement dwelling

Decision:

Decision Date:

Ref: M/2012/0414/F

Proposals: Detached retirement dwelling

Decision: PG

Decision Date: 12-FEB-13

Ref: LA09/2023/0076/O

Proposals: Proposed new infill dwelling and garage

Decision:

Decision Date:

Ref: M/1994/0465

Proposals: Site for Bungalow

Decision: WITHDR

Decision Date:

Ref: M/1999/0591/O

Proposals: Site for dwelling

Decision: PR

Decision Date: 09-NOV-99

Ref: M/2003/1286/O

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 28-APR-04

Ref: M/2008/1330/RM

Proposals: Proposed dwelling and garage

Decision: PG  
Decision Date: 16-FEB-09

Ref: M/2004/0380/O  
Proposals: Proposed Dwelling & Garage  
Decision: PG  
Decision Date: 28-JAN-06

Ref: M/2000/0033/F  
Proposals: Extension and renovations to dwelling.  
Decision: PG  
Decision Date: 16-FEB-00

Ref: LA09/2018/0117/F  
Proposals: Renewal of previously approved dwelling under M/2012/0414/F  
Decision: PG  
Decision Date: 07-JUN-18

### **Summary of Consultee Responses**

Historic Environment Division (HED)-  
Historic Environment Division (HED)-  
Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docRoads  
outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable

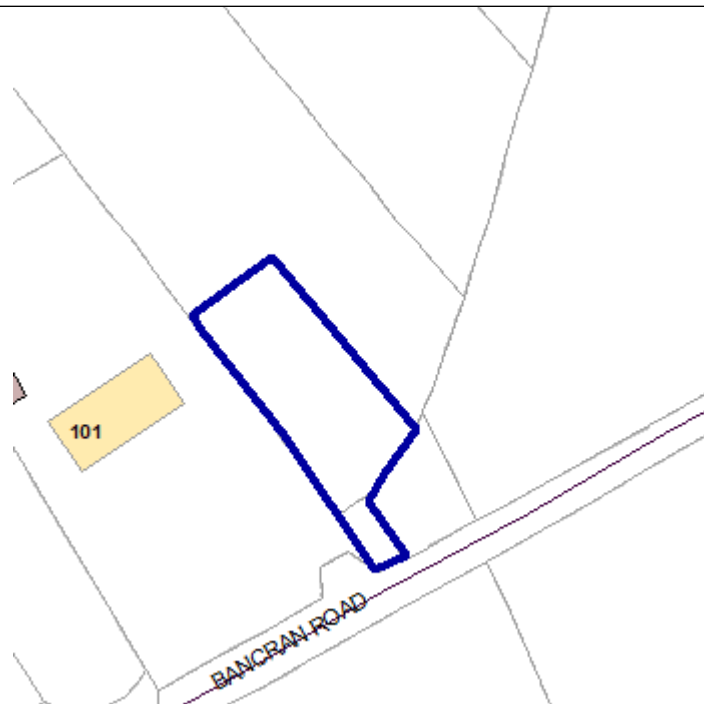


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.43  |
| <b>Application ID:</b><br>LA09/2023/0141/O  | <b>Target Date:</b> 26 May 2023  |
| <b>Proposal:</b><br>New farm building for sheep handling and sheep feed store   | <b>Location:</b><br>15M East of 101 Bancran Road<br>Draperstown  |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr Dermot Brown<br>18 Woodland Grove<br>Draperstown<br>BT45 7DJ   | <b>Agent Name and Address:</b><br>Eamonn Moore Architect Ltd<br>10 Knockmoyle<br>Cookstown<br>BT80 8XS |
| <b>Executive Summary:</b><br><br>The current application is presented to Committee as a refusal, having received an objection and failed to meet the requirements of Policy CTY 12 - Agricultural and Forestry Development. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response  |
|-------------------------|---|---|
| Statutory Consultee     | DAERA - Coleraine                       | Consultee Response LA09-2023-0141-O.DOCX  |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | LA09-2023-0141-o.doc  |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Outline resp.docx   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council | Please find attached EH consultee comment on the above application.LA09-2023-0141-o.doc |

### Representations:

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

### Summary of Issues

A summary of the objector's concerns are listed below and will be addressed within the main body of the report:

Access to proposed site is owned by objector, applicant only has a right of way

Proximity of proposal to objectors dwelling and impact on amenity

Non-compliance with policy CTY 12

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

The application site is located 15m east of No. 101 Bancran Road, Draperstown and falls within the open countryside as defined in the Magherafelt Area Plan 2015. The red line of the application site forms part of a larger agricultural field and as such, the north-western, and north-eastern boundaries are currently undefined. The south-western boundary shared with No. 101 is defined by an established hedgerow approximately 1.8m in height. The remaining front boundary is defined by wire and post fencing and a gate providing access to the field.

The surrounding area is characterised by a mixture of dispersed single dwellings, farm holdings and agricultural lands.



### **Description of Proposal**

This is an outline application for a new farm building for sheep handling and sheep feed

store located at lands 15m east of No. 101 Bancran Road, Draperstown.

### **Consultations**

1. DfI Roads were consulted on 24/02/2023 and responded on 16/03/2023 advising that they had no objection to the proposed development subject to conditions.
2. DAERA were consulted on 24/02/2023 and responded on 28/02/2023 advising the farm business is active and has been established for more than 6 years. They have confirmed that the proposed site is located in a field which is under the control of the farm business.
3. Environmental Health were consulted on 24/02/2023 and responded on 06/04/2023 recommending a separation distance of 75m between agricultural land use and third-party residential use to protect residential amenity and potential impact of odour, noise, and pests.

### **Site History**

There is no relevant planning history at the application site.

### **Representations**

Neighbour notification and press advertisement has been carried out in accordance with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing, one objector had submitted written correspondence on two separate occasions, 07/04/2023 and 18/04/2023.

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

### **Policy Consideration**

#### **Magherafelt Area Plan 2015**

The site falls within the rural countryside area, outside of any designated settlement and falls within the Sperrin Area of Outstanding Natural Beauty.

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

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

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

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### **PPS 21 – Sustainable Development in the Countryside**

Development in the countryside is controlled under the provisions of PPS 21 – Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance, the application is for a new farm building for sheep handling and sheep feed store and therefore the development must be considered under CTY 12 of PPS 21.

Policy CTY 12 – Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies certain criteria.

A consultation was issued to DAERA, and they responded confirming that the farm business ID was allocated on 19/11/1991 and that payments have been claimed in each of the last 6 years. DAERA note that the proposed site is within a field which is under the control of the farm business identified on the application form.

It is therefore accepted that the farm is active and established.

In order to comply with Policy CTY 12, the proposal must also meet all of the following criteria;

***(a) It is necessary for the efficient use of the agricultural holding or forestry enterprise.***

It is noted that the applicant does not have any farm buildings on the holding and the farm business is registered to an address in the Town of Draperstown. Whilst the applicant has made a case to justify the need for a building to accommodate sheep handling and the storing of feed, no site-specific case has been made to locate it here.

***(b) In terms of character and scale it is appropriate to its location.***

This is an outline application therefore no design details have been submitted.

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

Whilst no details have been provided the site would have the ability to integrate a small building due to the set back position of the site and backdrop of rising land.

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

The site is not within any area of arch importance nor are there any adjacent listed buildings. The proposal does not make ref to the storing/collection of any slurry or ammonia generating processes and as such there are no natura; heritage concerns.

***(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.***

The nature of the proposed development as a permanent animal handling facility will inevitably give rise to potential noise and odour amenity concerns. Environmental Health have also alluded to this fact. Despite the applicant indicating that this takes place already here by utilising an old vehicle, the applicant is formally applying for permission for a permanent structure to handle sheep and store feed and consideration must be given to the impact of such on residential amenity. The applicant has plenty of other land which could be used for this which would be more than 75m from a third party. The most appropriate site has not been considered.

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

***(a) There are no suitable existing buildings on the holding or enterprise that can be used.***

There are no existing buildings on the application site that can be used for sheep handling or the storage of sheep feed. The application site is a single, vacant field, isolated from the applicants' other, larger parcels of land.

***(b) The design and materials to be used are sympathetic to the locality and adjacent buildings.***

This is an outline application therefore no design details have been submitted.

***(c) The proposal is sited beside existing farm or forestry buildings.***

The proposal is not sited beside any existing farm buildings.

Exceptionally, consideration may be given to an alternative site away from existing farm or forestry buildings, provided there are no other sites available at another group of buildings on the holding, and where;

***(a) It is essential for the efficient functioning of the business; or***

***(b) There are demonstrable health and safety reasons.***



The proposed development is not essential in this location for the efficient functioning of the farm business. There are no demonstrable health and safety reasons that would justify the approval of this application. The proposal does not meet the exceptional test.

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

DfI Roads were consulted on 24/02/2023 and responded on 16/03/2023 advising that amended drawings are required prior to any approval being granted to this application. Approval is also subject to the inclusion on a condition.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of noise and smell.

**Signature(s):** Zoe Douglas

**Date:** 23 May 2023

| ANNEX   |                  |
|---|------------------|
| Date Valid  | 10 February 2023 |
| Date First Advertised   | 21 February 2023 |
| Date Last Advertised  | 21 February 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>101 Bancran Road Draperstown Londonderry BT45 7DA   |                  |
| Date of Last Neighbour Notification   | 17 February 2023 |
| Date of EIA Determination   |                  |
| ES Requested  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: H/1993/0030<br>Proposals: BUNGALOW AND GARAGE<br>Decision: PG<br>Decision Date:<br><br>Ref: H/1999/0391<br>Proposals: SITE OF DWELLING & GARAGE<br>Decision: PG<br>Decision Date: 11-DEC-99<br><br>Ref: H/1991/0231<br>Proposals: SITE OF BUNGALOW AND GARAGE<br>Decision: WITHDR<br>Decision Date:<br><br>Ref: H/2003/1192/O<br>Proposals: Site of dwelling and garage.<br>Decision: PG<br>Decision Date: 04-MAY-05<br><br>Ref: H/1992/0052<br>Proposals: SITE OF DWELLING AND GARAGE |                  |

Decision: PG  
Decision Date:

Ref: LA09/2023/0141/O  
Proposals: New farm building for sheep handling and sheep feed store  
Decision:  
Decision Date:

Ref: H/1988/0160  
Proposals: BUNGALOW WITH GARAGE  
Decision: PG  
Decision Date:

Ref: H/2004/1021/O  
Proposals: Site of bungalow and detached garage.  
Decision: PR  
Decision Date: 28-NOV-05

Ref: H/2006/0624/RM  
Proposals: Single dwelling with detached garage  
Decision: PG  
Decision Date: 05-SEP-08

### **Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2023-0141-O.DOCX  
Environmental Health Mid Ulster Council-LA09-2023-0141-o.doc  
DFI Roads - Enniskillen Office-Outline resp.docx  
Environmental Health Mid Ulster Council-Please find attached EH consultee comment on the above application.LA09-2023-0141-o.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02

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

Not Applicable

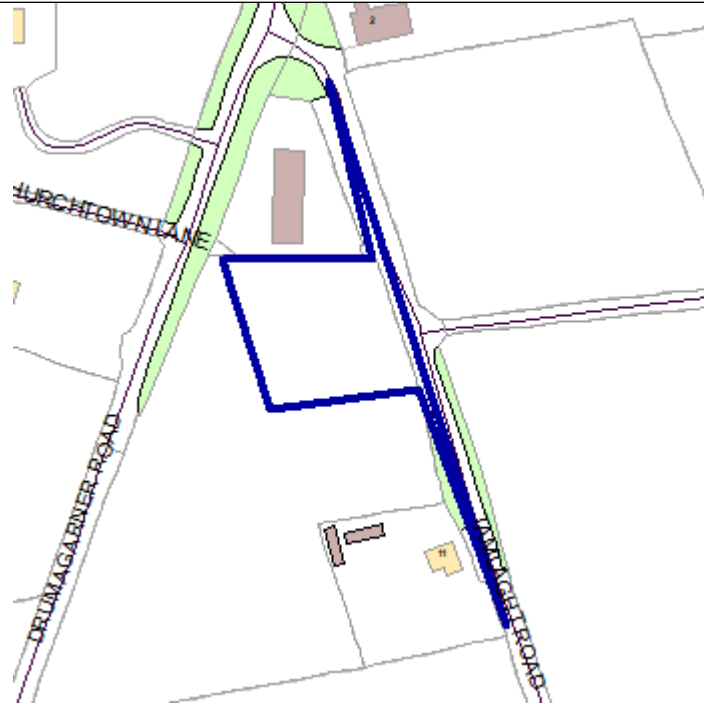


## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.44   |
| <b>Application ID:</b><br>LA09/2023/0148/O   | <b>Target Date:</b> 30 May 2023   |
| <b>Proposal:</b><br>Proposed site for dwelling and garage  | <b>Location:</b><br>Adjacent and South of Killygullib Orange Hall<br>Tamlaght Road<br>Kilrea    |
| <b>Referral Route:</b> Approve is recommended  |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>Mr Terence Birt<br>8 Bogashen Road<br>Portglenone<br>Ballymena<br>BT44 8LZ   | <b>Agent Name and Address:</b><br>Mr Damien Kearney<br>2a Coleraine Road<br>Maghera<br>BT46 5BN |
| <b>Executive Summary:</b><br><br>The current application is presented as an approval, however is being presented at Committee following receipt of an objection. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                           | Response                  |
|---------------------|-------------------------------------|---------------------------|
| Statutory Consultee | Historic Environment Division (HED) |                           |
| Statutory Consultee | DFI Roads - Enniskillen Office      | Outline resp.docx         |
| Statutory Consultee | Rivers Agency                       | 171835-Response.pdf Final |

### Representations:

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

### Summary of Issues

The objector's concerns are addressed below:

1. Flooding concerns – Rivers Agency have been consulted and have advised that whilst the site is not located within any flood plains, an undesignated culvert does

transverse the northern boundary of the site. As a result, a condition requiring the provision of a maintenance strip has been added.

2. Privacy concerns – The application site is located approximately 45m from the closest boundary of the objector's site therefore I am content that there will be no loss of privacy.
3. Impact on value of objector's property – This is not a material planning consideration.

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

The application site is located adjacent to, and south of Killygullib Orange Hall, Tamlaght Road, Kilrea. The site falls within the open countryside, approximately 2.1km north-west of the settlement limits of Tamlaght and 4.1km east of Swatragh. The front (eastern) boundary is defined by a 1m high open timber fence, and the northern boundary shared with Killygullib Orange Hall is defined by a wall with a fence on top. The remaining boundaries to the south and west are undefined as the site forms part of a larger agricultural field.

I note the immediate and wider setting is characterised predominately agricultural land uses with a scattering of residential dwellings and industrial units.

### **Description of Proposal**

This is an outline application for a proposed site for a dwelling and garage located adjacent and south of Killygullib Orange Hall, Tamlaght Road, Kilrea.

#### **Representations**

Two neighbour notification letters were issued in relation to this application and one objection has been received.

#### **Consultations**

DfI Roads were consulted and have no objection to the proposal subject to the inclusion of a condition.

Historic Environment Division (Historic Monuments and Historic Buildings) were consulted and have responded stating that the proposal is satisfactory to SPPS and PPS 6 of archaeological policy requirements.

Rivers Agency were consulted in response to an objection which raised concerns over flooding in the area. They have advised that whilst the application site does not fall within

a flood plain, an undesignated culvert transverses the northern boundary of the site. A recommendation to include a suitable maintenance strip of minimum 5m, but up to 10m where necessary, be included on any approval.

### **Planning History**

LA09/2023/0147/O - Adjacent and North of 11 Tamlaght Road, Kilrea – Proposed site for dwelling and garage – Pending Consideration.

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

### **Policy Consideration**

#### **Magherafelt Area Plan 2015**

The site falls within the open countryside, approximately 2.1km north-west of the settlement limits of Tamlaght as per the Magherafelt Area Plan 2015. There are no other zonings or designations on the site.

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

The Strategic Planning Policy Statement provides a regional framework of planning policy that will be considered in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

#### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. CTY 1 allows for a new dwelling in the countryside provided it meets the criteria specified in other policies within the document. The current application to be considered is for a dwelling and garage under the provisions of policy CTY 8 – Ribbon Development.

Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental

requirements. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The gap between the existing dwelling at No. 11 and Killygullib Orange Hall is sufficient only to accommodate two dwellings. Immediately south of the site is a vacant plot for which there is an outline application under consideration, and further south is a storey and a half dwelling and garage (No. 11), and to the north of the site is the Orange Hall Building. For the purpose of this assessment, I am content that this can be deemed a substantial and built-up frontage.

It is also my opinion that given the size of the host field, and the plot sizes along this section of road, a dwelling on this proposed site would represent an acceptable infill opportunity that respects the adjacent plot sizes. No. 11 Tamlaght Road has a frontage of 46m, the vacant plot to the south has a frontage of 43m and the Orange Hall has a frontage of 58m. The application site, with its proposed frontage of 44m respects the existing plot sizes.

Ribbon development is cited as being detrimental to rural landscapes, creating a built-up appearance to roads. I have accepted that the existing development constitutes a substantial and built-up frontage as defined in CTY 8. As such, another dwelling in this location will not create build-up, but instead will add another dwelling into the existing ribbon of dwellings. I therefore consider that the infilling of this gap site will not be detrimental to the rural character of this area.

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

Design and Integration states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As this is an outline application, the design elements of CTY 13 cannot be dealt with under this application but will be considered under any reserved matters or full application.

### **CTY 14 – Rural Character**

Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A dwelling on this site will not be unduly prominent in the landscape as it is broadly in line with the existing development. The proposal respects the settlement pattern of the area and it has been accepted that this site represents an infill opportunity within an existing ribbon of development. The ancillary works will not damage rural character and there is no issue with build-up, therefore the proposal complies with CTY 14.

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

HED have advised that the proposal is satisfactory to PPS 6 archaeological policy requirements.

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



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

### **Habitats Regulations Assessment**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

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

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

#### **Condition 3**

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of

the reserved matters application showing the access to be constructed and other requirements in accordance with the RS1 form uploaded to Public Access on 13/03/2023.

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

**Condition 4**

A maintenance strip of 5m (minimum), but up to 10m where necessary should be maintained along the northern boundary of the site.

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

**Condition 5**

A landscaping scheme shall be submitted to the Council at Reserved Matters stage indicating proposed planting and shall include a survey of all existing trees and hedgerows on the land, together with details of those to be retained and measures for their protection during the course of development. The scheme shall detail species type, siting and planting distances and a programme of planting for all additional landscaping on the site will comply with the appropriate British Standard or other recognised Codes of Practice. The work shall be carried out during the first available planting season after the occupation of the dwelling.

Reason: To ensure the provision of a high standard of landscape and ensure the development integrates into the countryside.

**Signature(s):** Zoe Douglas

**Date:** 24 May 2023

|  |                  |
|--|------------------|
| <b>ANNEX</b>   |                  |
| <b>Date Valid</b>  | 14 February 2023 |
| <b>Date First Advertised</b>   | 28 February 2023 |
| <b>Date Last Advertised</b>  | 28 February 2023 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>197 Drumagarner Road Kilrea Londonderry BT51 5TP<br>The Owner / Occupier<br>11 Tamlaght Road Kilrea Londonderry BT51 5UL |                  |
| <b>Date of Last Neighbour Notification</b>   | 17 February 2023 |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b>   |                  |
| <b>Summary of Consultee Responses</b><br><br>Historic Environment Division (HED)-<br>DFI Roads - Enniskillen Office-Outline resp.docx<br>Rivers Agency-171835- Final Response.pdf                            |                  |
| <b>Drawing Numbers and Title</b><br><br>Site Location Plan   Plan Ref: 01  |                  |
| <b>Notification to Department (if relevant)</b><br><br>Not Applicable  |                  |



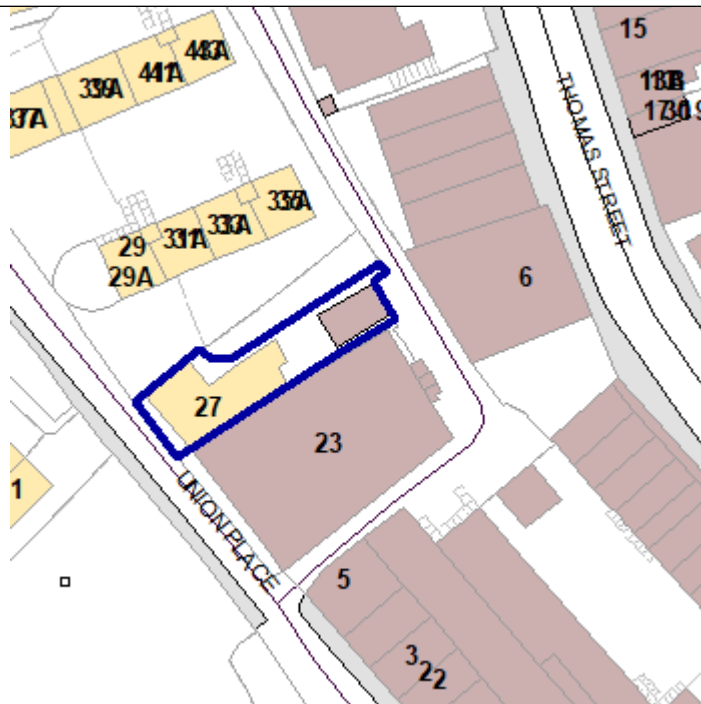


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.45   |
| <b>Application ID:</b><br>LA09/2023/0162/F  | <b>Target Date:</b> 30 May 2023   |
| <b>Proposal:</b><br>Change of Use of existing commercial property into 2no Residential Apartment Units. | <b>Location:</b><br>27 Union Place<br>Dungannon<br>BT70 1DL                                 |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Mr JOHN RAFFERTY<br>8 MEADOWVIEW<br>MOY<br>BT71 7DN               | <b>Agent Name and Address:</b><br>Mr EAMONN MOORE<br>10 KNOCKMOYLE<br>COOKSTOWN<br>BT80 8XS |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                         | Response  |
|-------------------------|-----------------------------------|---|
| Non Statutory Consultee | NI Water - Multiple Units West    | LA09-2023-0162-F.pdf                            |
| Non Statutory Consultee | NI Water - Strategic Applications | Consulted in error. Resend to Multi-Units West. |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is urban in character and the

predominant land uses are apartments above shops, retail and town centre services such as a pubs, beauty salons and solicitors. The application site comprises of an existing two storey building which was previously a St Vincent de Paul shop. The building has external finishes of rendered walls and slate roof tiles. The site has a direct frontage onto a minor road from Irish Street to Greens Road. It is mainly residential property along Union Place interspersed with vacant properties.

### **Description of Proposal**

This is a full application for a change of use of existing commercial property into 2no Residential Apartment Units at 27 Union Place, Dungannon.

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

#### **Policy Consideration**

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

#### **Planning History**

M/2001/0006/F - Society Of St Vincent De Paul - Demolition of existing building and construction of new two storey building comprising of Meeting Rooms Shop Drop-In Centre and External Store - 27 Union Place Dungannon – permission granted 01.03.2001

#### **Site across the road**

LA09/2020/1002/F - Erection of 4 no. town houses and 2 sets of semi-detached dwellings with associated gardens and site works (8 units total) - Site Adjacent To 1 Union Place, Dungannon – Under Consideration

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, two third party objections were received.

An objection was received by email from Mr Aidan Harte on the 1<sup>st</sup> March 2023 who raised the following issues about the proposal. He wished to object to the use of the adjacent car park for the new flats. In rebuttal, this has subsequently been amended by the agent and the new apartments will not use these adjacent spaces for parking. He

also stated he had no objection to the proposal just the use of the existing spaces for the apartments.

An email was received on the 2<sup>nd</sup> March 2023 by Councillor Monteith who was asked by residents of Union Place to raise concerns about parking at the proposed development. Union Place is north and directly adjacent to the site and it is stated there are already difficulties with parking for residents at these flats and this new development will make the situation worse. The issue of car parking will be assessed in the policy consideration.

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

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

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

In term of housing the SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It highlights the need to deliver sustainable forms of development, that the use of greenfield land for housing should be reduced and more urban housing accommodated through the recycling of land and buildings and the encouragement of compact town and village forms. It also highlights that within town centres, residential use above shops and other business premises should be facilitated, where appropriate, as this can promote sustainability through utilising underused space, maintaining the fabric of buildings and contributing to the vitality and viability of town centres.

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

The Plan does not have any specific policies on this type of development, though Policy SETT 1 (Settlement Limit's) sets out 6 criteria and a general criteria to meet with regional policy and guidance within Part 3 of the Plan. I consider housing in town centres can contribute to the vitality and viability of the town centre and as such housing uses can be accepted outside the primary retail core.

The site is located within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010, so SETT 1 is the relevant policy which applies. The site is also within a Protected Housing designation DUN/PH07 and within the town centre designation so RSO1 applies.

I am content as the proposal is in accordance with the prevailing policy in the SPPS and



PPS 7 it also meets RSO1 for development within the town centre. This site within Dungannon town centre makes this a natural location for a non-residential use; if not retail then financial and professional service, entertainment or office use. However, office demand is low in this area of Dungannon and there are already a number of vacant retail premises along Union Place and adjoining streets. It is also important to allow new residential units within existing town centres on appropriate sites so that the vitality and viability of town centres can be maintained. This part of Dungannon is outside the existing primary retail core. Given the existing retail provision within Dungannon Town Centre, and given the existing character of development in this particular area, it is my view that the loss of this existing ground floor retail use will not have a detrimental impact on Dungannon's retail offer. Policy does not protect the retail unit here and housing is an acceptable use in the town centre and as such I do not see any reason to object to this use.

In terms of SETT 1, the proposal is for the change of use from a charity shop to two residential apartments and there are only minor changes to the external appearance and no extensions to the building. I am content the proposal is sensitive to the size and character of the settlement of Dungannon.

There are no changes to the front elevation of the building. On the left-hand side there are two new ground floor bedroom windows and on the rear elevation there is a new bedroom window. In terms of the new left-hand side windows there are already windows from the flats at Union Place facing onto the application site so I consider the addition of two extra windows will not have a greater loss of privacy than what currently exists. As the site is in a town centre location there will already be a certain degree of overlooking and loss of privacy. The site also looks onto a car parking area so at least there is some view, and the bedroom windows are not looking onto a blank wall. The window to the rear is also looking into a yard area associated with the proposal so I am content it does not overlook onto neighbouring properties. There are no extensions to the building which reduces the potential for overlooking and loss of light. Overall, I am content the proposal will not have an unacceptable impact on neighbouring amenity.

As the proposal is for a change of use and there are minimal changes to the appearance of the building, I am content the proposal will not have an impact on conservation interests.

There are no changes to the access arrangements at the site. In terms of parking the proposal is located within Dungannon town centre and there is no in-curtilage parking at the site. There are designated parking spaces adjacent to the application site, but these have been shown for existing flats at Union Place and will not be used with this development. There are free car parks within Dungannon which the occupants of the apartments could utilise. However, as the proposal is within the town centre and within walking and cycling distance of all local amenities it is to be expected that there will be reduced car parking capacity.

There are issues with the wastewater treatment works within Dungannon and as this is a new development NI Water have recommended the proposal for refusal. The agent has

stated in a supporting statement that the existing building which was previously occupied by the St Vincent De Paul currently has three bathrooms and two kitchen facilities. It is stated these were used by shop employees at the shop, but the premises also hosted social gatherings, so the foul water facilities were used extensively. The proposed ground floor apartment has three bedrooms, a kitchen, shower room and toilets. The first-floor apartment will have four bedrooms, a kitchen, toilet and bathroom. When comparing the plans there is going to be one extra bathroom to what is currently on site. I consider as the previous use was a shop on the ground floor it would have been mainly employees using the facilities and meeting on the first floor only occurred once a week. While there are 7 no. bedrooms in these apartments so that is at least 7 people using the kitchens, toilets and showers on a daily basis. I am of the opinion as there is only one extra bathroom there may not be a significant intensification in the use of the sewage facilities at the site. However it is appropriate to condition the sewage facilities so this can be assessed by NI Water at a later date.

No additional infrastructure is needed by the developer.

Overall, I am content the proposal adheres to all the criteria in SETT 1 in the Plan.

### **Plan Policy HOUS 2 Town Centre Housing**

The application site is within an area designated as protected town centre housing. I consider as the proposal is to change use from a former commercial premise to apartments I have no concerns.

### **PPS 7 – Quality Residential Environments**

#### **Policy QD 1 – Quality in New Residential Development**

The proposal is for the change of use from the existing vacant building which was previously a charity shop to two apartments. There are no changes to the external appearance of the building, so I have no concerns about the scale and massing of the proposal. I have no concerns about the change of use to residential as there are several residential properties in the immediate area. In addition, across the road there is an application LA09/2020/1002/F for townhouses and semi-detached dwellings. The building is currently vacant so the proposal will bring an empty building back into use.

The site is within the statutory 200m buffer zone of the following archaeological sites.

TYR 054:016 – church ecclesiastical site

TYR 054:046 – historical settlement of Dungannon

TYR 054:017 – archaeological site and monument

I am content as there are minimal external changes to the appearance of the building and it will not have an unacceptable impact on these archaeological sites and monuments.

There is a yard area to the rear of the building which could be used for the storage of bins associated with the apartments. There is limited private amenity space for the

apartments and this is below the minimum standards advocated within Creating Places. However, I recognise that the site is within the town centre and some compromises on private space are to be expected with town centre housing.

Due to the small scale of the proposal, there is no requirement for neighbourhood facilities. It is also noted this is in the town centre where these facilities are already provided close by.

The site is situated, in Dungannon Town Centre, adjacent a footpath connecting to other streets within the town as such those occupying the apartments should have adequate and convenient ease of access to public transport, a no. of services, shops, parks etc. Accordingly, this proposal should support walking and cycling; and meet the needs of people whose mobility is impaired.

There are parking spaces to the west and immediately adjacent to the site, but these serve apartments No.29-35. The proposed development does not propose to provide any car parking or servicing arrangements, and ordinarily some should be provided in accordance to the Car Parking Standards. However, this development is located within the town centre and is well served by other modes of transport which allows a reduction in parking to be applied. The planning history of the site would suggest the proposed development will reduce the need for parking when considered against the published parking standards. It is also notable that previous existing shops along the road are accommodated from the street and nearby car parks. In light of these factors, I do not consider it is necessary to seek any additional car- parking or servicing arrangements for the development so I did not consult DFI Roads.

The objectors have raised the issue of car parking spaces at the proposed change of use to apartments. As stated earlier in the assessment the site is located within the town centre of Dungannon so there is reduced need for parking. The agent has also submitted an assessment of existing and proposed car parking needs to demonstrate the parking needs of the building at the site. The building was previously a St Vincent De Paul charity shop with meeting rooms above. It is stated that there were 4 employees that worked at the shop who parked in the nearby free car park on Greers Road. The shop would have had on average 17 customers a day who would have walked to the shop due to the close proximity to the shops and there were 3 car or vans dropping off donations per day. In terms of the meeting space above the shop there was on average 1 meeting per week in the evenings which had about 15 people attending them. It is stated in total there could have been up to 160 persons attending the premises per week. In comparison the proposed development is 2no apartments with each household unit having on average 8 movements per day which is 30% less movements per week than the existing use. I am content there will not be an intensification of the number of vehicle and person movements at the application site and there is not an increased need for car parking spaces.

The works are mainly internal and there are minimal changes to the external appearance

of the building, so I have no concerns about the design.

I am satisfied that the apartments are located within the Town Centre where there are a number of properties close by and street lighting to deter crime to some degree.

The change of use to apartments will not alter the scale, size or height of the host property and this means that there will be no associated impact on neighbouring properties by way of dominance, overshadowing or loss of light. I find that neighbouring amenities will not be impeded upon by the change of use.

On the basis of the above assessment it is clear that the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7.

**PPS 7 Addendum – Safeguarding the character of established residential areas.**

Policy LC1 does not apply to this proposed change of use to apartments as the application site is within Dungannon Town Centre as designated in the Dungannon and South Tyrone Area Plan 2010.

**Policy LC2 – The Conversion or change of use of existing buildings to flats or apartments.**

As the proposal meets all the relevant criteria in QD1 in PPS 7 I am content it meets the relevant criteria in LC2.

I do not believe that by allowing this development that it will result in unacceptable damage to the local character, environmental quality or residential amenity of this area. This proposal is sensitive in design terms to people living in this area and is in harmony with local character. The proposal also offers a variety to the different types of accommodation found within the town centre in Dungannon. The proposal will encourage the re-use of existing buildings within the town centre for residential use as there are a number of vacant properties along Union Place in Dungannon.

This proposal will maintain the form, character and architectural features, design and setting of the existing building.

The gross internal floor space of the existing building is greater than 150 sqm and is 298sqm. I am content the proposed apartments are an adequate size. I consider the apartments are self-contained with own bedroom, bathroom and kitchen area. Both apartments are accessed via separate doorways. The ground floor apartment is accessed via a front door off Union Place and the first-floor apartment is accessed via a door to the rear of the building.

I find the proposal to be in accordance with this policy.

The proposal is recommended for approval as it meets all the criteria in SETT 1 in the Dungannon and South Tyrone Area Plan 2010 and PPS 7.

**Summary of Recommendation:**

Approve is recommended

The proposal is recommended for approval as it complies with all the criteria in SETT 1 in the Dungannon and South Tyrone Area Plan 2010 and Policy QD1 in PPS 7 – Quality Residential Environments.

**Approval Conditions****Condition 1**

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

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

**Condition 2**

The development hereby permitted shall not commence until such time as the applicant has provided adequate evidence to the Council that NI Water will allow connection to the public sewer and this condition has been discharged and received written confirmation that the Council has agreed discharge of this condition.

Reason: In the interests of public health.

**Signature(s):** Gillian Beattie**Date:** 15 May 2023

|   |                  |
|---|------------------|
| <b>ANNEX</b>  |                  |
| <b>Date Valid</b>   | 14 February 2023 |
| <b>Date First Advertised</b>  | 6 March 2023     |
| <b>Date Last Advertised</b>   | 6 March 2023     |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner / Occupier<br>6 Thomas Street Dungannon BT70 1HN<br><br>The Owner / Occupier<br>35A Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>31A Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>29 Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>1 Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>33A Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>31 Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>29A Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>33 Union Place Dungannon Tyrone BT70 1DL<br>The Owner / Occupier<br>35 Union Place Dungannon Tyrone BT70 1DL |                  |
| <b>Date of Last Neighbour Notification</b>  | 30 March 2023    |
| <b>Date of EIA Determination</b>  |                  |
| <b>ES Requested</b>   | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: M/2003/1015/O<br>Proposals: Proposed re-development of site of derelict building & vacant car-parking space at 22 & to the rear of 22 Union Place, car-parking at basement & ground floor levels with new 1st & 2nd floor office accommodation<br>Decision: PG<br>Decision Date: 23-JUN-04   |                  |

Ref: M/1976/002401  
Proposals: SOCIAL CLUB  
Decision: PG  
Decision Date:

Ref: M/1988/0464  
Proposals: CHANGE OF USE FROM STORE TO AMUSEMENT-POOL HALL  
Decision: PG  
Decision Date:

Ref: M/2005/2329/F  
Proposals: Erection of four storey building to provide four retail units on ground floor and 16 Apartments on 1st and 2nd floor with vehicle access to serve underground car parking accessing onto Thomas Street.  
(readvertisement - amended proposal)  
Decision: PG  
Decision Date: 30-NOV-07

Ref: M/1994/0072  
Proposals: New Basement and extension and alterations to shops and Offices.  
Decision: PG  
Decision Date:

Ref: LA09/2023/0162/F  
Proposals: Change of Use Planning Application of existing commercial property into 2nd Residential Apartment Units.  
Decision:  
Decision Date:

Ref: M/1998/0506  
Proposals: Erection of St Vincent De paul building for shop, drop in centre and meeting rooms  
Decision: PG  
Decision Date:

Ref: M/2001/0006/F  
Proposals: Demolition of existing building and construction of new two storey building comprising of Meeting Rooms Shop Drop-In Centre and External Store  
Decision: PG  
Decision Date: 13-MAR-01

Ref: M/2007/0613/Q  
Proposals: Dungannon Town Centre Health Check Planning Search  
Decision: 300

Decision Date: 05-JUN-07

Ref: M/1981/0106

Proposals: CONVERSION OF DWELLING FOR CHURCH HALL EXTENSION

Decision: PG

Decision Date:

Ref: M/1974/0014

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: M/1976/0024

Proposals: SOCIAL CLUB

Decision: PG

Decision Date:

Ref: M/1989/0553

Proposals: 4 Shops with Offices above

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

NI Water - Multiple Units West-LA09-2023-0162-F.pdf

NI Water - Strategic Applications-Consulted in error. Resend to Multi-Units West.

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Proposed Elevations Plan Ref: 04

Proposed Elevations Plan Ref: 05

Existing Floor Plans Plan Ref: 06

Existing Elevations Plan Ref: 07

Existing Elevations Plan Ref: 08

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

Not Applicable





## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.46  |
| <b>Application ID:</b><br>LA09/2023/0164/F   | <b>Target Date:</b> 12 September 2023  |
| <b>Proposal:</b><br>Redevelopment of existing Integrated College Dungannon to provide a new integrated post primary school to accommodate circa. 700 pupils (as existing). Proposed works to include demolition of existing buildings, phased construction of new two-storey school accommodation and extension to existing sports block. Other works include 2no. new grass pitches, 5no. new tennis courts, hard play areas, a sensory garden, cycle parking area, fencing, retaining walls, car parking, landscaping and all associated site works. Vehicular and pedestrian access to the main school site will be maintained off Gortmerron Link Road and an additional access point is proposed through to Stevenson Park Rugby grounds, to facilitate the southern pitches. | <b>Location:</b><br>Integrated College Dungannon,<br>21 Gortmerron Link Road, Former Pitches to The South East and Portion of Dungannon Rugby Club (Stevenson Pk) at 36 Moy Road Dungannon |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Board of Governors of Integrated College,<br>Dungannon<br>21 Gortmerron Link Road<br>Dungannon<br>BT71 6LS   | <b>Agent Name and Address:</b><br>Mrs Sarah McDowell<br>Innovation Factory<br>Forthriver Business Park<br>385 Springfield Road<br>Belfast<br>BT12 7DG                                      |
| <b>Executive Summary:</b>  |  |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                               | Response                                       |
|-------------------------|---|--|
| Non Statutory Consultee | Environmental Health Mid Ulster Council |  |
| Statutory Consultee     | Shared Environmental Services           | LA09-2023-0164-F HRA Stage 2 AA 17.05.23.pdf   |
| Non Statutory Consultee | Environmental Health Mid Ulster Council |  |
| Statutory Consultee     | Shared Environmental Services           | Duplicate consultation                         |
| Non Statutory Consultee | Historic Environment Division (HED)     |  |
| Statutory Consultee     | DFI Roads - Enniskillen Office          | Roads Consultation.docxDC Checklist.doc        |
| Statutory Consultee     | Rivers Agency                           | 145076 - Final Response.pdf                    |
| Statutory Consultee     | NIEA                                    | PRT LA09-2023-0164-F.PDF                       |
| Statutory Consultee     | Environmental Health Mid Ulster Council | LA09-23-0164 F Dungannon Integrated School.doc |
| Statutory Consultee     | NI Water - Strategic                    | LA09-2023-0164-F.pdf                           |

|   |               |                          |       |
|---|---------------|--------------------------|-------|
|   |               | Applications             |       |
| Non Statutory<br>Consultee  | Rivers Agency | 340484 -<br>Response.pdf | Final |
| <b>Representations:</b>   |               |                          |       |
| Letters of Support  |               | 0                        |       |
| Letters Non Committal   |               | 0                        |       |
| Letters of Objection  |               | 1                        |       |
| Number of Support Petitions and signatures  |               |                          |       |
| Number of Petitions of Objection and signatures   |               |                          |       |
| <b>Summary of Issues</b>  |               |                          |       |
| <p>Press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.</p>   |               |                          |       |
| <b>Characteristics of the Site and Area</b>   |               |                          |       |
| <p>The site is located within the settlement limit of Dungannon as per the Dungannon and South Tyrone Area Plan 2010 (DSTAP).</p> <p>Access is taken from the Gortmerron Link Road and leads upwards of the road to the existing campus of Dungannon Integrated College. The main campus consists of a reception building, single storey temporary buildings which house the classrooms, associated car parking and hard cored playing areas. To the south of the site, there is a large 3g pitch.</p> <p>The site is elevated above the Gortmerron Link Road and falls away considerably to the south towards the aforementioned 3g pitch.</p> <p>The surrounding land use is predominantly residential with high density housing located immediately adjacent to the NW boundary. There is a large area of industrial land immediately to the south east with Grenier Packaging located adjacent to the site.</p> <p>The southern portion of the represents an extension to the existing school grounds and is a former playing field. This area is proposed to provide two grass pitches (in addition to the existing synthetic pitch on school site) and is zoned for 'Industrial' use (DI02 Land at Coolhill, south of Moy Park). This southern portion will be accessed from Moy Road through Dungannon Rugby Club.</p> <p>The southern and south eastern parts of the site towards the 3g pitch are zoned as Existing Recreation and Open Space.</p> |               |                          |       |



## Description of Proposal

Redevelopment of existing Integrated College Dungannon to provide a new integrated post primary school to accommodate circa. 700 pupils (as existing). Proposed works to include demolition of existing buildings, phased construction of new two-storey school accommodation and extension to existing sports block. Other works include 2no. new grass pitches, 5no. new tennis courts, hard play areas, a sensory garden, cycle parking area, fencing, retaining walls, car parking, landscaping and all associated site works. Vehicular and pedestrian access to the main school site will be maintained off Gortmerron Link Road and an additional access point is proposed through to Stevenson Park Rugby grounds, to facilitate the southern pitches.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

Policy considerations

The larger site is currently in use as a school and this is clearly an established use on this site. The principle of the development therefore is well established and not subject of debate as part of this application.

The following policy documents / Plans are relevant;

Dungannon and South Tyrone Area Plan 2010

SPPS (Strategic Planning Policy Statement)

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 8 - Open Space, Sport and Outdoor Recreation

#### Planning History

LA09/2022/1702/F – Temporary mobile classroom and school meals accommodation, hard play area, LPG gas compound, substation, retaining walls, underground drainage system and all associated ground work required for the operation of IC Dungannon during the construction phase and redevelopment of the College. Temporary permission is required until the new college becomes operational, Integrated College Dungannon, 21 Gortmerron Link Road, Dungannon, Permission Granted 21.04.2023

#### Representations

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

#### Assessment

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

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

The Dungannon and South Tyrone Area Plan, 2010, identifies the site as being within the designated settlement limits which gives favourable consideration to proposals subject to criteria outlined within the plan policy. Policy Com 1 – community uses of the DSTAP is applicable.

#### Plan Policy Com 1 – Community Uses

The proposed development is on an existing school site with an extension to the southern portion for playing fields and the use is well established on the site.

Considering the surrounding land uses which are largely residential and commercial and the range of building types, it is my opinion that the proposal will not adversely impact on the character of the area. The proposed works are well screened by the existing buildings and natural screenings of the site.

The surrounding area is mainly residential areas to the north, west and south of the applications site. Gortmerron Heights area, Brookfield Road and Brookfield Avenue being the most proximate housing area to the new school buildings. Brookfield Avenue and Ranfurly Heights are closest to the proposed pitches and new access to the Moy Road. Commercial factories are located to the north-eastern boundary.

Careful consideration was given to the impact on these residential areas, particularly Gortmerron heights as it was considered that given the proposed location of the new school building along this boundary, that these residents might be adversely impacted upon in terms of dominance. There are already significant level differences between 1m (at the rear of no. 11) and rising to 3.5m (at the side of no. 32) between the site and residences. This was addressed at the PAD stage and design considerations were made to the scheme to reduce any perceived dominance issue on residences in Gortmerron heights and after group discussions with the Senior Planners it is considered that these residents will not suffer detriment to private residential amenity through overlooking, overshadowing or over dominance. A photo montage was submitted with the application showing indicative photos of the proposed buildings from various view points, See extract below which shows the appearance of the new building from the rear of no. 14 Gortmerron heights, where the level differences are at most odds.



In consideration of the above and given the separation distances from the proposal, I believe that it will not have a significant detrimental impact on the surrounding residential properties. The Environmental Health Department were consulted on the application due to the proximity of nearby houses and industry. They responded to say that they had no objections to the proposal, subject to conditions.

Public amenity provision for the proposal includes roads (with bus routes), public footpaths linking the site to the wider urban and rural areas. It is considered that the scale, form and design of the proposal would be acceptable within this urban setting and I am content that the proposed development is acceptable.

## PPS 8 - OPEN SPACE OUTDOOR SPORT AND RECREATION

Policy OS 1 of PPS 8 states that development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of open space will apply irrespective of its physical condition or appearance. The policy goes on to state that where the proposal in question is capable of delivering substantial community benefits that outweigh the impacts of the loss of open space, then this may be treated as an exception to the presumption against the loss of open space. While it was identified in application La09/2022/1702/F that there would be minimal loss of open space during construction phase, this will be restored once the development is complete.

### Other Material Considerations

NI water were consulted on the application and had no objections subject to conditions.

Rivers Agency were consulted on the application and initially had requested additional information. This was submitted and they were reconsulted. They responded to say that they were content with the proposal subject to conditions being applied.

HED were consulted on the application and responded to say that they were content subject to condition's being applied.

NIEA were consulted on the application, Water Management Unit said that they have considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal strictly subject to: The proposal complies with Planning Policy Statement 15: Planning and Flood Risk Policy FLD 4. Regulation Unit Regulation Unit Land and Groundwater Team have no objections to the development provided conditions and informatives are placed on any Planning Decision Notice and Natural Environment Division Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommended conditions.

Shared Environmental Services were also consulted and had no objection to the proposal.

### PPS 3 - Access, Movement and Parking

DFI roads have been consulted and have no objections to the proposed access arrangements. They expressed concern at the level of parking available during construction phase and suggested a condition to be applied. In application LA09/2022/1702/F, the agent has assuaged these concerns by providing additional



parking near the new hard play area, which will mitigate the displacement of parking spaces as a result of the construction phase of the development.

DFI therefore, have no objections to this proposal.

#### Conclusion

In conclusion I consider the proposal to be acceptable and recommend permission is granted subject to conditions.

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

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2

During the construction works hereby permitted, hard surfaced areas shall be provided to provide adequate facilities for parking, servicing and circulating within the site.

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

##### Condition 3

No development shall be commenced until a Sewer Adoption Agreement has been authorised by NI Water to permit a connection to the public sewer in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 and Sewerage Services Act (Northern Ireland) 2016

REASON: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and the Sewerage Services Act (Northern Ireland) 2016.

##### Condition 4

A formal water / sewer connection application must be made for all developments [prior to occupation], including those where it is proposed to re-use existing connections.

REASON: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and the Sewerage Services Act (Northern Ireland 2016

Condition 5

Development shall not be occupied until the foul water drainage works on-site and off-site have been submitted to and approved by the relevant authority and constructed by the developer in line with approved design.

REASON: In the interest of public health.

Condition 6

Development shall not be occupied until the surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority.

REASON: To safeguard the site and adjacent land against flooding and standing water

Condition 7

Development shall not be occupied until the foul water drainage works on-site and off-site have been submitted to and approved by the relevant authority and constructed by the developer in line with approved design.

REASON: In the interest of public health.

Condition 8

Prior to development commencing, the applicant shall submit a Dust Management Plan in writing for agreement by Mid Ulster District Council. Any mitigation measures outlined within this report shall be implemented for the duration of all demolition/construction activities.

Reason: To protect nearby residential receptors from dust.

Condition 9

Prior to development commencing, the applicant shall submit a Noise Management Plan in writing for agreement by Mid Ulster District Council, detailing how demolition/construction noise will be controlled. Any mitigation measures outlined within this report will be implemented for the duration of demolition/construction activities.

Reason: To protect nearby residential properties from demolition/construction noise.

Condition 10

All external plant shall not exceed a cumulative noise rating level L<sub>A</sub> of 43 dB, 15 minute (inclusive of any acoustic feature correction as per BS 4142: 2014) when measured 3 metres from the façade of the nearest noise sensitive receptor.

Reason: To protect nearby residential properties from plant noise.

#### Condition11

Prior to occupation of the development, a 1.5 metre high acoustic barrier with no gaps and a minimum mass of at least 15 kg/m<sup>2</sup>, shall be constructed as shown on Figure 1.3 of the Noise Impact Assessment dated January 2023.

Reason: To protect nearby residential property from noise.

#### Condition12

The rugby pitches, as annotated on drawings number 03 & 04, shall only be used between 09:00 - 17:30 Monday - Saturday.

Reason: To protect nearby residential property from noise

#### Condition13

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

Reason: To protect residential properties from noise and dust.

#### Condition14

In the event that previously unknown contamination is discovered on the site shall cease pending submission and agreement of a written report, detailing the proposed investigation, risk assessment and remediation scheme, by Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency. Development works shall not resume until the approved written report has been fully implemented to the satisfaction of Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency.

Reason: To protect future site users from land contamination.

#### Condition15

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event including an allowance for climate change. The DA will be required to demonstrate that access to approved discharge locations is feasible.

Reason - In order to safeguard against surface water flood risk

#### Condition16

No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Mid Ulster District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

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

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

#### Condition17

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

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

#### Condition18

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

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

#### Condition19

Prior to works commencing, a final Construction Environmental Management Plan (CEMP) must be submitted by the appointed contractor and agreed by the Council. The final CEMP must be site specific and include all necessary mitigation measures for the construction phase of the development to avoid any pollutant egress to any watercourses. The approved final CEMP shall be adhered to and implemented in full throughout the construction phase in accordance with the approved details, unless otherwise agreed in writing by the Council.

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

Condition20

All services within the development should be laid underground.

REASON: In the interests of visual amenity

**Signature(s):** Siobhan Farrell

**Date:** 30 May 2023

| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 14 February 2023 |
| <b>Date First Advertised</b>   | 6 March 2023     |
| <b>Date Last Advertised</b>  | 6 March 2023     |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner / Occupier<br>1A Killyman Road Dungannon Tyrone BT71 6LN<br>The Owner / Occupier<br>7 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>8 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>9 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>10 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>11 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>30 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>32 Brookfield Mews Dungannon Tyrone BT71 6UL<br>The Owner / Occupier<br>8 Brookfield Avenue Dungannon Tyrone BT71 6UR<br>The Owner / Occupier<br>10 Brookfield Avenue Dungannon Tyrone BT71 6UR<br>The Owner / Occupier<br>26 Brookfield Avenue Dungannon Tyrone BT71 6UR<br>The Owner / Occupier<br>28 Brookfield Avenue Dungannon Tyrone BT71 6UR<br>The Owner / Occupier<br>30 Brookfield Avenue Dungannon Tyrone BT71 6UR<br>The Owner / Occupier<br>32 Brookfield Avenue Dungannon Tyrone BT71 6UR<br>The Owner / Occupier<br>2 Ranfurly Heights Dungannon Tyrone BT71 6PL<br>The Owner / Occupier<br>4 Ranfurly Heights Dungannon Tyrone BT71 6PL<br>The Owner / Occupier<br>6 Ranfurly Heights Dungannon Tyrone BT71 6PL<br>The Owner / Occupier<br>8 Ranfurly Heights Dungannon Tyrone BT71 6PL<br>The Owner / Occupier |                  |

10 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 12 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 14 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 16 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 18 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 20 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 22 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 24 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 26 Ranfurly Heights Dungannon Tyrone BT71 6PL  
 The Owner / Occupier  
 7 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 8 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 9 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 10 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 11 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 12 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 14 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 32 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 Grenier Packaging, Killyman Road Industrial Estate, Killyman Rd, Dungannon BT71  
 6LN  
 The Owner / Occupier  
 22 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 4 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 5 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 6 Gortmerron Heights Dungannon Tyrone BT71 6LT  
 The Owner / Occupier  
 34 Brookfield Mews Dungannon Tyrone BT71 6UL  
 The Owner / Occupier  
 36 Moy Road Dungannon Tyrone BT71 7DS

|   |                 |
|---|-----------------|
|   |                 |
| <b>Date of Last Neighbour Notification</b>  | 13 April 2023   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b>  |                 |
| <b>Summary of Consultee Responses</b><br><br>Environmental Health Mid Ulster Council-<br>Shared Environmental Services-LA09-2023-0164-F HRA Stage 2 AA 17.05.23.pdf<br>Environmental Health Mid Ulster Council-<br>Shared Environmental Services-Duplicate consultation<br>Historic Environment Division (HED)-<br>DFI Roads - Enniskillen Office-Roads Consultation.docxDC Checklist.doc<br>Rivers Agency-145076 - Final Response.pdf<br>NIEA-PRT LA09-2023-0164-F.PDF<br>Environmental Health Mid Ulster Council-LA09-23-0164 F Dungannon Integrated<br>School.doc<br>NI Water - Strategic Applications-LA09-2023-0164-F.pdf<br>Rivers Agency-340484 - Final Response.pdf |                 |



## Drawing Numbers and Title

Site Location Plan Plan Ref: 01  
Existing Plans Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 04  
Existing Site Survey Plan Ref: 05  
Cross Sections Plan Ref: 06  
Proposed Plans Plan Ref: 07  
Proposed Plans Plan Ref: 08  
Proposed Plans Plan Ref: 09  
Proposed Plans Plan Ref: 10  
Proposed Plans Plan Ref: 11  
Proposed Plans Plan Ref: 12  
Proposed Plans Plan Ref: 13  
Proposed Plans Plan Ref: 14  
Proposed Plans Plan Ref: 15  
Proposed Plans Plan Ref: 16  
Proposed Plans Plan Ref: 17  
Proposed Plans Plan Ref: 18  
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Proposed Plans Plan Ref: 23  
Proposed Plans Plan Ref: 24  
Proposed Plans Plan Ref: 25  
Proposed Plans Plan Ref: 26  
Proposed Plans Plan Ref: 27  
Proposed Plans Plan Ref: 28  
Proposed Plans Plan Ref: 29  
Proposed Plans Plan Ref: 30  
Proposed Plans Plan Ref: 31  
Site Location Plan Plan Ref: 32  
Existing Plans Plan Ref: 33  
Existing Site Survey Plan Ref: 34  
Site Layout or Block Plan Plan Ref: 35  
Site Layout or Block Plan Plan Ref: 36  
Site Layout or Block Plan Plan Ref: 37  
Cross Sections Plan Ref: 38  
Cross Sections Plan Ref: 39  
Cross Sections Plan Ref: 40  
Site Layout or Block Plan Plan Ref: 41  
Site Layout or Block Plan Plan Ref: 42  
Site Layout or Block Plan Plan Ref: 43  
Site Layout or Block Plan Plan Ref: 44  
Site Layout or Block Plan Plan Ref: 45  
Site Layout or Block Plan Plan Ref: 46  
Site Layout or Block Plan Plan Ref: 47  
Proposed Plans Plan Ref: 48  
Proposed Plans Plan Ref: 49  
Proposed Plans Plan Ref: 50  
Proposed Plans Plan Ref: 51  
Proposed Plans Plan Ref: 52

APPENDIX A - DRAWING NUMBERS - LUSK 20230644

ACKN

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.47   |
| <b>Application ID:</b><br>LA09/2023/0175/F   | <b>Target Date:</b> 2 June 2023   |
| <b>Proposal:</b><br>Change of House Type to Previous Approval ref. M/2009/0967/RM, Extension of Dwelling Curtilage and erection of Domestic Garage.  | <b>Location:</b><br>103D Ballagh Road<br>Fivemiletown   |
| <b>Referral Route:</b> Approve is recommended  |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>Mr Cormac Mc Gale<br>222 Scallen Road<br>Trillick<br>BT78 3TA  | <b>Agent Name and Address:</b><br>Mr Bernard Donnelly<br>30 Lismore Road<br>Ballygawley<br>BT70 2ND |
| <b>Executive Summary:</b><br><br>The application is being presented to Committee as it does not fully comply with policy, however foundations were put in place and the sightlines have now been provided and it would be harsh not to allow this dwelling to be completed |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response  |
|---------------------|--------------------------------|---|
| Statutory Consultee | DFI Roads - Enniskillen Office | DC Checklist 1.doc<br>Roads Consultation - Full response.docx |

### Representations:

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

### Summary of Issues

This application is being presented to committee as it does not comply with policy, however foundations were put in place and the sightlines have now been provided and it would be harsh not to allow this dwelling to be completed.

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

The site is a 0.3ha parcel of land located within the rural remainder approx. 2.5km north-east of Fivemiletown. It is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site is in the shape of a pentagon, with the north-eastern and south-eastern boundaries undefined on the ground as they are cut out of the larger agricultural field. A post and wire fence defines the northern boundary, with a closed board fence beyond this defining the curtilage of the recently constructed 2 storey dwelling to the north. Deciduous hedging defines the western and southern boundaries of the site. The access to the site is taken between two of these new dwellings and is in place.

There is considerable recent development pressure in the area, with 4 new two storey dwellings and garages recently constructed in the immediate vicinity to the north, as well as extant permissions yet to be implemented.

## **Description of Proposal**

Full application for change of House Type to Previous Approval ref. M/2009/0967/RM, Extension of Dwelling Curtilage and erection of Domestic Garage.

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

### **Policy Consideration**

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

### **Relevant Histories**

Ref: M/2006/1033/O

Proposals: Site for dwelling

Decision: PG

Decision Date: 14-NOV-06

Ref: M/2009/0967/RM

Proposals: New Dwelling

Decision: PG

Decision Date: 29-DEC-09

### **Representations**

Six (6) neighbouring properties were identified to be notified, two from an initial desktop study and four more from my site inspection. Press advertisement has been carried out in line with the Council's statutory duty. To date no letters of representation have been received. I have engaged in substantive talks with some of the occupiers of neighbouring properties who had initial concerns about the proposal, however no objections have been received to date.

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

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

### **Mid Ulster District Council Draft Plan Strategy 2030**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within 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. It does not present any change in policy direction therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. DFI Roads have been consulted and offer no objection on the condition that it is constructed and maintained to that designed and detailed on Drawing No. 02 rev. 01 date received 125<sup>th</sup> May 2023, which shows visibility splays of 2.0m x 55.0m to the north-east and 2.0m x 65.0m to the south-west.

## CTY1 of PPS 21 – Development in the Countryside.

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

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

CTY 1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. This development does not meet with any of the specified criteria however it is acknowledged that the principle of development was agreed under the previous application M/2006/1033/O and the reserved matters application was granted for a dwelling on this site on 29.12.2009 under M/2009/0967/RM.



Orthophotography taken 24.05.2012 shows foundations in place at this time. In addition a letter from Building Control has been submitted which confirms that an Building Notice Application was received by the Council on 1<sup>st</sup> December 2011 and an inspection of the foundations took place on 14<sup>th</sup> December 2011. I am content that works in the course of the erection of a building have been carried out in time. However, it is not clear that the access was provided prior to these works being carried out.

The previous permission reserved the access to the site and applied a condition that required the access to be provided in accordance with the approved plans, before development could commence on the site. This is commonly referred to as a Grampian or negative condition and is a pre-commencement condition; that is, it must be carried

out before other works are able to commence.

Due to the failure to provide the access before the commencement of the works, there is not a legitimate fall back position to say that the site was secured in accordance with M/2009/0967/RM.

However, a planning application allows the decision makers to exercise some discretion and can take into account other factors that are material to the decision making process. In this case the applicant has clearly commenced development on the site within the time frame set out in their planning permission, as detailed below. Section 63 of the Planning Act states ‘development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out–

(a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;’ this is the same as was stated in Article 36 of the Planning Order, which was in effect at the time the development was begun.

From evidence provided it is accepted that works have taken place on the site with foundations poured for the dwelling. These works have been verified by Building Control on 14<sup>th</sup> December 2011. The access to the dwelling was not put in place before the development was commenced as was set out in the RM decision. Usually the access must be in place before any other development commences as the access will be used for the construction traffic to serve the site. It is apparent that the access was not put in place before the works were commenced, however it is now in place in accordance with the plans as previously approved, as seen at the time of site inspection.

It is clear there is no legitimate fallback position here as the applicant does not have a certificate of lawful development in place. I have however taken account of the following factors that I believe are site specific and would not create a wide ranging precedent for new dwellings in the countryside:

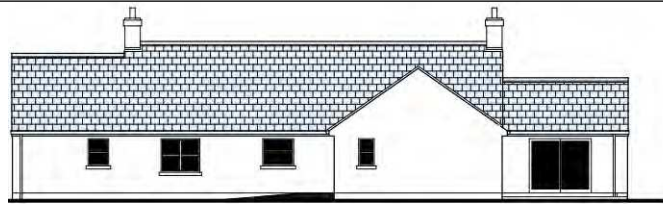
- planning permission was previously granted for this dwelling,
- the access is now in place,
- substantial works have been carried out in the course of the erection of the building within the lifetime of the permission lapse.

This application is for a change of house type in lieu of that approved, as well as an extension to the curtilage and a domestic garage. The primary consideration will now be CTY 13 of PPS21.

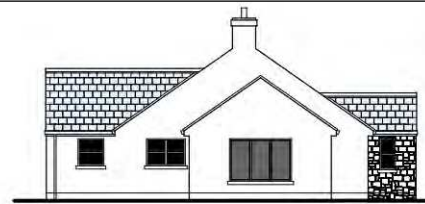
### **CTY 13 Design and Integration of PPS 21**

The changes to the design of the dwelling as well as the increase in curtilage and relocation of the dwelling are considerations of this proposal.

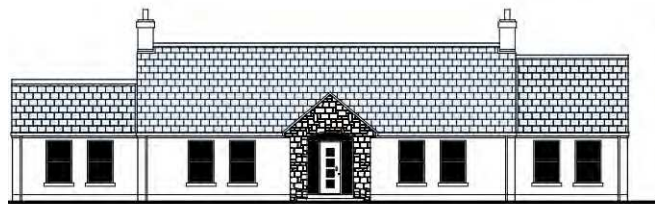




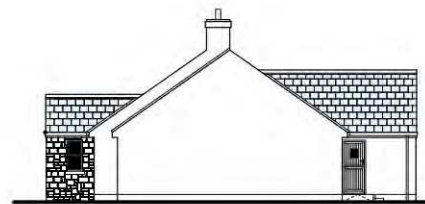
Rear Elevation...



Side Elevation...



Front Elevation...



Side Elevation...

The proposed dwelling is similar in design to that previously approved, albeit slightly bigger. It measures 5.8m in height, with a length of 23.7m including the two side projections with a lower ridge height than the main body of the dwelling. The windows are vertical in emphasis with a strong relationship of solid to void. The finishes of K-rend white render with a wood float finish, with stone cladding to the front porch are acceptable and the chimneys are expressed from the ridge line. The size and scale of this dwelling is acceptable and can be accommodated comfortably within this site without appearing prominent or out of keeping with the surrounding area. The new dwelling will be sited further back from the existing development to the north by over 10m from that previously approved. The new garage will also be sited between this dwelling and the existing dwellings which will further minimize any adverse affect on any of the neighbouring properties. The increase in curtilage allows for this increased setback and extends the curtilage to the front and rear of the site.

Given the location of this site to the rear of two storey dwellings along the public road there will be very limited critical views of it when travelling in either direction along the Ballagh road to the north of the site. When travelling along the Ballagh Road to the south which is the main A4, critical views are prevented by the embankment and mature vegetation along the southern boundary of the site. To ensure the proposed dwelling will not have a significantly greater visual impact when travelling along the A4 than the existing approval, it is imperative that this boundary and the boundary to the west are retained in perpetuity. The existing vegetation is shown to be retained augmented by additional planting and shall be conditioned to be retained as part of any planning approval. Levels have also been provided and I consider these are acceptable.

### Other Material Considerations

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect

on the features, conservation objectives or status of any of these sites.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns. In addition, I have no ecological or residential amenity concerns. I recommend approval.

As the principle of a dwelling on this site has been accepted under the previous approval, this report has assessed the proposed dwelling under CTY 13 of PPS 21 and I consider that the design of the dwelling and garage is acceptable therefore I recommend approval.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

The vehicular access, including visibility splays of 2.0m x 55.0m to the north-east and 2.0m x 65.0m to the south-west and any forward sight distance shall be provided in accordance with drawing No. 02 Rev 01 date received 25 May 2023, 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.

#### **Condition 3**

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

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

**Condition 4**

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

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

**Condition 5**

One dwelling only shall be erected within the red line of the site as identified on Drawing No. 01 date received 16 Feb 2023.

Reason: This dwelling is in substitution for that approved under M/2006/1033/O and M/2009/0967/RM and is not for an additional dwelling on this site.

**Condition 6**

All existing trees and hedges, as detailed on drawing No. 02 Rev 01 date received 25 May 2023 shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

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

**Condition 7**

All hard and soft landscape works as detailed on drawing No. 02 Rev 01 date received 25 MAR 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s):** Deirdre Laverty

**Date:** 25 May 2023

|  |                  |
|--|------------------|
| <b>ANNEX</b>   |                  |
| <b>Date Valid</b>  | 17 February 2023 |
| <b>Date First Advertised</b>   | 6 March 2023     |
| <b>Date Last Advertised</b>  | 6 March 2023     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>103C Ballagh Road Fivemiletown BT75 0LD<br>The Owner / Occupier<br>105 Ballagh Road Fivemiletown BT75 0LD<br>The Owner / Occupier<br>103E Ballagh Road Fivemiletown BT75 0LD<br>The Owner / Occupier<br>103F Ballagh Road Fivemiletown BT75 0LD<br>The Owner / Occupier<br>105A Ballagh Road Fivemiletown BT75 0LD<br>The Owner / Occupier<br>109 Ballagh Road Fivemiletown BT75 0LD |                  |
| <b>Date of Last Neighbour Notification</b>   | 28 March 2023    |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: M/1987/0135<br>Proposals: DWELLING<br>Decision: PR<br>Decision Date:<br><br>Ref: M/1987/0134<br>Proposals: BALLAGH ROAD, KILTERMON, FIVEMILETOWN<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2021/0123/F<br>Proposals: Proposed erection of 2 NO. Dwellings & Domestic garages in a Gap Site under CTY 8 of PPS 21.<br>Decision: PG  |                  |

Decision Date: 15-JUN-21

Ref: M/2003/0119/O

Proposals: Erection of dwelling and domestic garage

Decision: PG

Decision Date: 11-MAR-03

Ref: M/2008/0957/F

Proposals: Erection of a two storey dwelling and domestic garage

Decision: PG

Decision Date: 23-OCT-08

Ref: M/2001/1046/O

Proposals: Erection of Dwelling & Domestic Garage

Decision: PG

Decision Date: 17-NOV-01

Ref: LA09/2020/1540/F

Proposals: Proposed change of house type to previously approved application M/2009/0380/RM and domestic garage.

Decision: PG

Decision Date: 24-DEC-21

Ref: M/2006/0332/O

Proposals: Site for dwelling and domestic garage

Decision: PG

Decision Date: 03-MAY-06

Ref: M/2009/0380/RM

Proposals: Construction of a two storey dwelling

Decision: PG

Decision Date: 04-JUN-09

Ref: M/2009/0967/RM

Proposals: New Dwelling

Decision: PG

Decision Date: 29-DEC-09

Ref: M/2006/1033/O

Proposals: Site for dwelling

Decision: PG

Decision Date: 14-NOV-06

Ref: LA09/2023/0175/F

Proposals: Change of House Type to Previous Approval ref. M/2009/0967/RM, Extension of Dwelling Curtilage and erection of Domestic Garage.

Decision:  
Decision Date:

Ref: M/2009/0866/F

Proposals: Proposed two storey dwelling with two storey front return, single storey side projection and double garage- amended design to previously approved, M/2008/0957/F

Decision: PG

Decision Date: 29-DEC-09

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Consultation - Full response.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Proposed Plans Plan Ref: 04

Site Layout or Block Plan Plan Ref: 02 REV 01

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

Not Applicable

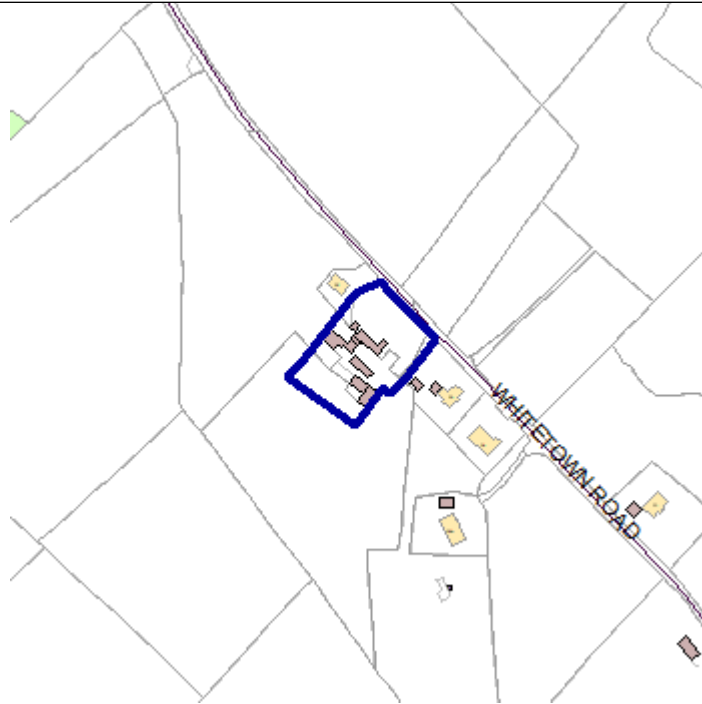


## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.48   |
| <b>Application ID:</b><br>LA09/2023/0211/F  | <b>Target Date:</b> 12 June 2023  |
| <b>Proposal:</b><br>Proposed 2no infill dwellings   | <b>Location:</b><br>Adjacent to and immediately SE of 26<br>Whitetown Road<br>Newmills, Dungannon |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Sydney Brown<br>212 Brackaville Road<br>Newmills<br>Dungannon<br>BT71 4EJ | <b>Agent Name and Address:</b><br>Kee Architecture Ltd<br>9A Clare Lane<br>Cookstown<br>BT80 8RJ  |
| <b>Executive Summary:</b><br><br>Objection received   |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response  |
|---------------------|--------------------------------|---|
| Statutory Consultee | DFI Roads - Enniskillen Office | DC Checklist 1.doc<br>Roads Consultation - Full response.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site, which lies outside any settlement defined under the Dungannon and South Tyrone Area Plan 2010, is located in the rural countryside adjacent the Whitetown Road, approx. 1 mile north of Newmills.





Fig 1: Site outlined in red

It is a relatively square shaped agricultural plot comprising the remains of some agricultural buildings / sheds set back on the site and accessed off the adjacent Whitetown Road via an existing short lane along the southeast boundary of the site. This lane is bound to both sides by thick mature vegetation.

The site is located within an existing line of roadside development comprising 3 roadside dwellings. It nestles between no. 26 Whitetown Road to its northwest and nos. 28 and 30 Whitetown Road to its southeast. No. 26 is a modest single storey dwelling fronting onto the adjacent Whitetown Road. No. 28, also a single storey dwelling is sited gable end fronting onto the Whitetown Road. No. 28 has a garage located immediately to its rear/north west side and another outbuilding to the north west of this again adjacent the southeast boundary of the site. No 30 is single storey and fronts onto the adjacent Whitetown Rd.

A post and wire fence defines the northwest boundary of the site / party boundary with no. 26. A mature hedgerow approx. 1.4m high with higher vegetation scattered through defines the roadside boundary of the site. The southeast boundary of the site along the party boundary with no. 28, is defined by mature trees and vegetation ranging approx. 4-9 metres in height. The rear boundary is defined only in part by the rubble of the buildings removed / remaining.

Critical views of this site will be limited until passing along its roadside frontage due to its location on straight stretch of road within a line of existing dwellings, which alongside the mature vegetation on the site's boundaries and within the wider vicinity screen it on both the northwest and southeast approach along the Whitetown Road.

This area of countryside is typically rural, characterised primarily by undulating agricultural land with dwellings and farm groups dispersed along the roadside.

## Description of Proposal

This is a full application for 2 dwellings on an infill site. The site is located adjacent to and immediately SE of 26 Whitetown Road Newmills Dungannon

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Development Control Advice Note 15  
Planning Policy Statement 2: Natural Heritage  
Planning Policy Statement 15 (Revised): Planning and Flood Risk  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Relevant Planning History**

#### On site

- LA09/2018/0977/O - Infill site for 2 no dwellings with demolition and removal of redundant agricultural buildings - Adjacent to and immediately SE of 26 Whitetown Rd Newmills Dungannon - Granted 3<sup>rd</sup> October 2018
- LA09/2021/1265/O - renewal of permission LA09/2018/0977/O - Granted 26<sup>th</sup> November 2021

#### Adjacent site

- LA09/2023/0210/F - Proposed extensions to rear and side of dwelling and

erection of domestic garage and extension to the existing site curtilage - 26

Whitetown Road Dungannon - Granted 26<sup>th</sup> April 2023

The above application relates to the dwelling immediately northwest of the site.

### **Consultees**

1. DfI Roads - were consulted in relation to the proposed access arrangements and had no objection subject to standard conditions and informatives. Accordingly, I am content that the proposal complies with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

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

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21.

The principle of this development has already in my opinion been established on site under the previous outline planning applications, most recently LA09/2021/1265/O (see ‘Relevant Planning History’ further above). This approval granted outline permission for 2 dwellings on site under the provisions of Policy CTY 8 of PPS 21 - Ribbon Development.

Policy CTY8 – Ribbon Development states permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting, and plot size and meets other planning and environmental requirements. 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.

Whilst this proposal has been submitted within the conditioned timeframe set at outline it has been submitted as a full application rather than a reserved matters application as the redline of the site has increased to take in a small band of land to the rear of the previously approved site and the dwellings submitted have an approx. 6.5m ridge height above EGL, a metre more than condition 4 of the previously permission permitted. The proposal meets all other conditions set at outline therefore the key consideration will be the siting, size, scale, orientation and design of the dwellings; and whether the increased site curtilage and increased ridge heights are acceptable.

Bearing in mind the above, with the exception of the small increase to the rear of the

site, there have been no significant changes on site or in the immediate vicinity since the previous outline approval, and no changes in policy from the previous approvals. As such, it remains my opinion that the site constitutes a small gap site sufficient only to accommodate two dwellings within an otherwise substantial and continuously built-up frontage as it is located within a line of 3 buildings running along the Whitetown Road as detailed further above in the 'Characteristics of the Site and Area'.

I believe the siting, size, scale, orientation and design of the dwellings, and individual access arrangements are acceptable for the site and locality. That the dwellings should integrate onto the site and into the surrounding landscape, to read within and respect the existing line of development running along the Whitetown Road, and without significant impact to the rural character of the area. As such this proposal should not offend policy CTY 13 or CTY 14 of Planning Policy Statement 21. I consider the increased site curtilage and increased ridge heights will not result in an overall proposal with any greater significant visual impact the approval of planning application intended. The increase to the curtilage is not considered significant particularly given its location to the rear of the site and the whilst the ridge heights have increased by approx. a metre the dwellings will remain low ridge and still have the intended bungalow appearance.

The design of the new dwellings including garages are in my opinion simplistic and reflective of traditional rural design and in keeping with the rural design principles set out in 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

The dwellings, which are single storey (approx. 6.5m ridge height above EGL), have simple L-shaped floor plans and pitched roof constructions comprising the main body of each dwelling fronting onto the Whitetown Road with a substantial rear return incorporating a double gable. The ridge of the main body of the dwellings are broken, as are the ridges of the slightly lower rear returns. Window and door openings to each dwelling are generally narrow and vertical in emphasis; and chimneys are expressed along the ridgelines. House type B to the southeast half of the site has a small, pitched roof front porch whilst house type A to the northwest half does not. It is noted that the front porch was removed from house type A during the processing of this application as Planning sought a greater variation in the house types initially submitted. It was considered this small variation alongside differences in window & door design, differences in render colour and fact the houses are opposite handed was sufficient to retain the rural character of the area.

I am content the proposed dwellings should not have any significant adverse impacts on the amenity of existing neighbouring residents or on each other in terms of overlooking or overshadowing due to their design, siting, orientation, separation distances to be retained, existing vegetation to be retained and additional planting and 2m high close boarded fencing proposed.

### **Additional Considerations**

In addition to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Flood Maps NI indicate no flooding on site.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 1 third party objection had been received from Mrs Helen O'Neil the owner/occupier of no. 28 Whitetown Road, the neighbouring property to the southeast of the site. Concerns raised include:

- A land ownership challenge. That the applicant is not "in actual possession of every part of the land to which the application relates" as stated within the application form. As raised by Mrs O'Neill on the previous outline application on site (LA09/2021/1265/O – see 'Relevant Planning History' further above) she understands that she owns up to the middle of the lane between her property and the site as indicated on Land Registry maps at time of purchase over 20 years ago and up until a recent error was made by Land Registry.
- That the proposal is contrary to planning policy. That it is overdevelopment of the site and out of character with the area. That the two substantial four bedroom dwellings proposed each with car ports and garages alongside the extension / alterations approved to the bungalow immediately to the northwest (no. 26 Whitetown Road – see 'Relevant Planning History' further above) to create another substantial four bedroom dwelling of similar size and layout is akin to creating a housing estate in a rural location.
- That the proposal will have an unacceptable impact on her property in terms of loss of privacy. The site layout plan shows a hedge along the southeast boundary of the site Mrs O'Neil however states this is not the case that instead there are trees interspaced with gaps, twiggy sticks and vegetation. This means all house type B's high occupancy areas such as the living room, lounge, kitchen and outdoor seated area will over a very short distance, face, unobstructed into her garden, living room and one of her bedrooms.
- That the proposal will affect local ecology.
- That the proposal will increase in traffic.

Having taken into consideration Mrs O'Neils objection above my opinion remains to approve. The agent was contacted to confirm that the correct Certificate was completed or on the back of the objection if they wished to amend the Certificate. The agent advised the applicant was content that the correct Certificate had been completed, that he was in ownership of all the lands outlined in red. With regards ownership / legalities surrounding the development of this site as detailed under the previous outline applications I am content as any planning permission granted will not confer title, it will be the responsibility of the developer to ensure that he controls all the lands necessary to carry out and access the proposed development. As detailed in the main body of this report I am content that this proposal meets with the most relevant planning policy including Policy CTY 8 of PPS 21 - Ribbon Development which allows the development of a small gap site sufficient, as is the case here, only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and the proposal submitted respects the existing development pattern along the frontage in terms of size, scale, siting, and plot size. On the date of site inspection the southeast boundary of the site was substantially defined by mature trees and vegetation ranging

approx. 4-9 metres in height and as the current proposal intends to further reinforce this boundary with additional planning and a 2m high close boarded fence I am reasonably content whilst house type B's high occupancy areas such as the living room, lounge, kitchen and outdoor seated area face southeast towards Mrs O'Neil's property, her front garden amenity area currently open to views from the public road should be sufficiently screened and protected from overlooking from this proposal. Whilst there are windows in the upper gable ends of the proposed properties these are non-main serving attic windows, which can be conditioned to be obscure glass. Mrs O'Neil's property also benefits from a well enclosed private garden / amenity located to the rear / southwest side of the property. I am content that the proposal should not have any significantly detrimental affect on local ecology. No natural heritage features of significance have been identified on site, existing vegetation is by enlarge to be retained except were necessary to provide access arrangements, and additional planting is to be provided. The additional planting will aid integration of the properties, help protect residential amenity and enhance biodiversity. In relation to the proposed access arrangements DfI Roads have been consulted and are content satisfactory means of access can be provided to the properties in the interests of road safety and the convenience of road users.

**Recommendation:** Approve

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

The close boarded fencing as detailed on Drawing No. 02 Rev.01 received 26 MAY 2023 shall be erected prior to the occupation of either dwelling hereby approved.

Reason: In the interests of residential amenity.

**Condition 3**

The existing natural screenings of the site, as detailed on Drawing No. 02 Rev.01 received 26 MAY 2023, shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of residential and visual amenity.

Condition 4

All proposed landscaping as detailed on Drawing No. 02 Rev.01 received 26 MAY 2023, first available planting season following the occupation of either dwelling hereby approved and any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size and species in the next available planting season.

Reason: In the interests of residential and visual amenity.

Condition 5

The upper gable windows marked 'A' on Drawing no. 03 Rev.01 bearing the date stamp received 05 APR 2023 and Drawing no. 04 bearing the date stamp received 24 FEB 2023 shall be obscure glazing.

Reason: In the interests of residential amenity.

Condition 6

The vehicular access(es) including visibility splays of 2.4m x 60m both directions and any forward sight distance shall be provided in accordance with Drawing No. 02 Rev.01 received 26 MAY 2023, 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.

Condition 7

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

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

Condition 8

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

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

Condition 9

Two dwellings only shall be constructed within the area of the site outlined in red on the approved Drawing No. 01 bearing the date stamp received 24 FEB 2023.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2021/1265/O and is not for an additional two dwellings on this site.

**Signature(s):** Emma Richardson

**Date:** 30 May 2023



| ANNEX  |                  |
|--|------------------|
| <b>Date Valid</b>  | 27 February 2023 |
| <b>Date First Advertised</b>   | 14 March 2023    |
| <b>Date Last Advertised</b>  | 14 March 2023    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>28 Whitetown Road Dungannon Tyrone BT71 4ES<br>The Owner / Occupier<br>26 Whitetown Road Dungannon Tyrone BT71 4ES   |                  |
| <b>Date of Last Neighbour Notification</b>   | 8 March 2023     |
| <b>Date of EIA Determination</b>   |                  |
| <b>ES Requested</b>  | <events screen>  |
| <b><u>Planning History</u></b><br><br>Ref: M/2000/0279/F<br>Proposals: Dwelling<br>Decision: PG<br>Decision Date: 27-JUN-00<br><br>Ref: LA09/2018/0983/F<br>Proposals: Proposed single storey extension to rear of dwelling<br>Decision: PG<br>Decision Date: 05-SEP-18<br><br>Ref: LA09/2021/1265/O<br>Proposals: Proposed infill site for 2 Dwellings (renewal of permission LA09/2018/0977/O<br>Decision: PG<br>Decision Date: 07-DEC-21<br><br>Ref: LA09/2018/0977/O<br>Proposals: Infill site for 2 no dwellings with demolition and removal of redundant agricultural buildings<br>Decision: PG<br>Decision Date: 03-OCT-18<br><br>Ref: LA09/2023/0210/F |                  |

Proposals: Proposed extensions to rear and side of dwelling and erection of domestic garage

Decision:

Decision Date:

Ref: LA09/2023/0211/F

Proposals: Proposed 2no infill dwellings

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Consultation - Full response.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03 s/s

Proposed Plans Plan Ref: 04

Proposed Plans Plan Ref: 03 REV.01

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

Not ApplicableNot Applicable

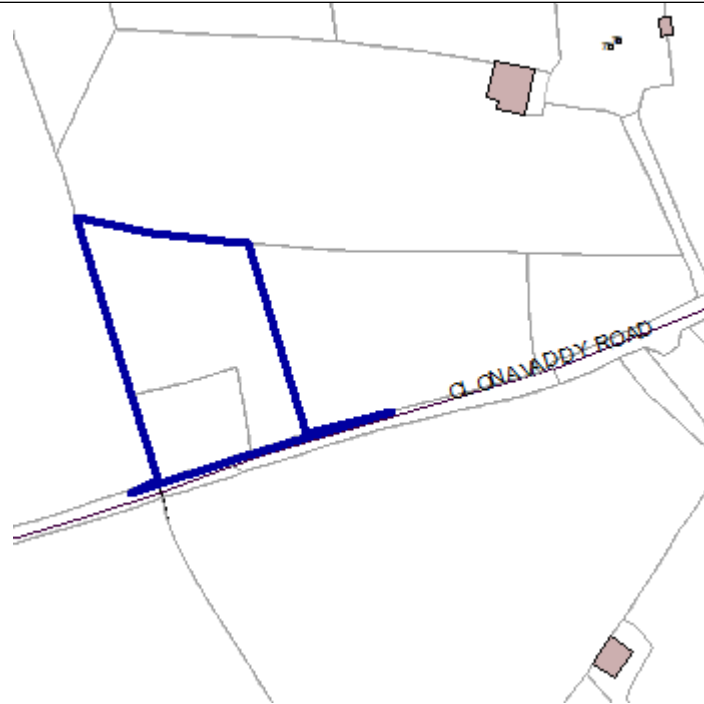


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.49  |
| <b>Application ID:</b><br>LA09/2023/0219/F  | <b>Target Date:</b> 14 June 2023   |
| <b>Proposal:</b><br>Proposed off-site replacement dwelling and garage in substitution of M/2007/0028/RM   | <b>Location:</b><br>Lands approximately 75 Metres North East of No.83 Clonavaddy Road<br>Galbally<br>Dungannon |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr Tiarnan McKenna<br>196 Dungannon Road,<br>Dungannon<br>Co. Tyrone<br>BT70 1TH  | <b>Agent Name and Address:</b><br>O'Callaghan Planning<br>20 Castle Street<br>Newry<br>BT34 2BY                |
| <b>Executive Summary:</b><br><br>No demonstrable case for off-site location as no justifiable amenity, access or landscape benefits.<br><br>Lack of enclosure and exposed location meaning dwelling will be a prominent feature in the landscape.<br><br>Site will create potential for ribbon development which is detrimental to rural character. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response   |
|---------------------|--------------------------------|--|
| Statutory Consultee | DFI Roads - Enniskillen Office | DC Checklist 1.doc<br>Roads Consultation full.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. There is minimal development pressure in the immediate

area from the construction of single dwellings. The application site is a corner portion of a larger agricultural field with a relatively flat topography. Along the roadside and west boundary there is an established hedging, and the remaining boundaries are undefined.

### **Description of Proposal**

This is a full application for proposed off-site replacement dwelling and garage in substitution of M/2007/0028/RM at lands approximately 75 Metres North East of No.83 Clonavaddy Road, Galbally, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

M/2007/0028/RM - Proposed replacement dwelling and garage - 77 Clonavaddy Road, Dungannon – permission granted 13.03.2007

M/2004/1854/O - Replacement dwelling house - 77 Clonavaddy Road, Dungannon – permission granted 05.01.2005

#### **Policy Consideration**

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

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

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

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland:**

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interest of acknowledged importance.

#### Principle of Development

M/2004/1854/O granted approval for a replacement dwelling at 77 Clonvaddy Road on the 5<sup>th</sup> January 2005. There was a dwelling and outbuilding at this site which was eligible to be replaced. As this was a replacement dwelling there were no access pre-commencement conditions. Subsequently, M/2007/0028/RM granted approval for reserved matters on the 13<sup>th</sup> March 2007. In line with condition 1 ‘time limit’ the outline and RM approvals had to be commenced by the later of the following dates, 5 years from the approval or 2 years from the reserved matters. The expiry date of 5 years from the outline approval is the 5<sup>th</sup> January 2010 and the reserved matters is 13<sup>th</sup> March 2009. The latest date the foundations for the dwelling had to be in place was the 5<sup>th</sup> January 2010. The applicant has provided a letter from Mid Ulster Council Building Control that an inspection of foundations was carried out on the 30<sup>th</sup> December 2009 and Building Control approval was granted on 28<sup>th</sup> January 2010. When I completed my site visit foundations were not apparent at the site and they appear to have been covered over. I completed a check of Spatial NI orthophotography as shown in figure 1 below which shows foundations were present at this site in 2010.

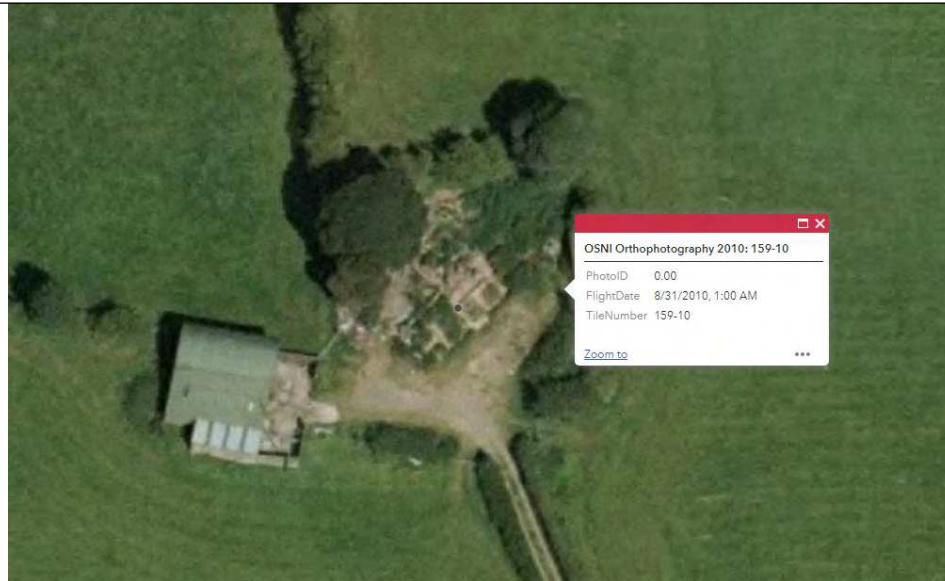


Figure 1 – Image from orthophotography on 31<sup>st</sup> May 2010

However as there is a signed letter from Building Control, I am content there is a live permission at this site and the remainder of the assessment will consider the design of the proposed dwelling and garage.

### **CTY 3 – Replacement Dwellings**

The current approval M/2007/0028/RM granted permission for a dwelling which was sited at No.77 Clonvaddy Road. At the time of the granting of this approval the site comprised of the dwelling to be replaced, a yard around it and one shed as shown in figure 1. The proposal is to change the design of the dwelling and re-site the dwelling as shown in figure 2.



Figure 2 – Image of the revised location of replacement dwelling and garage

The applicant has provided a supporting statement to demonstrate a case why the approved dwelling needs to be sited in the new location. It is stated the existing dwelling to be replaced was located within the middle of a yard. When this approval was granted, the site included a modest dwelling and one shed to the southwest of the dwelling. The dwelling did not have a concrete farmyard around it and comprised of general amenity space around a dwelling and was sited well back from the public road. The applicant has subsequently built another shed to the south and created a concrete yard as shown in figure 3 below. It is also stated the applicant is an approved livestock exporter, only one of two in County Tyrone but no evidence has been submitted to substantiate these claims. It is stated biosecurity measures are an important element of this type of farming and animals have to be isolated prior to entering the herd. Constraints including limiting the number of visitors to the site and managing all vehicle traffic to the site. When I completed my site visit there were no biosecurity signs or measures, and I was able to freely access the site and yard area. It is also stated it would not be feasible to site a dwelling in the middle of a working farm yard due to health and safety reasons accessing the site.



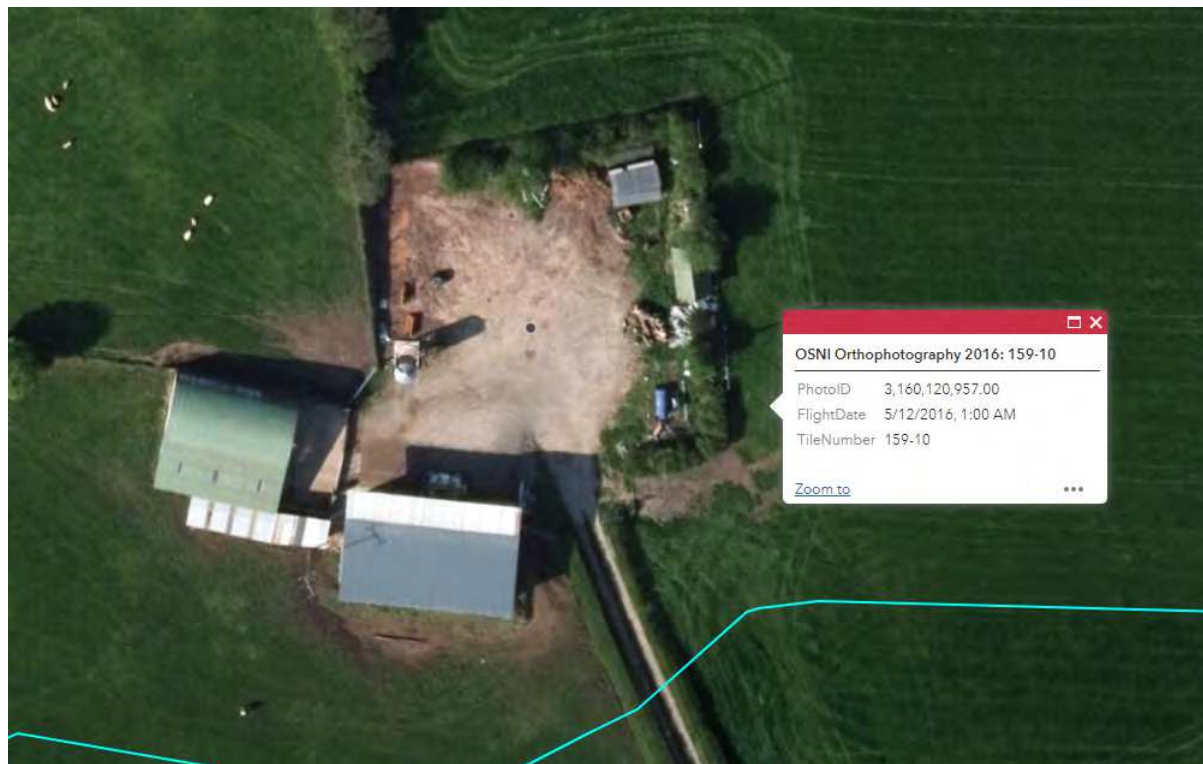




Figure 3 – Images from Spatial NI to show the progression of the site.

The applicant has shown on their site location plan that most of the fields around the application site and the farmyard are within their control. I do not accept the justification that due to biosecurity measures the dwelling needs to be sited in the proposed location. The replacement dwelling when previously granted was sited well back from the road, had established natural boundaries, and using an existing laneway. The concrete farmyard has since been created on the site of the existing approval which would make it difficult to site a dwelling in the approved location but this situation has been created by the applicant since the approval.

In discussions with the agent, I stated I did not consider the dwelling needed to be sited so far away from the location of the existing dwelling. I stated a more acceptable siting would be on land closer to the group of farm buildings. The agent considered this would result in a more prominent dwelling as the land rises from the roadside to the farm buildings. Also, there would be issues with using a shared laneway for mortgage purposes, but this is not a material planning consideration.

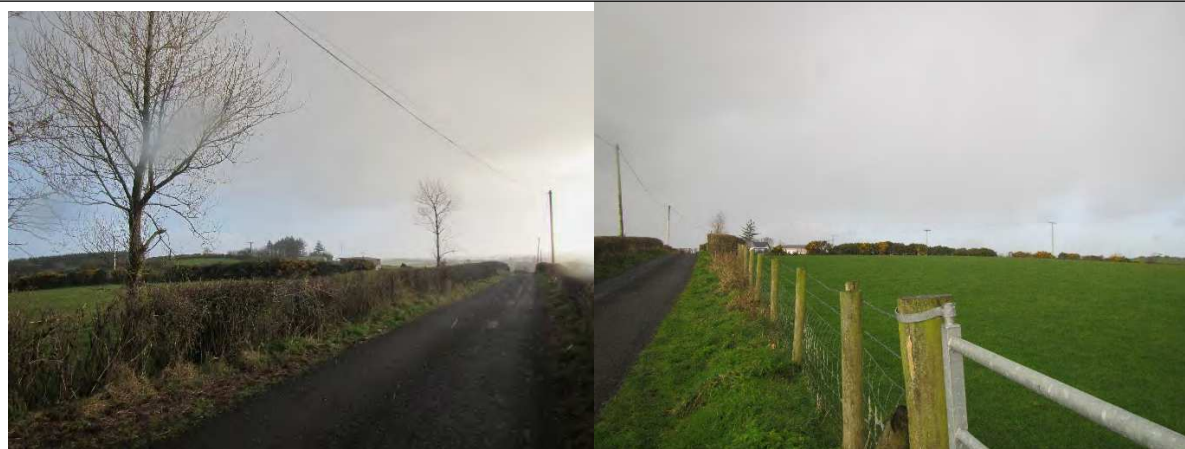


Figure 4 – Images of the application site

The application site is a cut-out of a larger agricultural field with a roadside frontage onto Clonvaddy Road. The road rises from east to west and at the site is the most crest of the road. The site itself has a relatively flat topography but there is a limited degree of enclosure. There is low hedging along the west and south boundaries and the east boundary is undefined. There is hedging along the roadside boundary but most of this will need to be removed to accommodate the visibility splays. I believe a degree in this location would be prominent as there is a limited degree of enclosure, and the site would rely on new landscaping to integrate into the surrounding area. Also, there is a field to the east of the site and another dwelling further east at No.83 Clonvaddy Road. Due to the location of the proposed dwelling, if it was approved it would create the potential for further ribbon development which is unacceptable and detrimental to rural character.

In terms of access, the existing approval was using the laneway to the dwelling. This proposal will create a new access directly off Clonvaddy Road and DFI Roads had no concerns about the proposal subject to visibility splays of 2.4m x 45m in both directions. I have no concerns about the access as it is only for a short distance at the site but all the hedging that was providing limited degree of enclosure will be removed to accommodate the visibility splays. In discussion with the agent, it was stated if the proposed dwelling was sited beside the farm buildings new access would be needed as they couldn't use a shared laneway. I consider if a new access ran alongside an existing laneway and there was a backdrop of farm buildings it wouldn't be as prominent.

Having assessed the evidence, I do consider there are demonstrable landscape, access, or amenity benefits as stated in CTY 3.

M/2007/0028/RM granted approval for a single storey dwelling with a traditional rural dwelling. In this application the proposed dwelling as shown in figure 5 is a one and half storey dwelling. I have no concerns about the design or scale and massing of the dwelling. A garage has been included in this application which wasn't included in the M/2007/0028/RM approval but as the garage is a modest building, I have no concerns.





Figure 5 – Image of the proposed dwelling

Overall, I believe the proposal does not meet CTY 3.

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

I consider the proposed dwelling and garage at this site would not integrate into the landscape and would be prominent. The site itself has a limited degree of enclosure and the roadside hedging will need to be removed to create the visibility splays. The site is at the crest of the road and quite exposed as there are no other buildings on either side of the site. I believe the site would be most prominent travelling from the easterly direction. There is a field to the west which would create the potential for ribbon development also.

### **CTY 14 – Rural Character**

As stated earlier, a dwelling in the proposed location would be unduly prominent due to the exposed hill area and potential for ribbon development. I consider the proposal will be detrimental to rural character.

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

#### **AMP 2 – Access to the public road**

The applicant has proposed a new access onto the public road, so AMP 2 is the relevant policy which applies. The site is not accessing onto a protected route, so I have no concerns in this regard. DFI Roads responded stating visibility splays of 2.4m x 45m in both directions which the applicant can achieve.

### **Other Considerations**

I have completed checks on the statutory map viewers and I am content there are no other ecological, built heritage or flooding issues at the site.

### **Summary of Recommendation:**

**Refuse is recommended**

The proposal is recommended for refusal as it fails to meet the criteria in CTY 3, CTY 13 and CTY 14 in PPS 21 – Sustainable Development in the Countryside.

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been shown there are demonstrable landscape, access, heritage or amenity benefits for an off-site location outside the established curtilage of the existing building.

**Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development if permitted would be a prominent feature in the landscape and there is a lack of a suitable degree of enclosure for the dwelling to integrate into the landscape.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development if permitted would be a prominent feature in the landscape and create ribbon development.

**Signature(s):** Gillian Beattie

**Date:** 18 May 2023

| ANNEX  |                 |
|--|-----------------|
| Date Valid   | 1 March 2023    |
| Date First Advertised  | 13 March 2023   |
| Date Last Advertised   | 13 March 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>No Neighbours  |                 |
| Date of Last Neighbour Notification  |                 |
| Date of EIA Determination  |                 |
| ES Requested   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: M/2001/1141/O<br>Proposals: Proposed Dwelling<br>Decision: PR<br>Decision Date: 20-FEB-02<br><br>Ref: M/2003/0737/O<br>Proposals: Erection of dwelling and garage<br>Decision: PR<br>Decision Date: 07-OCT-03<br><br>Ref: M/2000/0285/O<br>Proposals: Dwelling<br>Decision:<br>Decision Date:<br><br>Ref: M/2004/0876/O<br>Proposals: proposed dwelling and domestic garage<br>Decision: PR<br>Decision Date: 22-APR-05<br><br>Ref: LA09/2023/0219/F<br>Proposals: Erection of dwelling and garage (Change of house type from that previously |                 |

approved under M/2007/0028/RM)

Decision:

Decision Date:

Ref: M/2006/0743/O

Proposals: Proposed dwelling & domestic garage

Decision: PR

Decision Date: 24-MAY-07

Ref: M/2002/0736/O

Proposals: Proposed Dwelling

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.docRoads Consultation full.docx

### **Drawing Numbers and Title**

Site Location Plan    Plan Ref: 01

Proposed Plans        Plan Ref: 02

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

Not Applicable



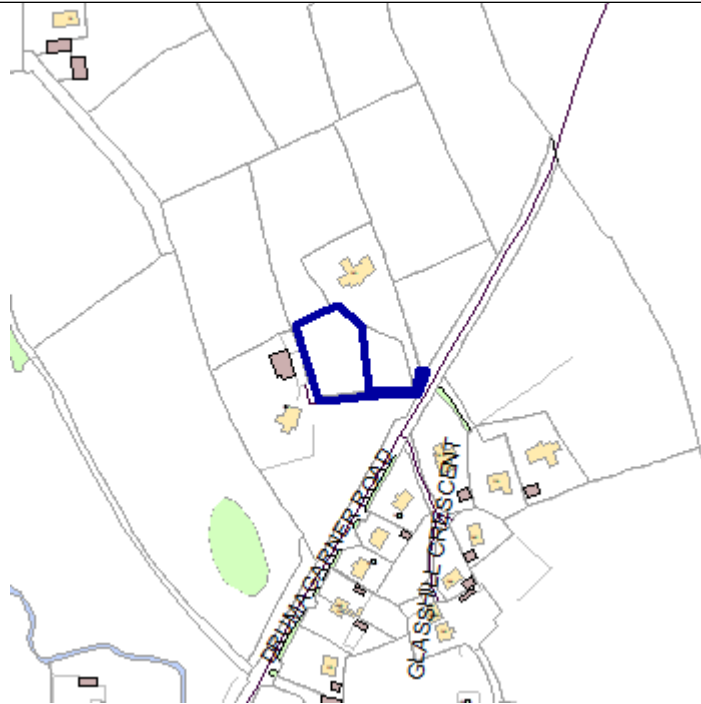
## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.50  |
| <b>Application ID:</b><br>LA09/2023/0232/O  | <b>Target Date:</b> 14 June 2023   |
| <b>Proposal:</b><br>Infill site for dwelling between 139 and 143<br>Drumagarner Road, Kilrea ,BT51 5TN  | <b>Location:</b><br>Infill site between 139 and 143<br>Drumagarner Road Kilrea                     |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr Brian Mc Closkey<br>42 Drumsaragh Road<br>Kilrea<br>BT51 5XN   | <b>Agent Name and Address:</b><br>Mr GERARD MC PEAKE<br>31A<br>MAIN STREET<br>LIMAVADY<br>BT49 0EP |
| <b>Executive Summary:</b><br><br>This application is brought before the planning committee with a recommendation for refusal. The proposal is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development. |  |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response          |
|---------------------|--------------------------------|-------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Outline resp.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed is located in the rural countryside approximately 4 miles north and outside of the Upperlands settlement limit as defined in the Magherafelt Area Plan 2015. The site is a 0.23 hectare area, and slopes gradually upwards from the Drumagarnier Rd. The site is defined by existing field hedgerow along the northern and eastern boundaries while the southern and western boundaries are marked by picket

fencing which run parallel with a laneway. The site benefits from a good backdrop of mature trees. Neighbouring dwellings include no. 139 to the south west and no. 143 to the north east. The wider surrounding environment consists mostly of agricultural fields with dwellings and other development fronting the Drumagarner Rd on a frequent basis.

### **Description of Proposal**

The proposed is an outline application for an infill dwelling between 139 and 143 Drumagarner Road, Kilrea, BT51 5TN.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

N/A

#### **Representations**

To date no third party representations have been received.

#### **Magherafelt Area Plan 2015**

The site of the proposed is located in the rural countryside approximately 4 miles north and outside of the Upperlands settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

There are no issues pertaining to flooding at the site.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan

Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DfI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposed access arrangements involve the use of an existing unaltered access to a public road. A consultation was made to DfI Roads who provided no objection to the proposed. In light of this, I am content that the proposed complies with PPS 3.

### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission 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 in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon Development.

In terms of the plot size, I am content that the site is sufficient only to accommodate up to a maximum of two dwellings. The site is therefore able to accommodate the indicative dwelling that is proposed at this outline stage. For the purposes 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. I am content that there are 3 substantial buildings; these are no. 139 and the accompanying large shed within the same curtilage, both adjacent and south west of the proposed site, and no. 143 adjacent and north east of the proposed site. While it is considered that these buildings are substantial, it is considered that no. 143 Drumagarner Rd does not occupy a road frontage position. The curtilage of this dwelling is set back 60 metres and does run along the road frontage and therefore the application is without a substantial and built up frontage that includes a line of 3 or more buildings along a road frontage. The proposed fails to comply with Policy CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a design, size and scale that is comparable to the dwellings in the vicinity. The site is complete with strong natural boundaries in the form of mature trees along the northern, western and southern boundaries which can provide a decent backdrop for a dwelling at this site, while not relying primarily on the use of new landscaping for its integration. The proposed complies with CTY 13 at this outline stage.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As provided above, a dwelling at this site would not appear prominent in the landscape. However, given the proposal creates a ribbon of development, the proposal does not comply with Policy CTY 14.

#### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does not meet Policies CTY 8 and CTY 14 of PPS 21 in that it would create a ribbon of development if approved.

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would create a ribbon of development.

**Signature(s):** Benjamin Porter

**Date:** 16 May 2023

| ANNEX  |                 |
|--|-----------------|
| Date Valid   | 1 March 2023    |
| Date First Advertised  | 14 March 2023   |
| Date Last Advertised   | 14 March 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>143 Drumagarner Road Kilrea Londonderry BT51 5TN<br>The Owner / Occupier<br>138A Drumagarner Road Kilrea Londonderry BT51 5TN<br>The Owner / Occupier<br>139 Drumagarner Road Kilrea Londonderry BT51 5TN  |                 |
| Date of Last Neighbour Notification  | 3 March 2023    |
| Date of EIA Determination  |                 |
| ES Requested   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/2009/0556/RM<br>Proposals: Proposed bungalow<br>Decision: PG<br>Decision Date: 25-NOV-09<br><br>Ref: LA09/2023/0126/F<br>Proposals: Proposed 2 storey side extension to dwelling<br>Decision:<br>Decision Date:<br><br>Ref: H/2004/0750/O<br>Proposals: Site of dwelling.<br>Decision:<br>Decision Date:<br><br>Ref: H/2005/0383/O<br>Proposals: Site of Bungalow<br>Decision: PG<br>Decision Date: 18-SEP-06 |                 |

Ref: LA09/2017/1324/F

Proposals: New domestic shed for vintage cars and tractors.

Decision: PG

Decision Date: 28-NOV-17

Ref: H/2004/0278/F

Proposals: Alterations / Additions to house.

Decision: PG

Decision Date: 20-MAY-04

Ref: H/1993/0056

Proposals: BUILDERS STORE FOR CAR,LORRY AND TURF SUPPLIES

Decision: PR

Decision Date:

Ref: H/2013/0297/F

Proposals: Proposed Retrospective Planning for Existing Laneway and Planning as per Condition 2 of Planning Approval H/2009/0556/RM

Decision: PG

Decision Date: 08-JUL-14

Ref: H/2003/1042/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 14-DEC-04

Ref: LA09/2017/0007/F

Proposals: Proposed 2 no. infill dwellings and garages

Decision: PG

Decision Date: 24-MAR-17

Ref: H/2004/1305/F

Proposals: Bungalow and Garage.

Decision: PG

Decision Date: 21-JAN-06

Ref: H/1989/0332

Proposals: SITE OF DWELLING

Decision: PR

Decision Date:

Ref: H/2002/0605/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 05-FEB-03

Ref: H/2013/0018/O

Proposals: Proposed infill site for dwelling and garage

Decision: PG

Decision Date: 30-AUG-13

Ref: LA09/2015/0011/RM

Proposals: Proposed infill dwelling and garage

Decision: PG

Decision Date: 30-SEP-15

Ref: LA09/2019/1573/O

Proposals: Proposed site for dwelling and garage

Decision: PG

Decision Date: 20-MAY-20

Ref: LA09/2017/1229/F

Proposals: Proposed retention of existing access (amended description)

Decision: PG

Decision Date: 05-DEC-17

Ref: H/1994/0065

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: H/1999/0080

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1998/0443

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/2000/0518/O

Proposals: Site for dwelling

Decision: PG

Decision Date: 18-SEP-00

Ref: H/2000/0039/F

Proposals: 2 No Dwellings and Garages

Decision: PG

Decision Date: 19-MAY-00

Ref: H/2006/0619/F

Proposals: 11KV Supply  
Decision: PG  
Decision Date: 24-OCT-06

Ref: H/2002/0479/RM  
Proposals: Dwelling  
Decision: PG  
Decision Date: 24-JUL-02

Ref: H/1980/0347  
Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/2001/0565/O  
Proposals: Site for Dwelling  
Decision: PG  
Decision Date: 18-DEC-01

Ref: H/1999/0485  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:

Ref: H/2000/0207/RO  
Proposals: Dwelling and garage  
Decision: PG  
Decision Date: 17-MAY-00

Ref: H/1988/0142  
Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/2005/0564/O  
Proposals: Site Of Dwelling & Garage  
Decision: PR  
Decision Date: 22-NOV-07

Ref: H/2004/0357/F  
Proposals: Two storey rear extension.  
Decision: PG  
Decision Date: 20-MAY-04

Ref: H/1990/0533  
Proposals: BUNGALOW



Decision: PG  
Decision Date:

Ref: H/1990/0064  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:

Ref: H/2006/0736/F  
Proposals: Proposed extension to dwelling to provide extended kitchen with bedroom over  
Decision: PG  
Decision Date: 24-SEP-07

Ref: H/2000/0260/F  
Proposals: Dwelling and Garage  
Decision: PG  
Decision Date: 18-SEP-00

Ref: H/1991/0350  
Proposals: BUNGALOW AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1978/0151  
Proposals: SITE OF DWELLING  
Decision: PR  
Decision Date:

Ref: H/1988/0122  
Proposals: SITE OF BUNGALOW AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1981/0152  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/1982/0131  
Proposals: GARAGE  
Decision: PG  
Decision Date:

Ref: H/2003/1350/O  
Proposals: Site of dwelling and garage.

Decision: PG  
Decision Date: 21-SEP-04

Ref: H/2002/0198/O  
Proposals: Site of Dwelling & Garage  
Decision:  
Decision Date:

Ref: LA09/2015/0729/PAN  
Proposals: Construction of approximately 20km of 110kV single circuit overhead electricity line to connect Brockaghboy wind farm (planning permission approved) to the approved Rasharkin Main Cluster Substation  
Decision: PANACC  
Decision Date: 27-JUL-16

Ref: H/1985/0055  
Proposals: SITE OF BUNGALOW AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1985/0004  
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

Ref: LA09/2017/0016/NMC  
Proposals: Proposed in line movement of Structure IMP73 (2 metres) West of previously approved location.  
Proposed in line movement of Structure IMP56 (1.5 metres) South West of previously approved location.  
All alterations are contained within the land ownership boundaries of the landowners who requested the movements.  
Decision: CG  
Decision Date: 17-JAN-17

Ref: LA09/2017/0017/NMC  
Proposals: Proposed in line movement of Structure IMP42 (11 metres) West of previously approved location.  
Proposed in line movement of Structure IMP76 (3 metres) West of previously approved location.  
Proposed in line movement of Structure IMP79 (30 metres) North to boundary hedge. This will require a further movement to structures AM78 (10 metres) and AM81 (10 metres) to accommodate this new structure location.  
All alterations are contained within the land ownership boundaries of the landowners who requested the movements.  
Decision: CG

Decision Date: 17-JAN-17

Ref: LA09/2017/0002/DC

Proposals: Discharge of conditions 11 and 12 on Planning Application LA09/2015/1294/

Decision: AL

Decision Date: 13-JAN-17

Ref: LA09/2023/0232/O

Proposals: Infill site for dwelling between 139 and 143 Drumagarner Road, Kilrea ,BT51  
5TN

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Housing Concept Plan Plan Ref: 02

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

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.51   |
| <b>Application ID:</b><br>LA09/2023/0280/F  | <b>Target Date:</b> 27 June 2023  |
| <b>Proposal:</b><br>Proposed single storey extension to the rear of existing dwelling to provide living area, study and replacement utility room  | <b>Location:</b><br>21 Loran Vale<br>Cookstown<br>BT80 8XZ  |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Ryan McKenna<br>21 Loran Vale<br>Cookstown<br>BT80 8XZ  | <b>Agent Name and Address:</b><br>McKeown and Shields Ltd<br>1 Annagher Road<br>Coalisland<br>Dungannon<br>BT71 4NE |
| <b>Executive Summary:</b><br><br>This is a full application for a single storey rear extension to the rear of existing dwelling to provide a living area, study, and replacement utility room, presented to the committee as one letter of objection has been received. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|                   |           |          |

### Representations:

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

### Summary of Issues

One letter of objection was submitted online. The concerns raised within the objection letter have been fully considered as part of this planning application. The main points have been summarised below:

Concerns over loss of light at No.23 Loran Vale and that the proposed extension will intrude the angle of 45° in the horizontal plane from the midpoint of No.23.

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

The application is located within the settlement limit of Cookstown as defined in the Cookstown Area Plan 2010. The application identified as 21 Loran Vale Cookstown, includes a semi-detached two storey dwelling, finished in smooth render with blue/black roof tiles. A moderate rear garden which is defined by a tall fence is located to the North. South of the site, a small frontal garden along with a tarmac area for parking. Adjacent East and West, neighbouring properties No19 and No23 are located. Development in the surrounding area is predominately residential.

## **Description of Proposal**

This is a full application for a proposed single storey extension to the rear of the existing dwelling to provide living area, study, and replacement utility room.

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

### **Policy Consideration**

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

In line with Statutory Neighbour Notification Procedures, 4 neighbouring properties were notified of this application. To date, there have been 1 letter of objection received in respect of the proposal.

The following policies will be considered in this assessment:

- SPPS- Strategic Planning Policy Statement for Northern Ireland.
- Cookstown Area Plan 2010
- Mid Ulster District Council Development Plan 2030- Draft Plan Strategy.
- Addendum to Planning Policy Statement 7: Residential Extensions and Alterations.

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities.

## Cookstown Area Plan 2010

The site is located within the settlement limits of Cookstown as defined within the Cookstown Area Plan 2010.

## Mid Ulster District Council Draft Plan Strategy 2030

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

## Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for the proposal to extend or alter a residential property where all the following criteria are met:

- a) Deals with scale, massing, design, and external materials. Upon evaluation of the submitted plans shown below, the proposed is subordinate to the existing dwelling in scale and massing. Additionally, the proposed plans displays that the overall finishes will complement that of the existing dwelling. I am content that the proposed single storey extension to the rear is satisfactory as it will not detract from the existing dwelling and the adjacent area.



- b) An objector has raised concerns over the potential loss of light at No.23 Loran Vale and that the proposed extension will intrude the angle of 45° in the horizontal plane from the midpoint of No.23. Considering this objection, revised plans have been submitted to help rectify this issue, shown above. To help assess the potential loss of light, the 45-degree assessment was conducted. From the assessment, I am content that there will be no issues pertaining to overshadowing and that the proposal will not intrude the angle of 45° in the horizontal plane from the midpoint of No.23. Additionally, with the proposed being single storey and no onlooking glazing, there will be no issues regarding privacy of neighbouring residents.
- c) Relating to unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. This proposal will not cause loss of trees or landscape features.
- d) With the proposed single storey extension, I note that part of the rear/side garden patio will be lost as part of this proposal. Overall, I am content that there will be sufficient space within the curtilage for recreational and domestic purposes and parking arrangements will remain unaffected.

Having evaluated the proposed single storey extension to the rear of existing dwelling to provide living area, study, and replacement utility room, I am content that this proposal complies with Policy EXT1 of Addendum to PPS7: Residential extension and Alterations. Additionally, I cannot attach any determining weight to the objectors concerns over the loss of light and that the proposed extension will intrude the angle of 45° in the horizontal plane from the midpoint.

### **Habitats Regulations Assessment**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**



Condition 1

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

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

**Signature(s):** Daniel O'Neill

**Date:** 31 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 14 March 2023   |
| <b>Date First Advertised</b>   | 28 March 2023   |
| <b>Date Last Advertised</b>  | 28 March 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>14 Fountain Court Cookstown Tyrone BT80 8XX<br>The Owner / Occupier<br>35 Fountain Road Cookstown Tyrone BT80 8QF<br>The Owner / Occupier<br>23 Loran Vale Cookstown Tyrone BT80 8XZ<br>The Owner / Occupier<br>19 Loran Vale Cookstown Tyrone BT80 8XZ  |                 |
| <b>Date of Last Neighbour Notification</b>   | 17 May 2023     |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/1988/0557<br>Proposals: 2 No Detached Dwellings and Garages<br>Decision: PG<br>Decision Date:<br><br>Ref: I/1976/0015<br>Proposals: 33KV O/H LINE<br>Decision: PG<br>Decision Date:<br><br>Ref: I/1991/6048<br>Proposals: Garden Centre Lomond Heights, Cookstown.<br>Decision: PRER<br>Decision Date: 01-AUG-91<br><br>Ref: I/2004/1139/F<br>Proposals: Housing development<br>Decision: 112 |                 |

Decision Date: 25-AUG-06

Ref: I/2003/0137/Q

Proposals: Housing Development

Decision: 211

Decision Date: 13-OCT-04

Ref: I/2010/0050/F

Proposals: Housing development (31no. units); 14no pairs of semi-detached and 3no town houses.

Decision: PG

Decision Date: 24-FEB-12

Ref: LA09/2017/0313/F

Proposals: Housing Development to include 22 No. Two storey semi detached units and 1 no. detached unit

Decision: PG

Decision Date: 20-JUL-18

Ref: LA09/2023/0280/F

Proposals: Proposed single storey extension to the rear of existing dwelling to provide living area, study and replacement utility room

Decision:

Decision Date:

Ref: I/1978/0077

Proposals: EXTENSIONS TO DWELLING

Decision: PG

Decision Date:

### Summary of Consultee Responses

-

### Drawing Numbers and Title

Existing and Proposed Elevations Plan Ref: 02 (REV A)

Site Location Plan Plan Ref: 01

Existing and Proposed Elevations Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.52   |
| <b>Application ID:</b><br>LA09/2023/0281/F  | <b>Target Date:</b> 28 June 2023  |
| <b>Proposal:</b><br>Proposed Single Storey Extension and Alterations to Existing Dwelling   | <b>Location:</b><br>58 Station Road<br>Maghera<br>BT46 5EY                                    |
| <b>Referral Route:</b> Approve is recommended   |   |
| <b>Recommendation:</b> Approve  |   |
| <b>Applicant Name and Address:</b><br>Mr & Mrs Leslie & Sharon Smith & Lynd-Smith<br>58 Station Road<br>Maghera<br>BT46 5EY   | <b>Agent Name and Address:</b><br>2020 Architects<br>37 Main Street<br>Ballymoney<br>BT53 6AN |
| <b>Executive Summary:</b><br><br>This is a full application for a single storey extension and alterations to existing dwelling, presented to the committee as one letter of objection was submitted online. |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|                   |           |          |

### Representations:

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

### Summary of Issues

This is a full application for a single storey extension and alterations to existing dwelling.

One letter of objection was submitted online. The concerns raised within the objection letter have been fully considered as part of this planning application. The main points have been summarised below:

- Concerns over reduction of natural light.
- Raised patio area overlooks 60 Station Road.

- Glazing facing 60 Station Road so concerns over privacy.

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

The site is located within the Maghera settlement limits as defined within the Magherafelt Area Plan 2015. On the site sits a detached dwelling with white dashed render along with blue/black roof tiles and identifies as 58 Station Road, Maghera. A moderate rear garden with a two storey garage is located to the North and a small frontal garden along with a tarmac driveway to the South of the site. Adjacent East and West, neighbouring properties No.60 and No.56 are located. Holistically, the site is defined with mix of boundary walls, fencing and hedgerows, and the surrounding area is residential in nature.

### **Description of Proposal**

This is a full application for a proposed single storey extension and alterations to existing dwelling.

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

#### **Policy Consideration**

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

In line with Statutory Neighbour Notification Procedures, 6 neighbouring properties were notified of this application. To date, there have been 1 letter of objection received in respect of the proposal.

The following policies will be considered in this assessment:

- SPPS- Strategic Planning Policy Statement for Northern Ireland.
- Magherafelt Area Plan 2015
- Mid Ulster District Council Development Plan 2030- Draft Plan Strategy.
- Addendum to Planning Policy Statement 7: Residential Extensions and Alterations.

#### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities.

ACKN

## Magherafelt Area Plan 2015

The site lies within the settlement limits of Maghera, as defined by the Magherafelt Area Plan 2015. The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

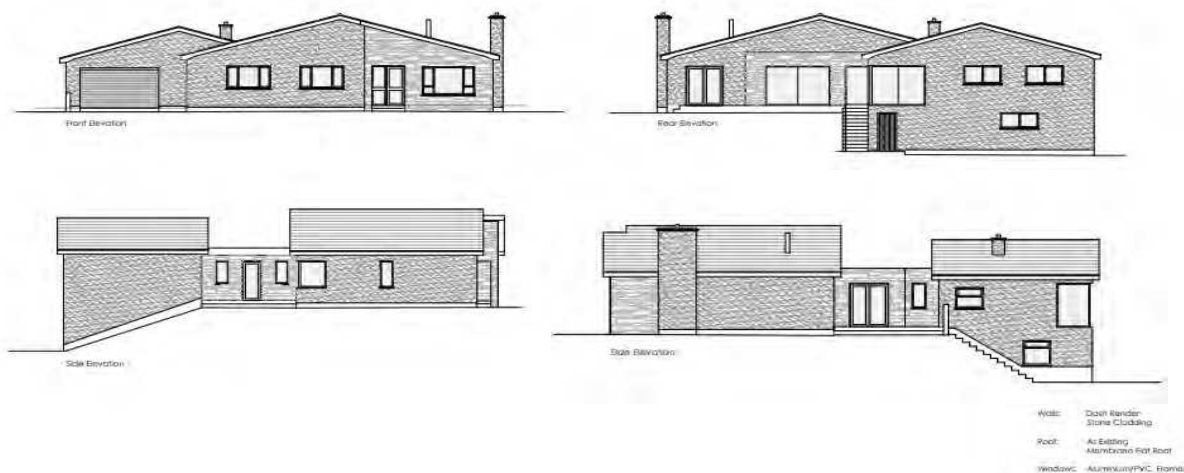
## Mid Ulster District Council Draft Plan Strategy 2030

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

## Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for the proposal to extend or alter a residential property where all the following criteria are met:

- a) Deals with scale, massing, design, and external materials. Upon evaluation of the submitted plans shown below, the proposed is subordinate to the existing dwelling in scale and massing. Additionally, the proposed plans displays that the overall finishes will complement that of the existing dwelling. Overall, I am content that the proposed single storey extension and alterations to existing dwelling is satisfactory as it will not detract from the existing dwelling and the adjacent area.





- b) An objector has raised concerns over the potential loss of light at No. 60 Station Road and privacy issues with regards to raised patio area and windows and doors facing No. 60 Station Road. Regarding the potential loss of light, the 45-degree assessment was conducted. From the assessment, I am content that there will be no issues pertaining to overshadowing. Relating to privacy of neighbouring residents, concerns over the raised patio area overlooking the property of 60 Station Road. As shown in the pictures below this patio area is already in place and used for residential amenity. Additionally, regarding the topography of the area overlooking will not be greater than the existing. Concerning the onlooking glazing, the separation distance (Approx 15M) and the boundary wall separating the two dwellings, I believe that the proposed will not have a greater impact on privacy than the existing.



- c) Relating to unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. This proposal will not cause loss of trees or landscape features.
- d) With the proposed single storey extension and alterations to the existing dwelling, I note that part of the rear patio will be lost as part of this proposal. Overall, I am content that there will be sufficient space with the curtilage for recreational and domestic purposes and parking arrangements will remain unaffected.

Having evaluated the proposed single storey extension and alterations to existing dwelling, I am content that this proposal complies with Policy EXT1 of Addendum to PPS7: Residential extension and Alterations. Additionally, I cannot attach any determining weight to the objectors concerns over the loss of light and privacy of neighbouring residents.

impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Signature(s):** Daniel O'Neill

**Date:** 30 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 15 March 2023   |
| <b>Date First Advertised</b>  | 28 March 2023   |
| <b>Date Last Advertised</b>   | 28 March 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>19 Crewe Drive Maghera Londonderry BT46 5EZ<br>The Owner / Occupier<br>21 Crewe Drive Maghera Londonderry BT46 5EZ<br>The Owner / Occupier<br>17 Crewe Drive Maghera Londonderry BT46 5EZ<br>The Owner / Occupier<br>60 Station Road Maghera Londonderry BT46 5EY<br>The Owner / Occupier<br>56 Station Road Maghera Londonderry BT46 5EY |                 |
| <b>Date of Last Neighbour Notification</b>  | 20 March 2023   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/1979/0017<br>Proposals: NEW TOILETS AND STORE<br>Decision: PG<br>Decision Date:<br><br>Ref: H/1979/0449<br>Proposals: BUNGALOW WITH GARAGE<br>Decision: PG<br>Decision Date:<br><br>Ref: LA09/2023/0281/F<br>Proposals: Proposed Single Storey Extension and Alterations to Existing Dwelling<br>Decision:<br>Decision Date:   |                 |

Ref: H/2013/0230/F

Proposals: Single storey rear extension and roof space conversion

Decision: PG

Decision Date: 06-AUG-13

Ref: H/1979/0581

Proposals: BUNGALOW WITH GARAGE

Decision: PG

Decision Date:

Ref: H/1981/0032

Proposals: 2 BUNGALOWS WITH GARAGE

Decision: PG

Decision Date:

Ref: H/1979/0653

Proposals: BUNGALOW AND DOUBLE GARAGE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

Site Location Plan    Plan Ref: 01

Proposed Plans        Plan Ref: 02

Existing Plans         Plan Ref: 03

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

Not Applicable

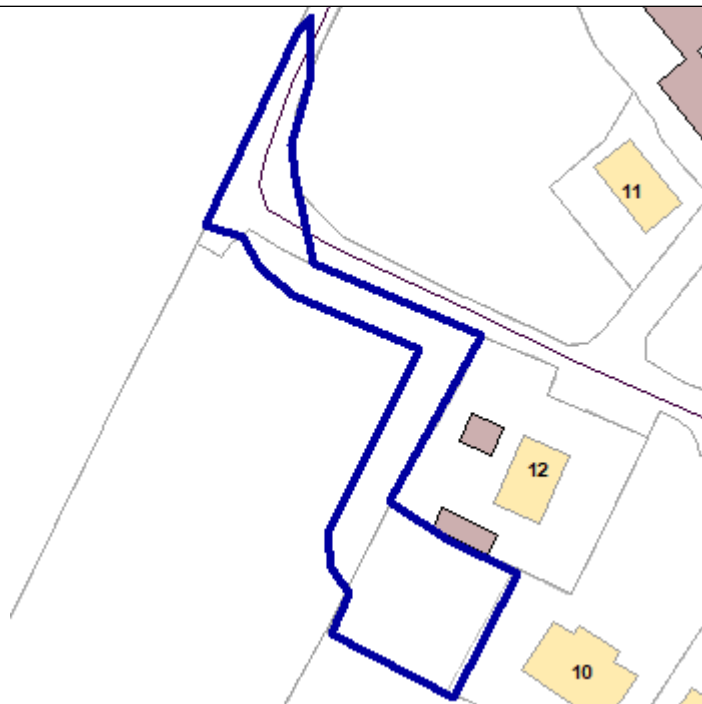


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>12 June 2023  | <b>Item Number:</b><br>5.53  |
| <b>Application ID:</b><br>LA09/2023/0284/F  | <b>Target Date:</b> 28 June 2023   |
| <b>Proposal:</b><br>Proposed single storey dwelling and access lane   | <b>Location:</b><br>Lands approximately 20M North West of 10 Colliers Lane Coalisland      |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Mr Brian Carron<br>11 Claremount Drive<br>Killen<br>Dungannon<br>BT71 5JX | <b>Agent Name and Address:</b><br>Mr Paul Bradley<br>76 Main Street<br>Pomeroy<br>BT70 2QP |
| <b>Executive Summary:</b>   |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response                                       |
|---------------------|--------------------------------|--|
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads Consultation full.docxDC Checklist 1.doc |
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads Consultation - Approval.docx             |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located at Lands approximately 20M North West of 10 Colliers Lane. The site is located in the settlement limits of Coalisland as defined in the Dungannon and South

Tyrone Area Plan 2010. The proposed application site is a small rectangular shaped plot with mature hedging and trees located to the western boundary. The eastern boundary is defined by an existing 0.6 metre wall which is located on the boundary with No.10 Colliers Lane. The rear boundary area of the application site leads on to an existing field and has no defined boundaries. The front boundary of the application site is defined by a 1 metre high hedge and 1 metre high fence which is shared with No. 12 Colliers Lane. Within the site there are a variety of storage containers and an existing shed. The proposed access to the site will be located to the northwestern boundary. The access will be located to a field west of the proposed application site and will comprise a long-curved laneway just off Colliers Lane. Views from the site are made public travelling down Colliers Lane between No. 10 and No. 12. Colliers Lane. The site is in an area surrounded by agricultural fields and a variety of dwellings in different size and character.

### **Description of Proposal**

Proposed single storey dwelling and access lane.

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

#### **Policy Consideration**

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

#### **Representations**

Four (4) neighbouring properties were notified regarding the proposal and two letters of objection have been received.

#### **Planning History**

Reference- M/2005/2190/F

Proposal- Dwelling and domestic garage.

Date Granted- 15/05/2006

#### **Consultees**

DFI Roads were consulted regarding the application and offer no objection subject to conditions.

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

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS7: Quality Residential Environments

- Local Development Plan 2030 – Draft Plan Strategy

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

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

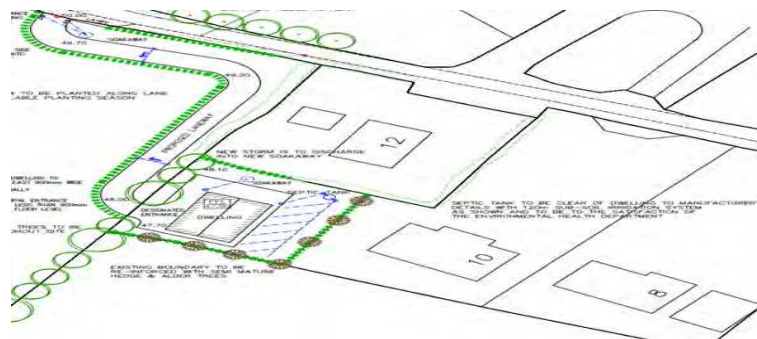
The site is within the settlement limits of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010. SETT 1 is the relevant policy which applies. The site is not within any other designations or zonings within the Plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

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

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

The development does not respect the surrounding context and is not appropriate to the character and topography of the area given it's small plot size. Other neighbouring dwellings have a bigger and more proportioned built up frontage. At present I do not consider the plot size to be acceptable seeing as neighbouring dwellings No. 10 Colliers Lane and No. 12 Colliers Lane all have a substantial plot sizes and provide an adequate sized garden area.



*Figure 1 illustrates the small plot size of the proposal and how it is out of character with the neighbouring dwellings.*



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

The proposed site is not within any archaeological or built heritage sites.

*(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 adequate provision for public and private open space within this proposed development. The agent has provided proposed hedging and trees to be planted along the eastern boundary and the existing trees located along the western boundary of the proposal area to remain retained. The proposed garden space also has an area of approximately 283 square metres, this exceeds the minimum standard for amenity space. I am content that the proposal meets this part of the criteria as outlined in QD1 of PPS 7.

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

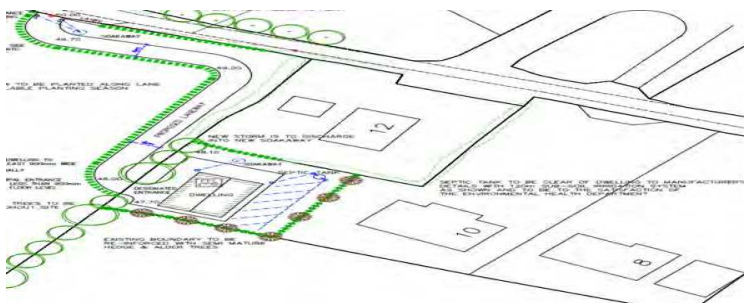
This is an application for a single dwelling and access lane therefore neighbourhood facilities are not required. This proposal will be located within the settlement limits of Coalisland and residents can make use of the facilities located nearby.

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

The movement pattern is acceptable. The site is within the settlement limits of Coalisland however there is no public footpaths but the proposal is near to the centre of Coalisland.

*(f) Adequate and appropriate provision is made for parking;*

Given the small plot size of the proposal I do not consider that there is enough appropriate provision for at least 2 no. parking spaces, Figure 2 also shows how there is not enough space for adequate turning within the curtilage of the proposal. Therefore, the proposal does not meet criteria (f) of QD1 of PPS 7.



*Figure 2 illustrates the small plot size of the proposal and how there is not enough*

*adequate space for parking and turning.*

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

The proposed design and finishes are consistent with that of neighbouring dwelling No. 12 Colliers Lane and No. 11 Colliers Lane. The dwelling is single storey in nature and is similar in layout to that of No. 11 and No. 12. The proposed dwelling will be finished in grey render, black roof tiles, white upvc windows and black rainwater goods. I consider the materials proposed are acceptable.

*(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 proposed development will not create conflict with adjacent properties. Immediately to the northern boundary of the application site is No. 12 Colliers Lane. Given that the proposed development is at a lower topography level than that of No. 12 and the window and sliding doors proposed to the ground floor level will be facing onto the proposed hedging and existing hedging located at the northern boundary. There is also an adequate separation distance of approximately 18 metres between the two properties. Objectors on this proposal had also raised their concerns regarding the separation distance as well as loss of privacy. This neighbouring property will be impacted by some issues with overlooking, overshadowing and dominance however it will not be that significant.

Neighbouring property No. 10 Colliers Lane is located to the eastern boundary of the application site. There are 4 windows located on the ground floor on the eastern elevations of the proposed dwelling however there is an adequate separation distance of approximately 18 metres and the proposed hedging and trees also located to this boundary will prevent any significant overlooking. The proposal is single storey in nature and considering the boundary treatment proposed I don't think this neighbouring dwelling will be impacted significantly by overshadowing or dominance.

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

The proposed development will not anticipate leading to the creation of areas where anti-social behaviour may be encouraged.

## **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 4 third party objections / representations were received from or on behalf of No. 11 Colliers Lane and No. 12 Colliers Lane (Celine O'Donnell) No. 11 Colliers lane's letter was received on the 3<sup>rd</sup> of May 2023 and No. 12 Colliers Lane's letter was received on the 26<sup>th</sup> of April 2023.

The key issues raised in the objections received have been considered below;

- 1. The proposal will have a significant adverse effect on the residential amenity of No. 10 and No. 12 Colliers Lane, due to it's close proximity to both parties.*

Having addressed this issue above it is clear that these neighbouring properties will not be significantly impacted given the adequate separation distance between the proposal and these two properties.

- 2. The rear windows of the proposed development will be facing directly into the Kitchen of No. 10 Colliers Lane, which will have detrimental impact of their amenity and privacy. This will also result in overlooking, loss of light and overshadowing.*

Although there is a concern regarding the proposed windows on the rear elevations, which may result in some overlooking and loss of light, the issue is mitigated by the sufficient separation distance. Additionally, it should be noted that the windows in question are located on the ground floor level, along with the proposed hedging and trees along the boundary with No. 10 Colliers Lane. This was also addressed above.

- 3. I consider this proposal to be a visual intrusion for both No. 10 and No. 12 Colliers Lane.*

The adequate separation distance, size and scale of the proposed dwelling as well as the proposed boundary treatment will prevent the dwelling from causing any visual intrusion on this neighbouring property.

- 4. This proposal will result in significant damage to the local character, environmental quality and residential amenity of Colliers Lane.*

As addressed above that the proposal will result in significant damage to the local character as the plot size proposed is small in nature to that of neighbouring dwellings No. 10 and No. 12 Colliers Lane. These two properties have a much more substantial built up frontage to that of the proposal and they both have adequate space for parking and turning.

- 5. The development does not respect the surrounding context of Colliers Lane. The proposal is set back, as backland development, immediately behind No. 12 Colliers Lane. All other dwellings along Colliers Lane are on the lane frontage. The proposal is not in line with the character of the area and will therefore cause detrimental damage to the local character.*

While the proposed development has a smaller plot area compared to neighbouring dwellings, I am satisfied that its setback will not pose significant issues. No. 9 Colliers Lane is already positioned back from the main road, and the inclusion of a proposed access on the northwestern boundary ensures that the site can be accessed without

encroaching on neighbouring properties.

6. *As previously mentioned, the proposed development is in close proximity to both No. 10 and No. 12 Colliers Lane, and will have an adverse effect on their residential amenity, overlooking, loss of light and overshadowing.*

As stated above these dwellings will not be impacted by the proposal, given their location, adequate separation distance, existing boundary treatment and the single storey nature of the proposal.

7. *I have viewed the available plans relating to this application online, and I would also like to object to the location of the septic tank. The septic tank is to be set back where it will be right along the boundary of my property (No. 12 Colliers Lane), and I am not content with the close proximity of this tank to my property.*

After careful evaluation of the proposal, it has been determined that the septic tank is situated roughly 11 meters away from the neighbouring property at No. 12 Colliers Lane. Typically, a minimum separation distance of 7 meters between a septic tank and a dwelling is required. In this case, consulting Environmental Health was unnecessary due to the acceptable distance of the septic tank from the neighbouring property.

8. *I would like to note that the field to the west of No. 12 Colliers Lane, in which the applicant is taking their access from, is not owned by the applicant, and they have not been given permission to do so.*

The applicant has submitted Certificate C and has mentioned that they do not own the land. However, any issues regarding landownership is a civil matter and is not dealt by the planning process.

### **Other Consideration**

Considering the septic tank's approximate distance of 11 meters from the nearest neighbouring property, it was determined that consulting Environmental Health regarding the proposed septic tank was unnecessary. The location of the septic tank suggests that the waste water treatment will not adversely impact these neighbouring properties.

### **Recommendation: Refuse**

### **Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to QD1 PPS7 criteria (f) as there is not enough space for at 2 parked cars and not enough adequate space for parking and turning.

### Reason 1

The proposal is contrary to QD1 PPS 7 criteria (a) giving its small plot size and site topography is not in similar size to that of the other neighbouring properties surrounding it.

**Signature(s):** RJ McAleer

**Date:** 30 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 15 March 2023   |
| <b>Date First Advertised</b>   | 28 March 2023   |
| <b>Date Last Advertised</b>  | 28 March 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>12 Colliers Lane Coalisland Tyrone BT71 4GP<br>The Owner / Occupier<br>11 Colliers Lane Coalisland Tyrone BT71 4GP<br>The Owner / Occupier<br>10 Colliers Lane Coalisland Tyrone BT71 4GP<br>The Owner / Occupier<br>20 Colliers Lane Coalisland Tyrone BT71 4GP |                 |
| <b>Date of Last Neighbour Notification</b>   | 30 March 2023   |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b>   |                 |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Roads Consultation full.docxDC Checklist 1.doc<br>DFI Roads - Enniskillen Office-Roads Consultation - Approval.docx  |                 |
| <b>Drawing Numbers and Title</b><br><br>Site Layout or Block Plan Plan Ref: 02/1<br>Site Location Plan Plan Ref: 01<br>Site Layout or Block Plan Plan Ref: 02<br>Proposed Plans Plan Ref: 03<br>Proposed Plans Plan Ref: 03 R 1  |                 |

**Notification to Department (if relevant)**

Not Applicable



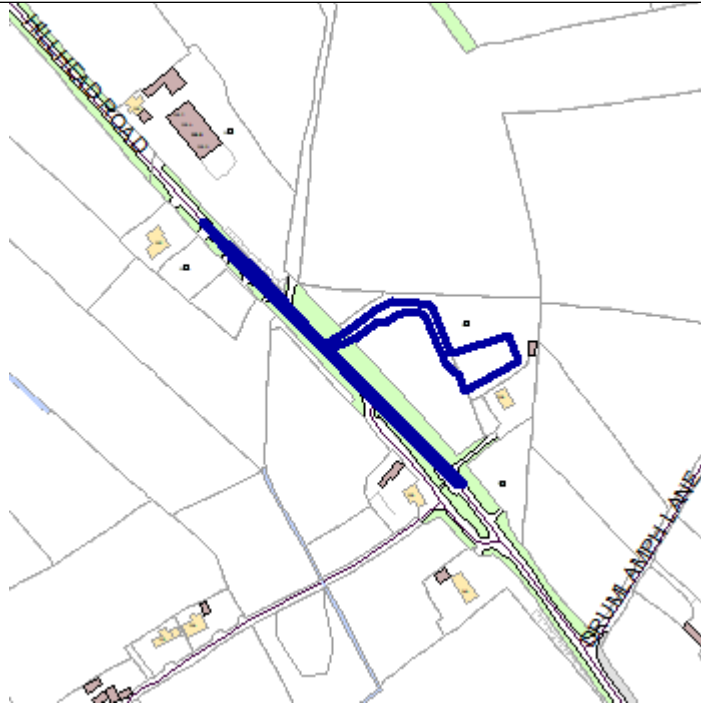
## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.54  |
| <b>Application ID:</b><br>LA09/2023/0317/F   | <b>Target Date:</b> 6 July 2023  |
| <b>Proposal:</b><br>New infill dwelling and garage   | <b>Location:</b><br>15M North West of 259 Hillhead Road<br>Knockcloghrim   |
| <b>Referral Route:</b> Refuse is recommended   |  |
| <b>Recommendation:</b> Refuse  |  |
| <b>Applicant Name and Address:</b><br>Albert Speer<br>15 Drumlamph Road<br>Catledawson<br>BT45 8EJ   | <b>Agent Name and Address:</b><br>Bannvale Architectural Services<br>104A Ballynease Road<br>Portglenone<br>BT44 8NX |
| <b>Executive Summary:</b><br><br>This application is brought to the planning committee with a recommendation for refusal. The proposal is contrary to Policies CTY 8 and CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up road frontage and if approved would create a ribbon of development. |  |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response       |
|---------------------|--------------------------------|----------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Full Resp.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed is located in the rural countryside approximately 1.5 miles south east and outside of the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015. The site is for an infill dwelling located 15m north west of 259 Hillhead Road, Knockcloghrim. Access to the site is via an existing private laneway adjoining the Hillhead Rd and approved under LA09/2016/0561/F, which also serves new build no.

261 Hillhead Rd. The site is 0.1 hectares in area and has a flat topography. The site is defined by a backdrop of mature trees behind the eastern boundary and picket fencing providing the western boundary. No. 261 sits adjacent to and north of the site, no. 259 adjacent and south of the site, and no. 251 to the south of this, occupying a roadside position. The site is separated from the main road by an agricultural field with a width of approximately 45 metres. The surrounding environment consists mostly of agricultural fields with scatterings and clusters of development located all along the Hillhead Rd.

### **Description of Proposal**

The proposed is a full application for a new infill dwelling and garage.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

LA09/2016/0561/F – Dwelling (change of house type and access from previous approval H/2014/0370/F) – Adjacent and north of 259 Hillhead Road Knockloughrim – Permission Granted 24/10/2016.

#### **Representations**

To date no third party representations have been received.

#### **Magherafelt Area Plan 2015**

The site of the proposed is located in the rural countryside approximately 1.5 miles south east and outside of the Knockcloghrim settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

The site is subject to a small degree of surface water flooding, though this is evident only along the existing access at the part which adjoins the road, and along the edge of the site for the dwelling. I am content on this basis that DfI Rivers do not need to be

consulted.

### Mid Ulster District Council Draft Plan Strategy 2030

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

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

### Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. The proposed access arrangements involve the use of an existing unaltered access to a public road. A consultation was made to DfI Roads who provided no objection to the proposed subject to a condition. In light of this, I am content that the proposed complies with PPS 3.

### PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission 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 in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon Development.

In terms of the plot size, I am content that the site is sufficient only to accommodate up to a maximum of two dwellings. The site is therefore able to accommodate the proposed dwelling. For the purposes 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. I am content that there are 3 substantial buildings; These are no. 261 Hillhead Rd (adjacent and north of the site), no. 259

(adjacent and south of the site), and no. 251 (furthest south of the site). While it is considered that these dwellings are substantially sized buildings, it is considered that nos. 261 and 259 Hillhead Rd do not occupy a road frontage position. The curtilage of these dwellings do not front onto the public road and therefore the application is without a substantial and built up frontage that includes a line of 3 or more buildings along a road frontage. The lack of a substantial and built up road frontage is backed up by the approved defined curtilage of the planning approval for no. 261 Hillhead Rd (ref LA09/2016/0561/F). The proposed fails to comply with Policy CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed is a square, modest-sized two storey dwelling which is of a traditional rural design and would not be an unduly prominent feature in the environment. Finished materials include smooth render finish to the walls and natural blue / black slate to the roof. I consider the design of the proposed to be acceptable and in keeping with the surrounding context. The site is complete with a strong backdrop of mature trees behind the eastern boundary which when viewed from the road will provide a good degree of backdrop and enclosure. The dwelling therefore does not rely primarily on the proposed landscaping for its integration and it is deemed that the mix of existing and proposed landscaping would compliment the dwelling. It is deemed that the proposed complies under Policy CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As provided above, the proposed dwelling at this site would not appear prominent in the landscape. However, given the proposal creates a ribbon of development, the proposal does not comply with Policy CTY 14.

### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application is refused on the grounds that it does not meet Policies CTY 8 and CTY 14 of PPS 21 in that it would create a ribbon of development if approved.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

The proposal is contrary to Policy CTY 8 and Policy CTY 14 of PPS 21 in that it is not located within a substantial and continuously built up frontage and if approved would

create a ribbon of development.

**Signature(s):** Benjamin Porter

**Date:** 17 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 23 March 2023   |
| <b>Date First Advertised</b>  | 4 April 203     |
| <b>Date Last Advertised</b>   | 4 April 203     |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>266A Hillhead Road Castledawson Londonderry BT45 8EF<br>The Owner / Occupier<br>266 Hillhead Road Knockcloghrim Londonderry BT45 8EF<br>The Owner / Occupier<br>261 Hillhead Road Knockcloghrim Londonderry BT45 8EF<br>The Owner / Occupier<br>251 Hillhead Road Knockcloghrim Londonderry BT45 8QT<br>The Owner / Occupier<br>260 Hillhead Road Castledawson Londonderry BT45 8EF<br>The Owner / Occupier<br>259 Hillhead Road Knockcloghrim Londonderry BT45 8EF |                 |
| <b>Date of Last Neighbour Notification</b>  | 4 April 2023    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/2002/0312/RM<br>Proposals: Dwelling & garage<br><br>Decision: PG<br>Decision Date: 20-MAY-02<br><br>Ref: H/2005/0920/F<br>Proposals: Dwelling and garage.<br>Decision: PG<br>Decision Date: 09-JAN-06<br><br>Ref: LA09/2023/0317/F<br>Proposals: New infill dwelling and garage<br>Decision:   |                 |

Decision Date:

Ref: H/1993/6054

Proposals: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR  
BELLAGHY MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/2000/0768/F

Proposals: Alterations and Additions to Dwelling

Decision: PG

Decision Date: 18-DEC-00

Ref: H/2005/0398/O

Proposals: Site of Infill Dwelling & Garage

Decision: PR

Decision Date: 22-AUG-06

Ref: LA09/2016/0561/F

Proposals: Dwelling (change of house type and access from previous approval  
H/2014/0370/F)

Decision: PG

Decision Date: 24-OCT-16

Ref: H/2014/0370/F

Proposals: Proposed Dwelling and Garage.

Decision: PG

Decision Date: 12-FEB-15

Ref: LA09/2019/0727/O

Proposals: New infill dwelling and garage

Decision: PG

Decision Date: 05-SEP-19

Ref: H/2000/0828/O

Proposals: Site of dwelling and garage

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Plans Plan Ref: 03  
Proposed Elevations Plan Ref: 04  
Garage Plans Plan Ref: 05

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.55  |
| <b>Application ID:</b><br>LA09/2023/0318/O   | <b>Target Date:</b> 6 July 2023  |
| <b>Proposal:</b><br>Proposed new dwelling in an existing cluster   | <b>Location:</b><br>Site 50M South East and adjacent to 166 Washingbay Road Coalisland             |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Michelle O'Hagan<br>34 Park Na Mona<br>Moortown<br>Dungannon<br>BT80 0TF | <b>Agent Name and Address:</b><br>McKeown and Shields<br>1 Annagher Road<br>Coalisland<br>BT71 4NE |
| <b>Executive Summary:</b>  |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response        |
|---------------------|--------------------------------|-----------------|
| Statutory Consultee | DFI Roads - Enniskillen Office |                 |
|                     | DFI Roads - Enniskillen Office |                 |
| Statutory Consultee | DFI Roads - Enniskillen Office | 30-05-2023.docx |

### Representations:

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

### Summary of Issues

No representations received. The site is considered to not meet all of the criterion of CTY 2a and thus is presented to committee.

### Characteristics of the Site and Area

## **Description of Proposal**

Outline planning permission is sought for a proposed new dwelling in an existing cluster.

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

### **Policy Consideration**

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 162 and 166 Washingbay Road.

#### Planning History

There is not considered to be any relevant planning associated with the site itself. There was a recent approval for a dwelling directly West of the site under CTY2a.

LA09/2022/1082/RM - Proposed new dwelling in an existing cluster - Site 20M South and Adjacent To 166 Washingbay Road, Coalisland – PERMISSION GRANTED

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

- Dungannon and South Tyrone Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 3: Access, Movement and Parking
- PPS 21: Sustainable Development in the Countryside
- Local Development Plan 2030 - Draft Plan Strategy

The Dungannon and South Tyrone 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided 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 dwelling. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. The cluster appears easily as a visual entity in the local landscape. Derrytresk Football fields is located approx. 400m South East of the application site and although not directly associated with the site, it is our view that the application site is in line with the spirit of the policy and this precedent has been agreed with other nearby recent approvals. The identified site is bounded to the North by development, however given the development to the west has not commenced, my

concern would be that the development is only bounded on one side and strictly speaking, the proposal fails on this criterion and as such is presented to committee. It is my consideration that the proposed development could be absorbed into the existing cluster without significantly altering the existing character or adversely impacting on the residential amenity, especially when other development which has been approved commences and is completed. I am content a dwelling could be designed within the red line of the site which would avoid issues such as privacy or overlooking concerns with neighbouring properties.

It is also necessary for the proposal to be considered against the requirements of CTY 13 and CTY 14 of PPS 21, whereby it 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. This proposal is for an outline application thus no design has been stipulated at this time however given the character of the area and noting that the dwellings in the surrounding area are generally two storey, I don't feel a ridge height restriction is needed at this site. The existing hedging will be conditioned to be retained where possible with full details of proposed landscaping along the remainder of the boundaries to also be included with the RM application.

Having considered all of the above, noting that the proposal site is within an identifiable cluster of development however recognising that the site is currently only bounded on one side, it is my recommendation that the an exception should be granted in this instance and approval should be granted with suitable conditions.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

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

##### **Condition 2**

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

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

**Condition 3**

Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 75m in both directions and a 75m forward sight line and other details as set out in the attached form RS1, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 4**

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

Reason: In the interests of visual and residential amenity.

**Condition 5**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

**Signature(s):** Sarah Duggan

**Date:** 30 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 23 March 2023   |
| <b>Date First Advertised</b>   | 4 April 2023    |
| <b>Date Last Advertised</b>  | 4 April 2023    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>162 Washingbay Road Coalisland Tyrone BT71 5EQ<br>The Owner / Occupier<br>166 Washingbay Road Coalisland Tyrone BT71 5EQ |                 |
| <b>Date of Last Neighbour Notification</b>   | 4 April 2023    |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b>   |                 |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-<br>DFI Roads - Enniskillen Office-<br>DFI Roads - Enniskillen Office-30-05-2023.docx  |                 |
| <b>Drawing Numbers and Title</b><br><br>Site Location Plan Plan Ref: 01<br>Site Layout or Block Plan Plan Ref: 02  |                 |
| <b>Notification to Department (if relevant)</b><br><br>Not Applicable  |                 |





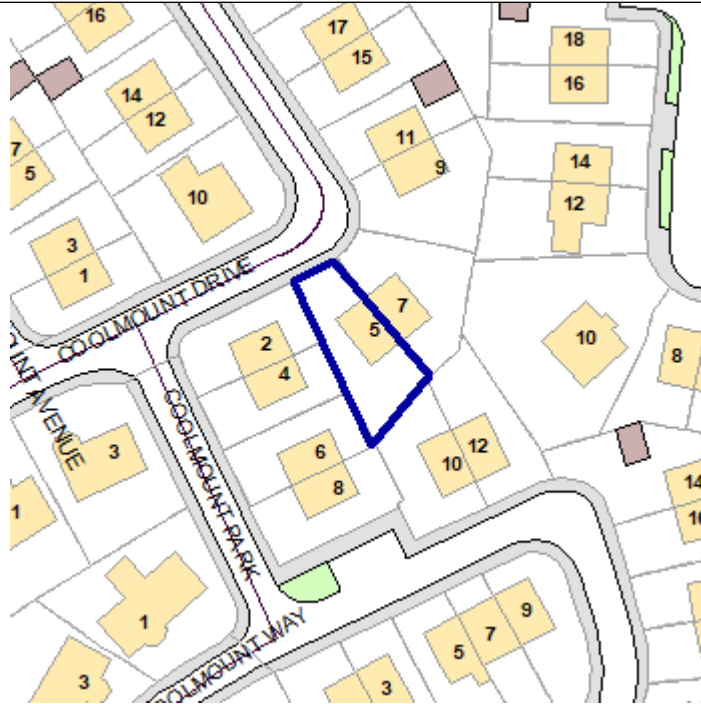
## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.56                                    |
| <b>Application ID:</b><br>LA09/2023/0328/F   | <b>Target Date:</b> 7 July 2023                                |
| <b>Proposal:</b><br>Renewal of approved planning application<br>LA09/2017/1700/F (Extension to rear and<br>side of dwelling to accommodate siting<br>area and bedroom) | <b>Location:</b><br>5 Coolmount Drive<br>Cookstown<br>Bt80 8YF |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Emma McAleer   | <b>Agent Name and Address:</b><br>No Agent                     |
| <b>Executive Summary:</b>  |  |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|                   |           |          |

### Representations:

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

### Summary of Issues

This application is recommended for approval, however it is presented to Committee as it has received two objections from neighbouring properties. Issues raised will be addressed within the main body of the report.

### Characteristics of the Site and Area

The application site is located at No. 5 Coolmount Drive, Cookstown and features a semi-detached dwelling finished in natural rustic facing brick and painted dash render,

black roof slates, and white upvc windows, doors, and rainwater goods.

The front of the property is defined by a 1m wooden fence and two brick pillars providing vehicular access. The dwelling is set back approximately 8m from the public road. The rear garden is triangular in shape, with defined boundaries of a 1.8m close board fence which defines the boundaries shared with No. 7 Coolmount Drive to the east, No. 10 Coolmount Park to the south, No's 2, 4 and 6 Coolmount Park to the west.

The surrounding area is entirely residential in nature with a combination of detached and semi-detached bungalows and two-storey dwellings.

The application was received on 24/03/2023 which is within the statutory expiry date of 18/04/2023. Given that the principle of planning had been established under the previous application LA09/2017/1700/F, I am content that this application is acceptable and is within the statutory expiry date.

### **Description of Proposal**

This is a full application for the renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate sitting area and bedroom) at No. 5 Coolmount Drive, Cookstown.

### **Representations**

Nine neighbour notification letters were issued in relation to this application and two objections have been received.

### **Site History**

LA09/2017/1700/F – 5 Coolmount Drive, Cookstown – Extension to rear and side of dwelling to accommodate sitting area and bedroom – Permission Granted 06.06.2018.

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

#### **Policy Consideration**

#### **Cookstown Area Plan 2010**

The site falls within the settlement limits of Cookstown as defined in the Cookstown Area Plan 2010. There are no other zonings or designations on this site.

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

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the

LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6. 137 of the SPPS advises that residential extensions should be well designed.

### **PPS 7 (Addendum): Residential Extensions and Alterations**

This application is for an in-time renewal of planning reference (LA09/2017/1700/F – Extension to rear of dwelling to accommodate a sitting area and bedroom).

There has been no change in planning policy since the original outline approval was granted, as such, the principle of development on this site remains acceptable. There have been two objections to the proposal from neighbouring properties, their concerns are addressed below:

1. Loss of natural sunlight to surrounding properties – The occupant of No. 7 Coolmount Drive has raised concern that they will experience a loss of sunlight due to the proposed extension. Having considered the location of the extension in relation to No. 7 alongside the trajectory of the sun, I am content that there will be little to no loss of sunlight. The original proposal under LA09/2017/1700/F was reduced in scale in response to concerns over loss of sunlight. The current renewal application is therefore still deemed acceptable.
2. Scale of proposed extension – Under the original application (LA09/2017/1700/F), the scale of the proposal was raised as an issue. Amended plans were received wherein the extension was reduced in height and footprint and this was deemed to satisfactorily deal with concerns relating to scale and dominance.
3. Loss of privacy – There are no windows on the proposed extension that would cause the loss of privacy to any of the surrounding properties. The window arrangement is unchanged from the originally approved design.
4. Loss of views – This is not a material consideration.

One of the objectors has raised the point that they were not notified of the original application however I am content that the concerns they have raised under the current application were dealt with satisfactorily at the determination of the original application and would not have affected the outcome.

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

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

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

I note that there is no change to the existing access arrangements therefore no consultation with DfI Roads was required.

Approval is recommended subject to the same conditions that were attached to LA09/2017/1700/F.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

The materials to be used in the construction of the proposal hereby permitted, shall be as shown on stamp approved Drawing No. 05 (Rev-2) dated 24/04/2018 of LA09/2017/1700/F.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the existing dwelling.

##### **Informative 1**

This decision relates to drawing No 01, 02 (Rev-2), 04 (Rev-1), 05 (Rev-2) date stamped 06/06/2018 previously approved under application LA09/2017/1700/F. **Signature(s):** Zoe Douglas

**Date:** 12 May 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 24 March 2023   |
| <b>Date First Advertised</b>  | 4 April 2023    |
| <b>Date Last Advertised</b>   | 4 April 2023    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>10 Coolmount Drive Cookstown Tyrone BT80 8YF<br>The Owner / Occupier<br>7 Coolmount Drive Cookstown Tyrone BT80 8YF<br>The Owner / Occupier<br>12 Coolmount Park Cookstown Tyrone BT80 8YB<br>The Owner / Occupier<br>10 Coolmount Park Cookstown Tyrone BT80 8YB<br>The Owner / Occupier<br>8 Coolmount Park Cookstown Tyrone BT80 8YB<br>The Owner / Occupier<br>6 Coolmount Park Cookstown Tyrone BT80 8YB<br>The Owner / Occupier<br>4 Coolmount Park Cookstown Tyrone BT80 8YB<br>The Owner / Occupier<br>2 Coolmount Park Cookstown Tyrone BT80 8YB |                 |
| <b>Date of Last Neighbour Notification</b>  | 29 March 2023   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/1997/0357<br>Proposals: Erection of 1 detached dwelling, 1 pair of semi-detached dwellings and estate road<br>Decision: PG<br>Decision Date:<br><br>Ref: I/2006/0988/F<br>Proposals: Proposed Retention of Dwellings Built on Plots 2, 4, 6, 8, & 10<br>Decision: PG   |                 |

Decision Date: 15-MAY-07

Ref: I/2002/0618/F

Proposals: Proposed 11 No. Dwellings

Decision: PG

Decision Date: 16-JAN-03

Ref: I/2003/0269/F

Proposals: 2 No detached dwellings and garages

Decision: PG

Decision Date: 17-JUN-03

Ref: I/1999/0189

Proposals: 2 No.semi-detached dwellings and 1 no. detached dwelling and garages

Decision: PG

Decision Date:

Ref: LA09/2017/1700/F

Proposals: Extension to rear and side of dwelling to accommodate siting area and bedroom

Decision: PG

Decision Date: 06-JUN-18

Ref: LA09/2023/0328/F

Proposals: Renewal of approved planning application LA09/2017/1700/F (Extension to rear and side of dwelling to accommodate siting area and bedroom)

Decision:

Decision Date:

Ref: I/2001/0060/F

Proposals: 14 No Semi-detached Dwellings & Garages and 1 No Detached Dwelling & Garage

Decision: PG

Decision Date: 14-MAY-01

Ref: I/1990/0015

Proposals: Residential Development

Decision: PG

Decision Date:

Ref: I/2003/0843/F

Proposals: Proposed alterations to development with 4 No semi-detached dwellings, 3 No Town houses and new road determination

Decision: PG

Decision Date: 19-APR-04

Ref: I/2004/1319/F

Proposals: 2No Semi-Detached dwellings and 1No Detached Dwelling & Garage

Decision: PG

Decision Date: 16-FEB-05

**Summary of Consultee Responses**

-

**Drawing Numbers and Title**

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.57  |
| <b>Application ID:</b><br>LA09/2023/0407/O   | <b>Target Date:</b> 19 July 2023   |
| <b>Proposal:</b><br>Proposed Infill site for dwelling with garage, driveways and septic tank.  | <b>Location:</b><br>Road Fronted Lands between 112 and 116 Lismoyle Road<br>Swatragh |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mr Paul Tohill<br>116 LISMOYLE ROAD<br>SWATRAGH<br>BT46 5QU  | <b>Agent Name and Address:</b><br>No Agent   |
| <b>Executive Summary:</b><br><br>No issues identified with the proposal. This application is being presented to the planning committee as the applicant's brother is JJ Tohill, a Service Director in Mid Ulster District Council. |  |



## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response          |
|---------------------|--------------------------------|-------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Outline resp.docx |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits or any other designations as per the Magherafelt Area Plan. The red line of the application site is a southern portion of a larger existing agricultural field which is made up of a mix

of grasslands and dense shrubs located at the back of the site. The roadside boundary is defined by an existing post and wire fence with entrance and part of the curtilage of the adjacent dwelling No.116 running along the south and eastern boundaries. The surrounding area is a mix of dwellings and agricultural lands.

### **Description of Proposal**

This is an outline planning application for a proposed Infill site for dwelling with garage, driveways and septic tank.

### **Representations**

No third party representations have been received.

### **Relevant Site History**

LA09/2023/0408/O- Proposed Infill Dwelling and Garage at Lands between 112 and 116 Lismoyle Road, Swatragh. This application is located in the site north east and adjacent to this planning application.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two

houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built-up frontage present. I am content that there is a dwelling to the south of the site identified as 116 Lismoyle Road which although the dwelling is sited back from the road, the driveway and curtilage extends to the road to create a frontage. Further south of this are a number of buildings which appear to be business sheds and then the dwelling 114 Lismoyle all which have a road frontage despite strong mature boundaries running along the road frontage. Travelling North east on the site the agricultural field is present which is subject to planning application LA09/2023/0408/O which is also being assessed as an infill. Further beyond this are two dwellings identified as 112 & 110 Lismoyle. I am content that 110 Lismoyle has a road frontage. On the concept block plan the agent has shown 112 Lismoyle has a garden area directly fronting and adjacent to the public road. At the time of the site inspection, I was content that this area does not appear to be an agricultural field and could be used as private amenity space associated with the dwelling. Having reviewed historical ortho images and google maps images (below).

The 2009 image shows the piece of the land in what appears to be well maintained grass area which appears to be private curtilage. The latest image in 2021 shows how the boundaries have developed overtime and that the grass area is well maintained similar to a garden space. I am content that it appears this piece of land has been used as private amenity space for more than 5 years and can be considered lawful and forming a frontage associated with 112 Lismoyle Road.



Area identified as curtilage of 112 Lismoye Google Maps July 2021. Image below September 2009



The proposal is for one dwelling at the site, with a separate application directly north east for an infill. I am content that the gap that exists could accommodate a maximum of two houses and the site of this planning application can only accommodate one dwelling. The proposal will respect the existing pattern of development in the area. I am content that the proposal does not offend policy CTY 8.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application in which the exact design details have not been submitted; however, I am content that appropriately designed dwellings would not appear as a prominent feature in the landscape. The predominant style of the dwellings adjacent are single storey therefore, I feel a ridge height restriction

of 6m from finished floor level is required to ensure that the proposed dwelling is not prominent in the landscape. Any existing natural screening on and around the site should be retained and enhanced with a landscape plan submitted as part of the Reserved Matters application.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. From all of this I am satisfied that the application is able to comply with CTY 14.

There is ample space within this site to provide package treatment plant provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. In my view the proposal does not offend policy CTY16 of PPS21.

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

DfI Roads were consulted and have advised they have no objections subject to a condition being attached.

#### **Other Material Considerations**

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

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

**Condition 4**

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

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

**Condition 5**

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

**Condition 6**

The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal is in keeping with the character of the area.

**Signature(s):** Ciaran Devlin

**Date:** 25 May 2023

|  |                 |
|--|-----------------|
| <b>ANNEX</b>   |                 |
| <b>Date Valid</b>  | 5 April 2023    |
| <b>Date First Advertised</b>   | 18 April 2023   |
| <b>Date Last Advertised</b>  | 18 April 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>116 Lismoyle Road Swatragh Londonderry BT46 5QU<br>The Owner / Occupier<br>117 Lismoyle Road Swatragh Londonderry BT46 5QU<br>The Owner / Occupier<br>112 Lismoyle Road Swatragh Londonderry BT46 5QU  |                 |
| <b>Date of Last Neighbour Notification</b>   | 17 April 2023   |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2023/0407/O<br>Proposals: Proposed Infill site for dwelling with garage, driveways and septic tank.<br>Decision:<br>Decision Date:<br><br>Ref: H/2011/0516/F<br>Proposals: Proposed Replacement Dwelling<br>Decision: PG<br>Decision Date: 16-OCT-12<br><br>Ref: LA09/2023/0408/O<br>Proposals: Proposed Infill Dwelling and Garage<br>Decision:<br>Decision Date: |                 |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Outline resp.docx  |                 |

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.58   |
| <b>Application ID:</b><br>LA09/2023/0408/O   | <b>Target Date:</b> 19 July 2023  |
| <b>Proposal:</b><br>Proposed Infill Dwelling and Garage  | <b>Location:</b><br>Lands between 112 and 116 Lismoyle Road<br>Swatragh |
| <b>Referral Route:</b> Approve is recommended  |   |
| <b>Recommendation:</b> Approve   |   |
| <b>Applicant Name and Address:</b><br>Mr Bosco Tohill<br>5 PAGES LANE<br>DRAPERSTOWN<br>BT45 7DP | <b>Agent Name and Address:</b><br>No Agent                              |
| <b>Executive Summary:</b>  |   |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response          |
|---------------------|--------------------------------|-------------------|
| Statutory Consultee | DFI Roads - Enniskillen Office | Outline resp.docx |

### Representations:

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

### Summary of Issues

No issues identified with the proposal. This application is being presented to the planning committee as the applicant's brother is JJ Tohill, a Service Director in Mid Ulster District Council.

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits or

any other designations as per the Magherafelt Area Plan. The red line of the application site is the north eastern portion of a larger agricultural field which is made up of a mix of grassland and dense shrubs located at the back of the site. The roadside boundary is made up of an existing post and wire fence with the northern boundary defined by existing trees. The surrounding area is a mix of single dwellings and agricultural lands.

### **Description of Proposal**

This is an outline planning application for a proposed Infill Dwelling and Garage

### **Representations**

No third party representations have been received.

### **Relevant Site History**

LA09/2023/0407/O- Proposed Infill site for dwelling with garage, driveways and septic tank. Road Fronted Lands between 112 and 116 Lismoyle Road, Swatragh. This application is located immediately south and adjacent to this application site.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two

houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The first step in determining whether an infill opportunity exists is to identify whether there is an otherwise substantial and continuously built-up frontage present. To the north of the application site there are two dwellings (No. 112 and 110). I am content that 110 Lismoyle has a road frontage. On the concept block plan the agent has shown 112 Lismoyle has a garden area directly fronting and adjacent to the public road. At the time of the site inspection, I was content that this area does not appear to be an agricultural field and could be used as private amenity space associated with the dwelling. Having reviewed historical ortho images and google maps images (below).

The 2009 image shows the piece of the land in what appears to be well maintained grass area which appears to be private curtilage. The latest image in 2021 shows how the boundaries have developed overtime and that the grass area is well maintained similar to a garden space. I am content that it appears this piece of land has been used as private amenity space for more than 5 years and can be considered lawful and forming a frontage associated with 112 Lismoyle Road.



Area identified as curtilage of 112 Lismoyle Google Maps July 2021



Area identified as curtilage of 112 Lismoyle Google Maps September 2009

To the south of the application site is an existing agricultural field subject to planning application LA09/2023/0407/O and further south of this is the dwelling identified as 116 Lismoyle Road which although the dwelling is sited back from the road, the driveway and curtilage extends to the road to create a frontage. Further south of this are a number of buildings which appear to be business sheds and then the dwelling 114 Lismoyle all which have a road frontage despite strong mature boundaries running along the road

frontage.

The proposal is for one dwelling at the site, with a separate application directly north east for an infill. I am content that the gap that exists could accommodate a maximum of two houses and the site of this planning application can only accommodate one dwelling. The proposal will respect the existing pattern of development in the area. I am content that the proposal does not offend policy CTY 8.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application in which the exact design details have not been submitted; however, I am content that appropriately designed dwellings would not appear as a prominent feature in the landscape. The predominant style of the dwellings adjacent are single storey therefore, I feel a ridge height restriction of 6m from finished floor level is required to ensure that the proposed dwelling is not prominent in the landscape. Any existing natural screening on and around the site should be retained and enhanced with a landscape plan submitted as part of the Reserved Matters application.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. From all of this I am satisfied that the application is able to comply with CTY 14.

There is ample space within this site to provide package treatment plant provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. In my view the proposal does not offend policy CTY16 of PPS21.

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

DfI Roads were consulted and have advised they have no objections subject to a condition being attached.

#### **Other Material Considerations**

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

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

Approve is recommended

## Approval Conditions

### Condition 1

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

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

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

### Condition 2

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

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

### Condition 3

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

### Condition 4

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

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

### Condition 5

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

**Condition 6**

The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal is in keeping with the character of the area.

**Signature(s):** Ciaran Devlin

**Date:** 25 May 2023



| ANNEX   |                 |
|---|-----------------|
| <b>Date Valid</b>   | 5 April 2023    |
| <b>Date First Advertised</b>  | 18 April 2023   |
| <b>Date Last Advertised</b>   | 18 April 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>116 Lismoyle Road Swatragh Londonderry BT46 5QU<br>The Owner / Occupier<br>112 Lismoyle Road Swatragh Londonderry BT46 5QU  |                 |
| <b>Date of Last Neighbour Notification</b>  | 17 April 2023   |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/2011/0516/F<br>Proposals: Proposed Replacement Dwelling<br>Decision: PG<br>Decision Date: 16-OCT-12<br><br>Ref: H/2004/1127/O<br>Proposals: Site of dwelling and garage.<br>Decision: PG<br>Decision Date: 14-MAR-05<br><br>Ref: H/2000/0102/RO<br>Proposals: Dwelling and garage<br>Decision: PG<br>Decision Date: 08-MAY-00<br><br>Ref: LA09/2023/0407/O<br>Proposals: Proposed Infill site for dwelling with garage, driveways and septic tank.<br>Decision:<br>Decision Date:<br><br>Ref: LA09/2023/0408/O<br>Proposals: Proposed Infill Dwelling and Garage |                 |

Decision:

Decision Date:

Ref: H/2008/0063/RM

Proposals: Dwelling & Garage

Decision: PG

Decision Date: 16-JUN-08

Ref: H/2012/0373/F

Proposals: Proposed change of use of house type, garage and resiting to supersede planning approval H/2008/0063/RM (increase in site curtilage)

Decision: PG

Decision Date: 30-AUG-13

Ref: H/1998/0653

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1974/0404

Proposals: NON-SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: H/1977/0070

Proposals: HV O/H LINE (BM 1339)

Decision: PG

Decision Date:

Ref: H/1978/0506

Proposals: HV O/H LINE (BM 2532)

Decision: PG

Decision Date:

Ref: H/1987/0249

Proposals: BUNGALOW

Decision: WITHDR

Decision Date:

Ref: H/1986/0201

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1987/0381

Proposals: BUNGALOW

Decision: PG  
Decision Date:

Ref: H/1995/0398  
Proposals: SITE OF DWELLING  
Decision: PR  
Decision Date:

Ref: H/1995/6043  
Proposals: TWO STOREY DWELLING LISMOYLE ROAD SWATRAGH  
Decision: QL  
Decision Date:

Ref: H/2002/0500/F  
Proposals: Dwelling & Garage  
Decision: PG  
Decision Date: 03-SEP-02

Ref: H/2001/0053/O  
Proposals: Site Of Dwelling  
Decision: PG  
Decision Date: 18-DEC-01

Ref: H/1996/0326  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1984/0200  
Proposals: ALTERATIONS AND ADDITIONS TO HOUSE  
Decision: PG  
Decision Date:

Ref: H/1996/6002  
Proposals: SITE OF DWELLING LISMOYLE ROAD SWATRAGH ROAD  
Decision: PRENC  
Decision Date: 15-JAN-96

Ref: H/1981/0054  
Proposals: EXTENSIONS TO HOUSE  
Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

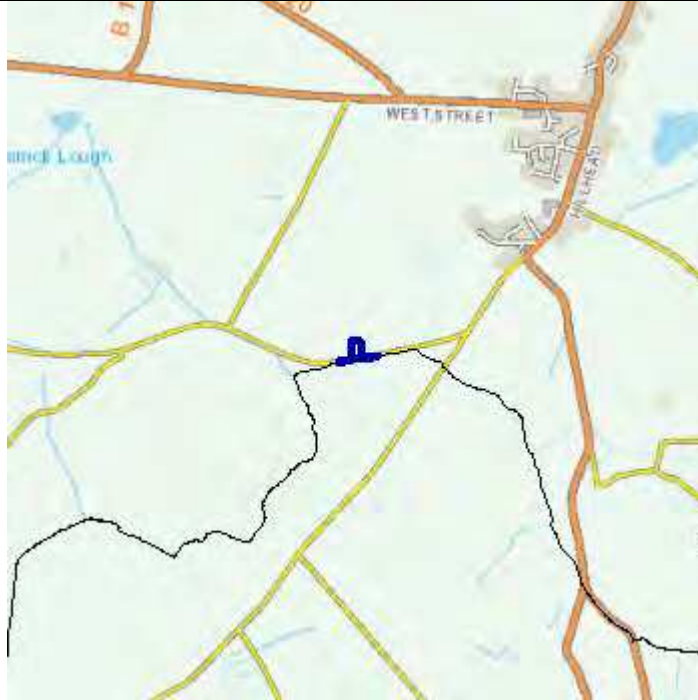


## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>12 June 2023   | <b>Item Number:</b><br>5.59  |
| <b>Application ID:</b><br>LA09/2023/0423/F   | <b>Target Date:</b> 20 July 2023   |
| <b>Proposal:</b><br>proposed infill dwelling and outbuildings  | <b>Location:</b><br>Lands between 7 and 11 Roughan Road<br>Stewartstown                            |
| <b>Referral Route:</b> Approve is recommended  |  |
| <b>Recommendation:</b> Approve   |  |
| <b>Applicant Name and Address:</b><br>Mr Martin Armour<br>5 ROUGHAN ROAD<br>STEWARTSTOWN<br>BT71 5PU   | <b>Agent Name and Address:</b><br>Mr Patrick Conlon<br>52 TULLYREAVY ROAD<br>COOKSTOWN<br>BT70 3JJ |
| <b>Executive Summary:</b><br><br>This application has been presented to Committee for decision as the agent is a Mid Ulster District Council officer involved with the planning process. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type   | Consultee                      | Response  |
|---------------------|--------------------------------|---|
| Statutory Consultee | DFI Roads - Enniskillen Office | Roads Consultation - Full response.docxDC Checklist 1.doc |

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by Cookstown Area Plan 2010, approx. 1 ½ miles southwest of Stewartstown settlement limits on lands between nos. 7 and 11 Roughan Road Stewartstown.



Fig 1: Site outlined red

The site sits immediately west of no. 7 Roughan Road, a single storey dwelling; and approx. 35m east of no. 11 Roughan Road, a two-storey dwelling. It is a relatively flat rectangular plot comprising roughly the eastern half of a larger host plot / field. It fronts onto and is to be accessed directly off the Roughan Road. Along this stretch of the Roughan Road there is a row of dwellings starting with no.11 Roughan Rd located approx. 35m west of the site; then no. 7 Roughan Road located immediately east of the site with no. 5 Roughan Road a 1 ½ storey thatched cottage immediately beyond. The eastern party boundary of the site with no.7 Roughan Rd is defined by a mature hedgerow. The southern frontage boundary of the site is defined by a roadside hedgerow. The remaining boundaries of the site are relatively open defined only by post and wire fencing.

Whilst the wider area surrounding the site is rural in character comprising primarily agricultural land interspersed with single dwellings, ancillary buildings and farm groups this immediate stretch of the Roughan Road has come under a degree of development pressure in recent years.

### Description of Proposal

This is a full planning application for a proposed infill dwelling and outbuildings to be located on lands between 7 and 11 Roughan Road Stewartstown.

This application has been presented to Committee for decision as the agent is a Mid Ulster District Council officer involved with the planning process.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030 (RDS)

Cookstown Area Plan 2010 (CAP)

Strategic Planning Policy Statement for Northern Ireland (SPPS)

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

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

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

### **Representations**

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

### **Relevant Planning History**

#### **On site**

- I/2013/0327/O – proposed dwelling and garage – adjacent to 11 and 35m West of 7 Roughan Road Drumagullion Stewartstown – Granted 14<sup>th</sup> April 2014
- LA09/2017/0951/O – proposed dwelling and garage Adjacent to 7 and 37m East of 11 Roughan Road Drumagullion Stewartstown – Granted 9<sup>th</sup> November 2017

The above planning applications, which granted a dwelling and garage under Policy CTY8 of PPS21, have expired.

#### **Adjacent Site**

- I/2013/0328/O – proposed dwelling and garage – adjacent to 11 and 35m West of 7 Roughan Road Drumagullion Stewartstown – Granted 14<sup>th</sup> April 2014
- LA09/2015/0103/RM – proposed dwelling and garage - adjacent to 11 and 35m West of 7 Roughan Road Drumagullion Stewartstown – 26<sup>th</sup> June 2015



Planning applications I/2013/0328/O and LA09/2015/0103/RM relating to the west half of the current site's host field, which granted a dwelling and garage under Policy CTY8 of PPS21, were not implemented and have expired.

- LA09/2017/0950/O – proposed dwelling and garage – adjacent to 11 and 35m West of 7 Roughan Road Drumagullion Stewartstown – Granted 9<sup>th</sup> November 2017
  - LA09/2020/0487/RM – Proposed two storey dwelling and detached double garage – Lands adjacent to 11 and 35m West of 7 Roughan Road Drumagullion Stewartstown – Granted 29<sup>th</sup> June 2020
  - LA09/2022/0663/F – Application to alter design of previously approved two storey dwelling and detached double garage to include for small reduction in dwelling size and minor relocation of dwelling and garage to the south – Lands Adjacent To 11 And 35M West Of 7 Roughan Road Drumagullion Stewartstown – Granted 3<sup>rd</sup> October 2022
  - LA09/2023/0303/F - Application to alter design of a previously approved two storey dwelling. Proposal includes car port – Adjacent to No. 11 Roughan Road and 35M West of No. 7 Roughan Road Stewartstown – Under Consideration
- On the date of site inspection, no works in the construction of a dwelling and / or garage appeared to have commenced under any of the above permissions, granted under Policy CTY8 of PPS21, on the related lands to the west half of the current site's host field.

### **Consultees**

1. DfI Roads - were consulted in relation to the proposed access arrangements and had no objection subject to standard conditions and informatives. Accordingly, I am content that the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

### **Consideration**

Cookstown Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in Policy CTY1 of PPS21.

I am content the principle of this development has been already been established on site under outline planning applications I/2013/0327/O and LA09/2017/0951/O. These permissions granted a dwelling and garage on site under the provisions of Policy CTY 8 of PPS 21 - 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.

Whilst the previous permissions on site I/2013/0327/O and LA09/2017/0951/O have expired I believe the opportunity under Policy CTY 8 still exists. As detailed above in 'Characteristics of the Site and Area' the site remains to be located within a line of 3 dwellings (nos. 11, 7 and 5 Roughan Road) extending along the Roughan Road on similar sized plots.

I consider the modest bungalow and small cluster of ancillary outbuildings proposed to be of an appropriate siting, orientation, size, scale and design in that they should integrate on site to respect the existing development pattern within which they sit along the Roughan Road and into the landscape without significant impact to the character of the area. As such this proposal should not offend policy CTY 13 or CTY 14 of Planning Policy Statement 21. Views of the bungalow and ancillary outbuilding will be limited on both approaches along the Roughan Road until just before and passing along the roadside frontage of the site due to the topography of the area and its location within an existing line of development which alongside vegetation in the wider vicinity will screen.

The design (including finishes) of the dwelling and outbuildings are simplistic and reflective of traditional rural design in keeping with the rural design principles set out in 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside. The dwelling has a simple rectangular floor plan and pitched roof construction (approx. 4.2m ridge height above FFL) with three chimneys expressed along its main ridgeline. It has a small, pitched roof extension to its west gable; a small, dropped lean to extension to its east gable; a small rear return; and a relatively centrally located flat roofed front porch. Window and door openings are all narrow and vertical in emphasis. The associated small cluster of ancillary buildings including a barn (approx. 5.4m ridge height above FFL), outhouse (approx. 4.3m ridge height above FFL), and smaller outbuilding (approx. 4.3m ridge height above FFL) located to the rear and east side of the dwelling will similarly have simple rectangular floor plans and pitched roof constructions with all window and door openings narrow and vertical in emphasis. Material finishes to the dwelling and ancillary outbuildings include reclaimed corrugated cladding to the roof; whitewash render to the walls with a smooth painted black plinth; timber strip doors; and sliding sash windows.

I have no concerns regarding the new dwelling or ancillary outbuildings, impacting the amenity of existing or potential neighbouring properties (see 'Relevant Planning History') to any unreasonable degree in terms of overlooking or overshadowing given the separations distances which will be retained; the orientation and design of the proposed dwelling and ancillary outbuildings; existing vegetation to be retained; and additional planting proposed.

I note at the outset of this application Planning had concerns in relation to the initial submission that the external staircase on the ancillary barn would overlook the amenity of the potential neighbour immediately to the west (see 'Relevant Planning History')

however the agent submitted a revised drawing on the 4<sup>th</sup> May 2023 to show the guard wall to the staircase raised to 1.8m high which I am reasonably content would prevent users of the stairs from looking into the neighbouring property. Additional planting along the western party boundary of the site with the potential neighbouring property was also provided at this time.

### **Other Policy/Considerations**

In addition to checks on the planning portal DfC's Historic Environment Division and DAERA's Natural Environment Division Map Viewers both available online have been checked. No significant built or natural heritage assets or features were identified on or in close proximity to the site.

NI Flood maps do not indicate any flooding on site.

**Taking all of the above into consideration I would recommend the approval of this application.**

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

The existing mature trees and vegetation highlighted yellow on Drawing No. 02 Rev.01 bearing the date stamp received 4 MAY 2023, shall be retained except where it is required to provide access and / or 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 and residential amenity.

#### **Condition 3**

All proposed landscaping as detailed on Drawing No. 02 Rev.01 bearing the date stamp received 4 MAY 2022, shall be carried out during the first available planting season following the commencement of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are

removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual and residential amenity.

**Condition 4**

The vehicular access including visibility splays of 2.4m x 70m in both directions and any forward sight distance, shall be provided in accordance with Drawing No. 02 Rev.01 bearing the date stamp received 4 MAY 2022, 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.

**Signature(s):** Emma Richardson

**Date:** 30 May 2023

| ANNEX  |                 |
|--|-----------------|
| <b>Date Valid</b>  | 6 April 2023    |
| <b>Date First Advertised</b>   | 18 April 2023   |
| <b>Date Last Advertised</b>  | 18 April 2023   |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>11 Roughan Road Stewartstown Tyrone BT71 5PU<br>The Owner / Occupier<br>5 Roughan Road Stewartstown Tyrone BT71 5PU<br>The Owner / Occupier<br>10 Roughan Road Stewartstown Tyrone BT71 5PU<br>The Owner / Occupier<br>7 Roughan Road Stewartstown Tyrone BT71 5PU   |                 |
| <b>Date of Last Neighbour Notification</b>   | 13 April 2023   |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: I/2009/0583/F<br>Proposals: Proposed dwelling<br>Decision: PG<br>Decision Date: 16-FEB-10<br><br>Ref: LA09/2015/0692/F<br>Proposals: Proposed amended house design from application I/2009/0583/F to increase roof height for thatched roof, include domestic garage and loft and landscaping of site<br>Decision: PG<br>Decision Date: 22-JAN-16<br><br>Ref: LA09/2015/0103/RM<br>Proposals: Proposed dwelling and domestic garage<br>Decision: PG<br>Decision Date: 30-JUN-15<br><br>Ref: I/2004/0878/O<br>Proposals: Site for dwelling & garage. |                 |

Decision: PG  
Decision Date: 07-MAR-05

Ref: I/2007/0632/F  
Proposals: Proposed dwelling and garage, removal of conditions 4,5 &7 to increase area shaded green, entrance to site as road service and ridge height to increase to 6.5m from 5.5m and pitch to 35 degrees  
Decision: PG  
Decision Date: 07-JAN-08

Ref: LA09/2020/0976/F  
Proposals: Proposed change of use from dwelling to guest house  
Decision: PG  
Decision Date: 28-OCT-20

Ref: LA09/2023/0423/F  
Proposals: proposed infill dwelling and outbuildings  
Decision:  
Decision Date:

Ref: LA09/2023/0303/F  
Proposals: Application to alter design of a previously approved two storey dwelling. Proposal includes car port.  
Decision:  
Decision Date:

Ref: LA09/2016/0644/F  
Proposals: Amended house design from application LA09/2015/0692/F  
Decision: PG  
Decision Date: 02-SEP-16

Ref: I/2003/0922/F  
Proposals: Proposed Kitchen Extension to Dwelling  
Decision: PG  
Decision Date: 12-DEC-03

Ref: I/2003/0818/A41  
Proposals: Proposed kitchen extension  
Decision: 208  
Decision Date: 08-OCT-03

Ref: I/2013/0328/O  
Proposals: Proposed Dwelling and Garage  
Decision: PG  
Decision Date: 16-APR-14

Ref: LA09/2020/0487/RM

Proposals: Proposed two storey dwelling and detached double garage

Decision: PG

Decision Date: 29-JUN-20

Ref: I/2013/0138/PREAPP

Proposals: 2 no. infill sites

Decision: PREA

Decision Date: 04-JUL-13

Ref: LA09/2017/0950/O

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 09-NOV-17

Ref: I/1977/0116

Proposals: SITE FOR DWELLING

Decision: PG

Decision Date:

Ref: LA09/2017/0951/O

Proposals: Dwelling and garage

Decision: PG

Decision Date: 09-NOV-17

Ref: I/2013/0327/O

Proposals: Proposed Dwelling and Garage

Decision: PG

Decision Date: 16-APR-14

Ref: I/1977/031401

Proposals: DWELLING (SUBSTATION SITE)

Decision: PG

Decision Date:

Ref: I/1977/0314

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/2001/0204/F

Proposals: Extension to dwelling

Decision: PG

Decision Date: 18-MAY-01

Ref: LA09/2022/0663/F

Proposals: Application to alter design of previously approved two storey dwelling and detached double garage to include for small reduction in dwelling size and minor relocation of dwelling and garage to the south.

Decision: PG

Decision Date: 03-OCT-22

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation - Full response.docxDC Checklist 1.doc

### **Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 02 Rev.01

Garage Plans Plan Ref: 05 Rev.01

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02 s/s

Proposed Elevations Plan Ref: 03

Garage Plans Plan Ref: 04

Garage Plans Plan Ref: 05 s/s

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

Not Applicable



## Deferred Consideration Report

|  |   |
|--|---|
| <b>Summary</b>   |   |
| <b>Case Officer:</b> Emma McCullagh  |   |
| <b>Application ID:</b> LA09/2020/0093/O<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 17 March 2020   |
| <b>Proposal:</b><br>Proposed dwelling and garage on a farm   | <b>Location:</b><br>60M East Of 43 Carnaman Road<br>Gulladuff   |
| <b>Applicant Name and Address:</b><br>Mr James MC Erlean<br>35 Carnaman Road<br>Gulladuff  | <b>Agent name and Address:</b><br>Cmi Planners Ltd<br>38B Airfield Road<br>Toomebridge<br>Magherafelt<br>BT41 3SG |
| <b>Summary of Issues:</b><br><br>To Committee Refusal Contrary to CTY 1 and 10 of PPS 21.  |   |
| <b>Summary of Consultee Responses:</b><br><br>   |   |
| <b>Characteristics of the Site and Area</b><br><br><p>The site is located approximately 2.2km east of the development limits of Gulladuff, from which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The red line covers an agricultural field which has a heavy tree cover, in which is accessed via an existing access. I note that the immediate and surrounding area is characterised by agricultural land uses with a scattering of residential dwellings.</p> <p>Representations<br/>One neighbour notification was sent out however no representations were received in connection with this application.</p> |   |

## **Description of Proposal**

This is an outline application for a proposed dwelling and garage on a farm the site is identified as 60m east of 43 Carnaman Road, Gulladuff.

## **Deferred Consideration:**

This application had been presented as a refusal under CTY1 and CTY10 (criteria a) to Planning Committee in Nov 2020 and was subsequently deferred for an office meeting held with the Area Planning Manager on 12th Nov 2020.

The application met criteria (b) and (c) in terms of CTY10 but did not satisfy criteria (a) in that it has not been demonstrated that the farm business is currently active or has been for the required period.

At the deferred office meeting on 12/11/20 the agent stated there had been an issue where DAERA accidentally closed the Farm Business ID (630305), this had been done in error and the agent was told by DAERA it could not be re-opened and that he would have to reapply and get a new number, which he did (ref 665067). It was agreed that DAERA would be re-consulted to confirm what the current situation was.

DAERA were re-consulted on the above information and replied on 21st May 2021 stating the following;

" Business Number 630305 was quoted on P1C to support this application. This was a Category 1 business, and it was closed due to no current members, James & Margaret McErlean, both marked as LFO on 01/05/2014. Business was closed correctly at request of James & Margaret McErlean. I accept that this may not have been what they had intended.

Business Number 665067 is a Category 3 Business in the name of James McErlean and was issued on 08/10/2020. Once a business is closed it cannot be reopened. In this case business 630305 was closed in 2014. James then applied for a new business and was issued a Category 3 Business in 2020. Therefore, there was no active business between 2014 and 2020."

So, as this was the case as confirmed by DAERA, the agent was asked to provide evidence to support the claim there was an active farm business during the period 2014-2020. They submitted invoices and receipts for the period of time mentioned. These were confirmed to show there was an active and established farm at this time but do not on their own prove there was a 'farm business'. In order to fully meet the policy under CTY10 all criteria must be met, therefore it is required to meet policy criteria (a) that states 'the farm business should be active and been established for at least 6 years'. Subsequently a lease agreement was submitted by the agent between the applicant and Sean McCrystal dated May 2014 until April 2030 which constitutes a 'business' for the period 2014-2020 which had been previously missing.

As the 'farm business' has now been proven for this time period the application now meets all criteria of CTY10.

Approval is now recommended with conditions.

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

### **Approval Conditions**

#### **Condition 1**

As required by Article 35 of the Planning (Northern Ireland) Order 1991, application for approval of the reserved matters shall be made to the Department within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

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

Reason: Time Limit

#### **Condition 2**

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

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

#### **Condition 3**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

#### **Condition 4**

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

#### **Condition 5**

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

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

**Condition 6**

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.

**Condition 7**

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

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

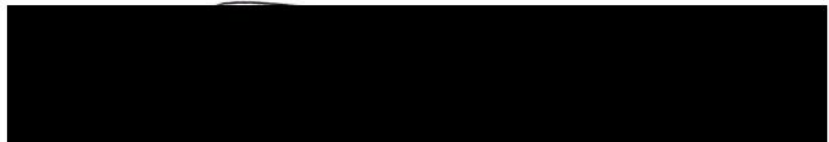
**Signature(s):** Emma McCullagh

**Date:** 28 April 2023

## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b>   | <b>Item Number:</b>   |
| <b>Application ID:</b> LA09/2020/0093/O  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Proposed dwelling and garage on a farm                                 | <b>Location:</b><br>60m East of 43 Carnaman Road Gulladuff  |
| <b>Referral Route:</b><br><br>To Committee - Refusal - Contrary to CTY 1 and 10 of PPS 21. |   |
| <b>Recommendation:</b>   |   |
| <b>Applicant Name and Address:</b><br>Mr James Mc Erlean<br>35 Carnaman Road<br>Gulladuff  | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38b Airfield Road<br>Toomebridge<br>Magherafelt<br>BT41 3SG |
| <b>Executive Summary: Refusal</b>  |   |
| <b>Signature(s): Peter Henry</b>   |   |

*For committee  
decision subject to  
proposed changes*



*23 / 9 / 20*

## Case Officer Report

### Site Location Plan



### Consultations:

| Consultation Type | Consultee                      | Response                      |
|-------------------|--------------------------------|-------------------------------|
| Statutory         | DFI Roads - Enniskillen Office | Content                       |
| Non Statutory     | DAERA - Coleraine              | Substantive Response Received |

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1 and 10 of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 2.2km east of the development limits of Gulladuff, from which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The red line covers an agricultural field which has a heavy tree cover, in which is accessed via an existing access. I note that the immediate and surrounding area is characterised by agricultural land uses with a scattering of residential dwellings.

#### Representations

One neighbour notification was sent out however no representations were received in connection with this application.



**Description of Proposal**

This is an outline application for a proposed dwelling and garage on a farm the site is identified as 60m east of 43 Carnaman Road, Gulladuff.

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

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

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 - Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 - Dwellings on Farms

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

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

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

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

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



With respect to (a) a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 1991, however went on to confirm that the farm business is closed. From this I am of the opinion that the farm business cannot be used. I note that there has been no details on how the farm business is active even despite the business number being closed, no information has been forthcoming.

With respect to (b), I first note that an up to date farm map was requested given the map sent in being from 2006. I note that this has never been submitted. In using the original map and doing an initial checks that, it does not appear that there are any development opportunities attained or sold off the farm business.

With respect to (c), I first note that the registered farm address is located approximately 280m north of the site, however around the site there are two old farm buildings that are in need of repair. After discussions with the SPTO, it was agreed that despite the state of the buildings that these could still constitute as an existing group of buildings on the farm. With this in mind, I am content that the site would be able to group with this existing group. I note that the policy does where practicable that access should be taken from an existing lane, I note that the intention is to alter an existing access which I am content that this is still acceptable.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no design or layout details however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I note that a number of trees would be removed as part of the application wherein as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration. Therefore, a landscaping plan will be needed I any reserved matters application. Given the development pattern I feel it necessary to restrict the ridge height of any dwelling to have a ridge height of no more than 6.5m above finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 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. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am content that this application is unlikely to lead to further development through infilling. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.



|  |                   |
|--|-------------------|
| <p>Other policy and material considerations</p> <p>PPS 3 - Access, Movement and Parking;<br/>DFI Roads were consulted and responded to state that they have no objections subject to conditions and informatives.</p> <p>I have no ecological, flooding or residential amenity concerns.</p>   |                   |
| <p><b>Neighbour Notification Checked</b></p>   | <p><b>Yes</b></p> |
| <p><b>Summary of Recommendation:</b></p> <p>Refusal</p>  |                   |
| <p>Reasons for Refusal:</p> <p>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.</p> <p>2.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active.</p> |                   |
| <p><b>Signature(s)</b></p> <p><b>Date:</b></p>   |                   |

| <b>ANNEX</b>  |                    |
|---|--------------------|
| <b>Date Valid</b>   | 21st January 2020  |
| <b>Date First Advertised</b>  | 11th February 2020 |
| <b>Date Last Advertised</b>   |                    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner/Occupier,<br>43 Carnaman Road Knockcloghrim Magherafelt   |                    |
| <b>Date of Last Neighbour Notification</b>  | 29th January 2020  |
| <b>Date of EIA Determination</b>  |                    |
| <b>ES Requested</b>   | Yes /No            |
| <b>Planning History</b><br><br>Ref ID: LA09/2020/0093/O<br>Proposal: Proposed dwelling and garage on a farm<br>Address: 60m East of 43 Carnaman Road, Gulladuff,<br>Decision:<br>Decision Date: |                    |
| <b>Summary of Consultee Responses</b>   |                    |
| <b>Drawing Numbers and Title</b>  |                    |
| Drawing No. 01<br>Type: Site Location Plan<br>Status: Submitted   |                    |
| <b>Notification to Department (if relevant)</b><br><br>Date of Notification to Department:<br>Response of Department:   |                    |

## Deferred Consideration Report

|  |   |
|--|---|
| <b>Summary</b>   |   |
| <b>Case Officer:</b> Karen Doyle   |   |
| <b>Application ID:</b> LA09/2021/0352/F<br><b>Recommendation:</b> Refusal  | <b>Target Date:</b> 30 April 2021   |
| <b>Proposal:</b><br>Proposed stable and store.   | <b>Location:</b><br>Lands Approx. 55M West Of 303 Battleford Road<br>Dungannon<br>Co Tyrone BT71 7NP. |
| <b>Applicant Name and Address:</b><br>Mr Patrick McKenna<br>79A Drumflugh Road<br>Benburb<br>Dungannon<br>BT71 7QF   | <b>Agent name and Address:</b><br>CD Consulting<br>75 Creagh Road<br>Tempo<br>Enniskillen<br>BT94 3FZ |
| <b>Summary of Issues:</b><br><br>No objections were recieved.  |   |
| <b>Summary of Consultee Responses:</b>   |   |
| <b>Characteristics of the Site and Area</b><br><br><p>The site is located to the West of number 303 Battleford road, which is situated within the open countryside a short distance to the South of the settlement limits of Eglish and outside all other areas of constraint as depicted in the DSTAP.</p> <p>The red line of the site includes a small square field 55 metres west of number 303 Battleford road. The field lies slightly below road level and is surrounded on 3 sides, the east, west and south by mature hedging including a scattering of trees and along the north by a timber D Rail fence, which runs parallel to the existing concrete driveway.</p> <p>There are two existing dwellings located along this private lane to the rear of the site and a dwelling and a number of farm buildings across the Battleford road to the west of the site. The</p> |   |

applicant also owns a small square field to the East of the bounding dwelling.

### **Description of Proposal**

The proposal seeks full planning permission for a stable and store.

### **Deferred Consideration:**

This application was presented before the Planning Committee in October 2021 with a recommendation to refuse and it was deferred for a meeting with the Service Director. The application was presented before the Planning Committee in May 2022 with a recommendation to refuse where upon Members agreed to defer the application for a site visit with Members which has taken place.

The application is being considered under Policy CTY 1 of PPS 21 and Policy OS 3 of PPS 8. It is considered the application meets six of the eight criteria listed in Policy OS 3. Where it fails is in the siting of the proposed stables which is contrary to two of the listed criteria.

There must not be an adverse impact on the visual amenity or the character of the local landscape and the development must be able to readily absorb into the landscape by taking advantage of the existing vegetation and/or topography. Ancillary buildings are also required to be sympathetic to the surrounding environment in terms of their siting and layout.

The application is proposed to front along a private laneway off the Battleford Road. At present there are two dwellings accessed off the Battleford Road to the immediate east. What is being proposed is to site a stable building to the west of the application site, thus creating a gap for an infill dwelling which is contrary to policy in that the stable block, on its own, will add to a ribbon of development that currently exists to the immediate east of the application site. No 309 Battleford Road sits slightly back from the private laneway with No 303 fronting directly onto the laneway. Policy CTY 8 is clear when it states that ribbon development is detrimental to the character, appearance and amenity of the countryside. As in this case, buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. The proposed stable block will be read with the two dwellings and will add to an existing ribbon of development.

The applicant has been offered alternative positions in the field but has listed the reasons why the alternative positions are not suitable.

Position 1 - Immediately beside No 303 Battleford Road has been discounted due to an agreement with the owners of No 303 a stable will not be constructed within 50m of the dwelling. This cannot dictate how an application is to be assessed and in the absence of any substantive evidence to prove that a maximum of 2 horses will negatively impact on residential amenity it is my opinion this is not a valid reason to dismiss this alternative siting. An agreement between the applicant and the third party is not an agreement MUDC were or are party to.

Position 2 - Fronting onto Battleford Road, with access taken directly off Battleford Road. It must be remembered this has been offered as an alternative solution to the applicant, however, the applicant considers this proposed siting contradicts PPS 21 and has rejected this as an alternative. This is considered a suitable site as a dwelling fronting on to Battleford Road in the south west corner of the site will not add to a ribbon of development and is considered to be in keeping with the character of the immediate area.

Position 3 - In the field to the front of the applicant's house.

The applicant has deemed this site to be unacceptable as it would require a new planning application and the appropriate planning fee which will incur further costs. This is considered an unnecessary and unreasonable imposition (time and money) on the applicant. The alternative siting will not provide as much space for exercising the horses as the proposed site location.

Given the applicant has been offered alternatives which are considered to be acceptable and has provided reasons why he considers they are unacceptable I recommend a refusal of this application for the reason listed below.

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

##### **Refusal Reasons**

###### **Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

###### **Reason 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 a tendency to ribboning of development along this private lane, off the Battleford Road, and would, if permitted, adversely impact on the amenities of neighbouring residents.

**Signature(s):**Karen Doyle

**Date:** 1 June 2023



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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

| Summary   |   |
|---|---|
| <b>Case Officer:</b><br>Phelim Marrion  |   |
| <b>Application ID:</b> LA09/2021/0352/F   | <b>Target Date:</b> <add date>  |
| <b>Proposal:</b><br>Proposed stable and store.  | <b>Location:</b><br>Lands approx. 55m West of 303 Battleford Road<br>Dungannon Co Tyrone BT71 7NP.    |
| <b>Applicant Name and Address:</b> Mr<br>Patrick McKenna<br>79a Drumflugh Road<br>Benburb<br>Dungannon<br>BT71 7QF  | <b>Agent name and Address:</b><br>CD Consulting<br>75 Creagh Road<br>Tempo<br>Enniskillen<br>BT94 3FZ |
| <b>Summary of Issues:</b><br><br>The proposed development would lead to a tendency for ribbon development.  |   |
| <b>Summary of Consultee Responses:</b><br><br>DFI Roads – recommend approval with conditions to ensure access is acceptable   |   |
| <b>Characteristics of the Site and Area:</b><br><br>The site is located to the West of number 303 Battleford road, which is situated within the open countryside a short distance to the South of the settlement limits of Eglishe and outside all other areas of constraint as depicted in the DSTAP.<br>The red line of the site includes a small square field 55 metres west of number 303 Battleford road. The field lies slightly below road level and is surrounded on 3 sides, the east, west and south by mature hedging including a scattering of trees and along the north by a timber D Rail fence, which runs parallel to the existing concrete driveway. |   |

There are two existing dwellings located along this private lane to the rear of the site and a dwelling and a number of farm buildings across the Battleford road to the west of the site. The applicant also owns a small square field to the East of the bounding dwelling.

### **Description of Proposal**

The proposal seeks full planning permission for a stable and store.

### **Deferred Consideration:**

This application was before the Planning Committee in October 2021 with a recommendation to refuse and it was deferred for a meeting with the Planning Manager. A virtual meeting took place on 14 October 2021, at the meeting an alternative siting was explored and unfortunately due to technical difficulties the agent left the meeting early. The agent was contacted and has had the opportunity to provide additional information for consideration in respect of the policy context for this type of development in the countryside.

In support of the application, the applicant has relied on Policy OS3 in Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation and has provided a number of Planning Appeal Decisions and planning decisions from other Planning Authorities on the matter.

- 2010/E055 & 2010/A0099  
Mr Raymond Hamilton - Appeals against Enforcement Notices, UA erection of building and retention of building for use as stables, Tamlaghtmore Road, Cookstown. Commissioner accepted OS3 is the relevant policy for equestrian use in the countryside.
- 2012/A0057  
Mrs Jennifer Douglas – Appeal against decision to refuse planning permission for new stable with hardstanding and paddock area. Commissioner relied on Policy OS3 not CTY12.
- 2015/A0054  
Mr D & Mrs C Henry – Appeal against decision to refuse planning permission for Agricultural shed and small stable block. In this appeal the relevant policy was CTY12 and in this consideration the Commissioner took account of the impacts on the neighbouring properties due to odours from a stable block, likelihood of vermin due to feedstuff being stored with the proposal and additional traffic and noise due to visiting the stables more. There is some comparison here with that appeal and the applicants are saying they need to keep the stables away from the existing neighbouring dwelling. As discussed there is an alternative that could meet these objectives but the applicant has not chosen to pursue the alternative.
- 2017/E0047 & 2017/E0048  
Mr C Coyle – Appeals against Enforcement Notices relating to change of use from agricultural land to stables: and erection of buildings, pool, hardstanding and access road. Bigwood Road, Ardmore, Londonderry. Commissioner accepted Policy OS3 I applicable for outdoor recreational use for stables.

- LA01/2017/0686/F  
Desie and Carol Henry – Planning Application for New stables comprising stable block, tack and feed block, lunge pen, midden and associated access works and landscaping. Relates to new buildings up an existing laneway , no other development close by. This was granted under Policy OS3.
  
- LA01/2017/0492/O  
Michael O'Kane - Erection of horse stables under Planning Policy Statement 8 (PPS8 ), open space, sport and outdoor recreation. Relates to new building up laneway with a dwelling not associated with the proposal on the opposite side of the lane. This was granted under Policy OS3.
  
- LA01/2018/0926/F  
John O'Kane - Retrospective Erection of Equestrian building to include tack room and stables for two horses and horsebox storage under Planning Policy Statement PPS 8 Open Space, Sport and Outdoor Recreation. Policy OS3 Outdoor Recreation in the Countryside, Paragraph 5.33 Equestrian Uses. Relates to the retention of a building at the end of a private lane well away from any views. This was granted under Policy OS3.

From the above decisions it is apparent that CTY1 permits development for outdoor sport and recreational uses in accordance with the policies contained in PPS8. In taking decisions on applications for equestrian uses in the countryside, where this relates to keeping or riding horses, this is acceptable in principle in accordance with Policy OS3 of PPS8 and provided the scale of ancillary buildings is appropriate to its location and can be integrated into their landscape surroundings.

OS3 sets out 8 criteria that should be considered:

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

This proposal is approx. 240 metres from Battleford Bridge (a Listed Building) and the route of the Ulster Canal. Due to this distance and the small scale nature of the building, the proposal is unlikely to adversely affect these.

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

The field is poor grazing land with an abundance of rushes in it. I do not consider it is best, most versatile agric. Lands. The surrounding fields are used for grazing of livestock which this proposed development is, in my opinion, compatible with

(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 proposed development will result in a tendency to ribbon development, it will be seen on approach from the west, with the existing dwelling and garage to the west along the private lane. The proposal will leave a gap in the field, but will be clearly seen with the existing 2 buildings to the east (dwelling and gable fronted garage) which are in the view line of traffic travelling towards Armagh as it rounds this corner. Any development as proposed in the east side of the field will be clearly seen with the existing development



and this will result in a tendency to ribboning, where the development, while not immediately adjacent to the existing development to create or extend a ribbon of development, it does tend to give the appearance of ribbon development.



Fig 1 – Proposed building in yellow, existing dwelling and garage in blue and suggested alternative site in red

(iv) there is no unacceptable impact on the amenities of people living nearby;  
The applicant has advised they have located to proposed development 50 metres from the neighbouring property to the east, as they had consulted with them prior to submitting the proposal and had given them assurances about this distance. The proposal is approx. 30m metres from a dwelling on the opposite side of the Battleford Road, which is a busy road. Given these separation distances, the orientation of the opening facing towards the east and the scale of the proposed development, that it would give rise to any significant impacts on the amenity of the neighbouring properties.

(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;  
This proposal for a small domestic stable for keeping horses and feedstuff is unlikely to prejudice road safety given the access is off an existing lane which has good sight lines to the road which DFI Roads have raised no concerns over.

(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 building proposed is 10.0m x 5.0m and approx. 4.7m in height with smooth render walls and corrugated iron roof, there are 2 openings on one elevation, for a single stable door and double doors. This is a modest sized building which is not out of character for this area. The location of the building beside the existing buildings here causes some concerns in relation to creating a tendency to ribbon development along this laneway.

(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; and  
This is for private domestic use in the countryside, it is a level site and there is a parking and turning area proposed. Given the location in the countryside away from the applicants dwelling, it is likely this will be accessed by private transport means, however there is also the potential for the development to be accessed by walking and cycling along the rural roads. I do not consider there is a conflict with this criteria.

(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.

This private stable is accessed off an existing lane off the Battleford Road, which is a well trafficked road connecting towards Armagh City.

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

1. The proposal is contrary to Policy OS3 of Planning Policy Statement 8 – Open Space, Sport and Outdoor recreation in that the proposal would, if permitted, result in a tendency to ribboning of development along this private lane, off the Battleford Road, and would, if permitted, adversely impact on the visual amenity of the area.

**Signature(s):**

**Date**



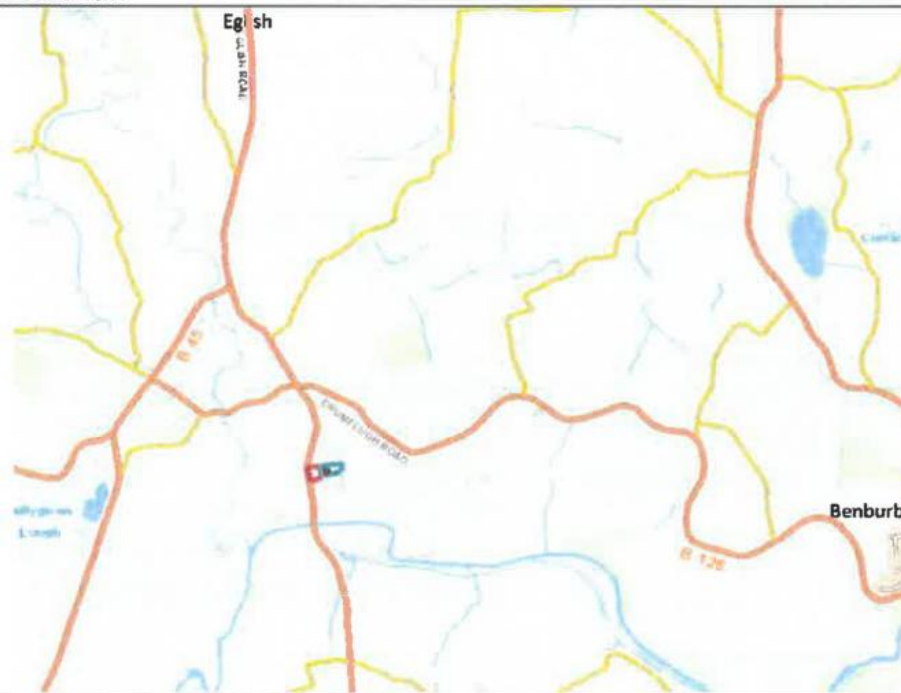
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

| <b>Summary</b>   |   |
|--|---|
| <b>Committee Meeting Date:</b>   | <b>Item Number:</b>   |
| <b>Application ID:</b> LA09/2021/0352/F  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Proposed stable and store.   | <b>Location:</b><br>Lands approx. 55m West of 303 Battleford Road Dungannon Co Tyrone BT71 7NP.       |
| <b>Referral Route: Contrary to policy</b>  |   |
| <b>Recommendation:</b>   | Refusal   |
| <b>Applicant Name and Address:</b><br>Mr Patrick McKenna<br>79a Drumflugh Road<br>Benburb<br>Dungannon<br>BT71 7QF | <b>Agent Name and Address:</b><br>CD Consulting<br>75 Creagh Road<br>Tempo<br>Enniskillen<br>BT94 3FZ |
| <b>Executive Summary:</b>  |   |
| <b>Signature(s):</b>   |   |

## Case Officer Report

### Site Location Plan



### Consultations:

| Consultation Type | Consultee                      | Response        |
|-------------------|--------------------------------|-----------------|
| Statutory         | DFI Roads - Enniskillen Office | Standing Advice |
| Statutory         | DFI Roads - Enniskillen Office | Standing Advice |

### Representations:

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

### Summary of Issues

No objections were received.

### Characteristics of the Site and Area

The site is located to the West of number 303 Battleford road, which is situated within the open countryside a short distance to the South of the settlement limits of Eglis and outside all other areas of constraint as depicted in the DSTAP.

The red line of the site includes a small square field 55 metres west of number 303 Battleford road. The field lies slightly below road level and is surrounded on 3 sides, the east, west and south by mature hedging including a scattering of trees and along the north by a timber D Rail fence, which runs parallel to the existing concrete driveway.





There are two existing dwellings located along this private lane to the rear of the site and a dwelling and a number of farm buildings across the Battleford road to the west of the site. The applicant also owns a small square field to the East of the bounding dwelling.



### Description of Proposal

The proposal seeks full planning permission for a stable and store.



### Planning Assessment of Policy and Other Material Considerations

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

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

#### Representations

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

#### Planning History

There is no relevant planning history on this site.

#### Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

#### Dungannon and South Tyrone Area Plan 2010

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

As the site is located away from the applicants existing home it is not assessed under the Addendum to PPS7 Residential Extensions and Alterations. The application is seeking planning consent for the erection of a standalone stable and store and I do not consider there are any

specific policy provisions for this type of development, as such the proposal must be assessed in accordance with the SSPS, PPS 21 - CTY 1 and PPS 3.

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

The SPPS is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. 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. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

PPS21- sustainable development in the countryside

The overarching policy for development in the countryside is PPS21. There are certain instances where development is considered acceptable in the countryside subject to certain criteria.

These are listed in CTY1 Development in the Countryside.

In this case the applicant is seeking planning permission for a small stable and store to house his own private horses in the winter months, no farming case or Equestrian use has been submitted.

Policy CTY 1 of PPS21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Departments published guidance.

There is no provisions within PPS 21 CTY 1 for the erection of a stable or store at a standalone site in the countryside. The applicant has suggested that they need the stable to house the horses in the winter months, however, this site in total is less than 1 acre and it would be unreasonable to suggest that a store is required. The applicant lives a few miles away at 79a Drumflugh Road, at a site with existing housing facilities for horses as well as a sand arena, see below, and has provided no relevant case as to why there is a need for a stables at this particular location.

Therefore the proposal is contrary to PPS 21 CTY 1.





PPS21 Policy CTY 8 - Ribbon Development is also applicable in this case.

This policy starts off by stating that "planning permission will be refused for a building which creates or adds to a ribbon of development." Members will be aware that the policy is applicable to footpaths and private lanes.

In this instance it is my opinion that a stable at this particular site will add to a ribbon of development along this lane and as such be detrimental to the character, appearance and amenity of this area. In my opinion the proposed stable and associated new access would add to a built up appearance of this area when viewed from the Battleford Road, on approach from the west as it would be seen with the existing two dwellings and garage.

Therefore, I consider the proposal is contrary to PPS 21 CTY 8.

The applicant also makes reference to PPS 8 - Open space and outdoor recreation in his supporting statement, suggesting that this stable is an outdoor recreational use and as such should be permitted under the provisions of PPS21. The submission indicates that PPS8 allows for a non-residential use for outdoor recreational use so long as it has no adverse effect on the impact of importance to nature conservation, archaeology or built heritage, no permanent loss to agricultural ground, no impact on the character of the area, no impact on public safety or no impact on nearby residential amenity.

It is my opinion that this stables does not represent an outdoor recreational use on its own, the applicant has not suggest this is for a riding school, or equestrian centre etc and therefore I do not consider this policy is not applicable.

**Recommendation Refusal**

**CTY 1 & CTY8**



**Neighbour Notification Checked****Yes****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.
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, add to ribbon development along this private lane, off the Battleford.Road, and would, if permitted, adversely impact on the amenities of neighbouring residents.

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

| <b>ANNEX</b>  |                 |
|---|-----------------|
| <b>Date Valid</b>   | 5th March 2021  |
| <b>Date First Advertised</b>  | 16th March 2021 |
| <b>Date Last Advertised</b>   |                 |
| <b>Details of Neighbour Notification (all addresses)</b><br>The Owner/Occupier,<br>303 Battleford Road Dungannon Tyrone<br>The Owner/Occupier,<br>305 Battleford Road, Benburb, Dungannon, Tyrone, BT71 7NP<br>The Owner/Occupier,<br>308 Battleford Road Benburb Tyrone  |                 |
| <b>Date of Last Neighbour Notification</b>  | 23rd March 2021 |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | Yes /No         |
| <b>Planning History</b><br><br>Ref ID: LA09/2021/0352/F<br>Proposal: Proposed stable and store.<br>Address: Lands approx. 55m West of 303 Battleford Road, Dungannon, Co Tyrone BT71 7NP.,<br>Decision Date:<br><br>Ref ID: M/2002/1059/O<br>Proposal: Proposed dwelling and garage<br>Address: Opposite 308 Battleford Road, Dungannon, Co. Tyrone<br>Decision Date: 15.11.2002<br><br>Ref ID: M/2003/0248/RM<br>Proposal: Proposed dwelling and garage<br>Address: Opposite 305 Battleford Road, Dungannon<br>Decision Date: 15.04.2003<br><br>Ref ID: M/2006/0565/F<br>Proposal: Dwelling house<br>Address: 100m East of 308 Battleford Road, Dungannon<br>Decision Date: 30.08.2007<br><br>Ref ID: M/2005/0053/O<br>Proposal: Bungalow and Garage<br>Address: 100m East of 308 Battleford Road, Carrowbeg, Eglish |                 |

Decision Date: 19.04.2005

Ref ID: M/2004/1105/O

Proposal: Dwelling House

Address: 100m East of 308 Battleford Road, Dungannon - amended plans

Decision Date: 26.10.2004

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:





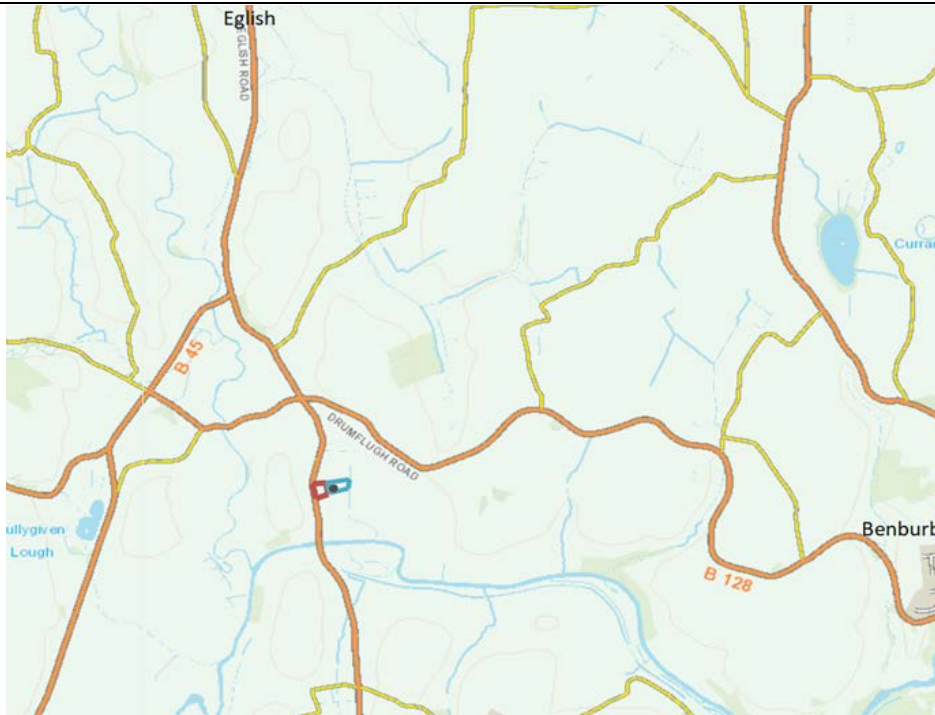
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

| Summary  |   |
|--|---|
| <b>Committee Meeting Date:</b>   | <b>Item Number:</b>   |
| <b>Application ID:</b> LA09/2021/0352/F  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Proposed stable and store.   | <b>Location:</b><br>Lands approx. 55m West of 303 Battleford Road Dungannon Co Tyrone BT71 7NP.       |
| <b>Referral Route: Contrary to policy</b>  |   |
| <b>Recommendation:</b>   | Refusal   |
| <b>Applicant Name and Address:</b><br>Mr Patrick McKenna<br>79a Drumflugh Road<br>Benburb<br>Dungannon<br>BT71 7QF | <b>Agent Name and Address:</b><br>CD Consulting<br>75 Creagh Road<br>Tempo<br>Enniskillen<br>BT94 3FZ |
| <b>Executive Summary:</b>  |   |
| <b>Signature(s):</b>   |   |

## Case Officer Report

### Site Location Plan



### Consultations:

| Consultation Type | Consultee                      | Response        |
|-------------------|--------------------------------|-----------------|
| Statutory         | DFI Roads - Enniskillen Office | Standing Advice |
| Statutory         | DFI Roads - Enniskillen Office | Standing Advice |

### Representations:

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

### Summary of Issues

No objections were received.

### Characteristics of the Site and Area

The site is located to the West of number 303 Battleford road, which is situated within the open countryside a short distance to the South of the settlement limits of Eglis and outside all other areas of constraint as depicted in the DSTAP.

The red line of the site includes a small square field 55 metres west of number 303 Battleford road. The field lies slightly below road level and is surrounded on 3 sides, the east, west and south by mature hedging including a scattering of trees and along the north by a timber D Rail fence, which runs parallel to the existing concrete driveway.



There are two existing dwellings located along this private lane to the rear of the site and a dwelling and a number of farm buildings across the Battleford road to the west of the site. The applicant also owns a small square field to the East of the bounding dwelling.



### Description of Proposal

The proposal seeks full planning permission for a stable and store.



## Planning Assessment of Policy and Other Material Considerations

### Planning Assessment of Policy and Other Material Considerations

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

### Representations

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

### Planning History

There is no relevant planning history on this site.

### Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

### Dungannon and South Tyrone Area Plan 2010

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

As the site is located away from the applicants existing home it is not assessed under the Addendum to PPS7 Residential Extensions and Alterations. The application is seeking planning consent for the erection of a standalone stable and store and I do not consider there are any



specific policy provisions for this type of development, as such the proposal must be assessed in accordance with the SSPS, PPS 21 - CTY 1 and PPS 3.

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

The SPPS is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. 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. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

PPS21- sustainable development in the countryside

The overarching policy for development in the countryside is PPS21. There are certain instances where development is considered acceptable in the countryside subject to certain criteria.

These are listed in CTY1 Development in the Countryside.

In this case the applicant is seeking planning permission for a small stable and store to house his own private horses in the winter months, no farming case or Equestrian use has been submitted.

Policy CTY 1 of PPS21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Departments published guidance.

There is no provisions within PPS 21 CTY 1 for the erection of a stable or store at a standalone site in the countryside. The applicant has suggested that they need the stable to house the horses in the winter months, however, this site in total is less than 1 acre and it would be unreasonable to suggest that a store is required. The applicant lives a few miles away at 79a Drumflugh Road, at a site with existing housing facilities for horses as well as a sand arena, see below, and has provided no relevant case as to why there is a need for a stables at this particular location.

Therefore the proposal is contrary to PPS 21 CTY 1.



PPS21 Policy CTY 8 - Ribbon Development is also applicable in this case.

This policy starts off by stating that “planning permission will be refused for a building which creates or adds to a ribbon of development.” Members will be aware that the policy is applicable to footpaths and private lanes.

In this instance it is my opinion that a stable at this particular site will add to a ribbon of development along this lane and as such be detrimental to the character, appearance and amenity of this area. In my opinion the proposed stable and associated new access would add to a built up appearance of this area when viewed from the Battleford Road, on approach from the west as it would be seen with the existing two dwellings and garage. Therefore, I consider the proposal is contrary to PPS 21 CTY 8.

The applicant also makes reference to PPS 8 - Open space and outdoor recreation in his supporting statement, suggesting that this stable is an outdoor recreational use and as such should be permitted under the provisions of PPS21. The submission indicates that PPS8 allows for a non-residential use for outdoor recreational use so long as it has no adverse effect on the impact of importance to nature conservation, archaeology or built heritage, no permanent loss to agricultural ground, no impact on the character of the area, no impact on public safety or no impact on nearby residential amenity.

It is my opinion that this stables does not represent an outdoor recreational use on its own, the applicant has not suggest this is for a riding school, or equestrian centre etc and therefore I do not consider this policy is not applicable.

Recommendation Refusal

CTY 1 & CTY8

|  |            |
|--|------------|
| <b>Neighbour Notification Checked</b>  | <b>Yes</b> |
| <b>Refusal Reasons</b> <ol style="list-style-type: none"><li>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.</li><li>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, add to ribbon development along this private lane, off the Battleford.Road, and would, if permitted, adversely impact on the amenities of neighbouring residents.</li></ol> |            |
| <b>Signature(s)</b><br><br><b>Date:</b>  |            |

| <b>ANNEX</b>   |                 |
|--|-----------------|
| <b>Date Valid</b>  | 5th March 2021  |
| <b>Date First Advertised</b>   | 16th March 2021 |
| <b>Date Last Advertised</b>  |                 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner/Occupier,<br>303 Battleford Road Dungannon Tyrone<br>The Owner/Occupier,<br>305 Battleford Road, Benburb, Dungannon, Tyrone, BT71 7NP<br>The Owner/Occupier,<br>308 Battleford Road Benburb Tyrone   |                 |
| <b>Date of Last Neighbour Notification</b>   | 23rd March 2021 |
| <b>Date of EIA Determination</b>   |                 |
| <b>ES Requested</b>  | Yes /No         |
| <b>Planning History</b><br><br>Ref ID: LA09/2021/0352/F<br>Proposal: Proposed stable and store.<br>Address: Lands approx. 55m West of 303 Battleford Road, Dungannon, Co Tyrone BT71 7NP.,<br>Decision Date:<br><br>Ref ID: M/2002/1059/O<br>Proposal: Proposed dwelling and garage<br>Address: Opposite 308 Battleford Road, Dungannon, Co. Tyrone<br>Decision Date: 15.11.2002<br><br>Ref ID: M/2003/0248/RM<br>Proposal: Proposed dwelling and garage<br>Address: Opposite 305 Battleford Road, Dungannon<br>Decision Date: 15.04.2003<br><br>Ref ID: M/2006/0565/F<br>Proposal: Dwelling house<br>Address: 100m East of 308 Battleford Road, Dungannon<br>Decision Date: 30.08.2007<br><br>Ref ID: M/2005/0053/O<br>Proposal: Bungalow and Garage<br>Address: 100m East of 308 Battleford Road, Carrowbeg, Eglis |                 |

Decision Date: 19.04.2005

Ref ID: M/2004/1105/O

Proposal: Dwelling House

Address: 100m East of 308 Battleford Road, Dungannon - amended plans

Decision Date: 26.10.2004

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Further Deferred Consideration Report

| Summary   |  |
|---|--|
| <b>Case Officer:</b> Phelim Marrion   |  |
| <b>Application ID:</b> LA09/2021/0739/F   | <b>Target Date:</b> <add date>   |
| <b>Proposal:</b><br>Proposed dwelling & Garage/Store.   | <b>Location:</b><br>150m NE of 230 Coalisland Road Gortin Dungannon<br>BT71 6EP                    |
| <b>Applicant Name and Address:</b> Mr<br>Cathal Keogh<br>232 Coalisland Road<br>Dungannon<br>BT71 6EP   | <b>Agent name and Address:</b><br>CMI Planners Ltd<br>38b Airfield Road<br>Toomebridge<br>BT41 3SG |
| <b>Summary of Issues:</b><br>The proposed development sits outside the settlement limits for Edendork and outline planning permission was granted as an exception with a siting restriction to ensure the development was considered as rounding off. Previously an amended siting was outside the area that was identified and did not result in rounding off. An amended plan has been provided that while not strictly as originally approved will provide the rounding off that was originally allowed.   |  |
| <b>Summary of Consultee Responses:</b><br><br>No new consultees were carried out under this application as consultations were carried out under the previous application and this proposal does not alter those responses.  |  |
| <b>Characteristics of the Site and Area:</b><br><br>The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road. |  |

The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

## Description of Proposal

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

## Deferred Consideration:

This application was before the Committee in September 2021, April 2022 and November 2022 with a recommendation to refuse. At the most recent committee meeting the applicant was advise of the need to meet the condition and undertook to provide amended plans to site the dwelling in the area where it was previously agreed. Amended plans were submitted, these show the dwelling located partially within the area and these have been subject to further neighbour notification. No further letters of objections have been received to these plans.

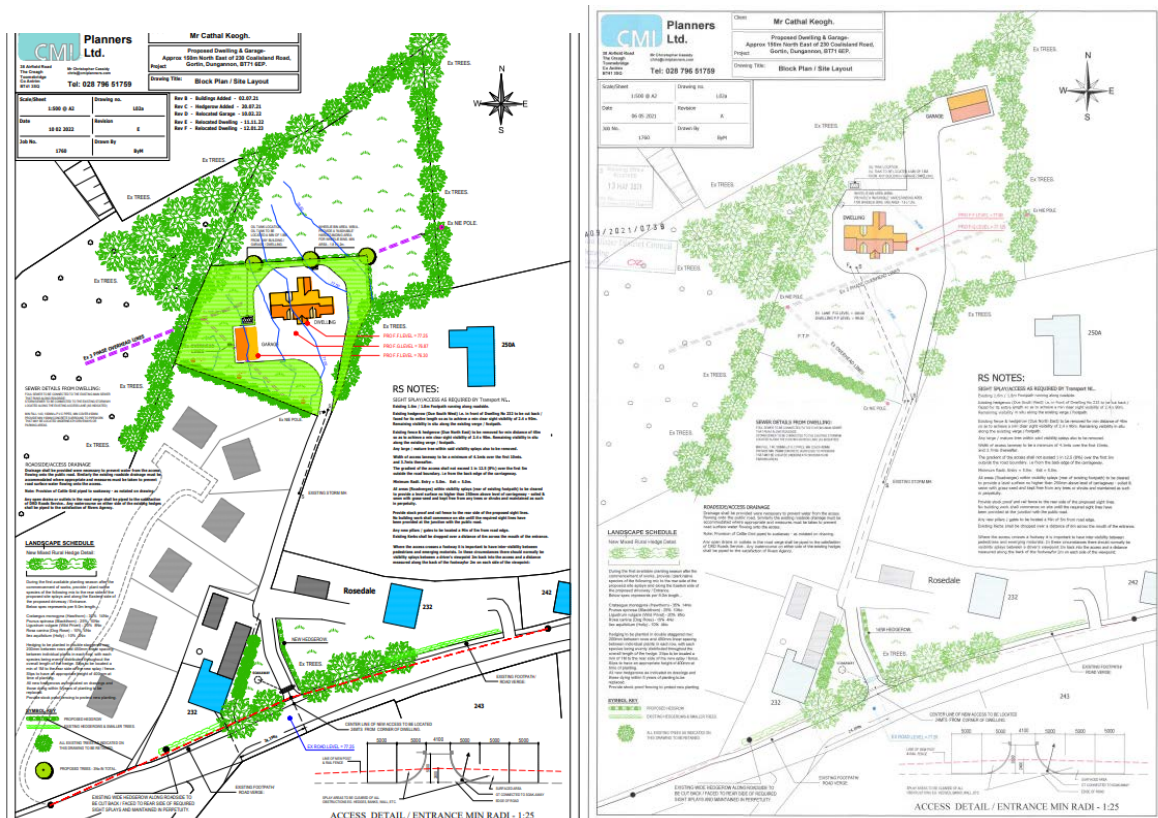


Fig 1 and 2 - Revised siting to the left, original submission to the right

The front of the dwelling and the garage are now located within the area that was previously allowed as an exception to policy as rounding off the development limit here. Taking account of the grouping of the proposed dwelling and garage as well as the approved development at Grade all on Farlough Road and the development limits of Edendork here, this proposal is now considered to meet the rounding off requirement and may be approved.

**Conditions:**

- 1.** The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
- 2.** Prior to the commencement of any development hereby approved the vehicular access, including visibility splays of 2.4m x 90.0m and forward sight distance of 90.0m shall be provided in accordance with details as indicated on drawing No 02/4 received 12 JAN 2023. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.  
Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.
- 3.** The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.  
Reason: To safeguard the amenities of neighbouring occupiers and in the interests of biodiversity.
- 4.** All hard and soft landscape works shall be carried out in accordance with the detail as shown on drawing No 02/4 received 12 JAN 2023 and the appropriate British Standard or other recognised Codes of Practice. The landscaping shall be carried out within 6 months of the date of occupation of the development hereby approved and any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.  
REASON: In the interests of visual amenity and biodiversity.
- 5.** One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 13 MAY 2021.  
Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2019/0767/O and is not for an additional dwelling on this site.

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





## Deferred Consideration Report

| Summary  |  |
|--|--|
| <b>Case Officer:</b> Karen Doyle   |  |
| <b>Application ID:</b> LA09/2021/0739/F  | <b>Target Date:</b>  |
| <b>Proposal:</b><br>Proposed dwelling & Garage/Store.  | <b>Location:</b><br>150M Ne Of 230 Coalisland Road<br>Gortin<br>Dungannon<br>BT71 6EP              |
| <b>Applicant Name and Address:</b><br>Mr Cathal Keogh<br>232 Coalisland Road<br>Dungannon<br>BT71 6EP  | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38B Airfield Road<br>Toomebridge<br>BT41 3SG |
| <b>Summary of Issues:</b><br>Objections have been received based on both the principle of the development and the design of the garage. Amended drawings have been received which show a reduction in the overall footprint and height of the proposed garage and it now is designed as a garage which is subordinate to the proposed dwelling.  |  |
| <b>Summary of Consultee Responses:</b><br>No issues of concern have been raised and no further consultations have been carried out.  |  |
| <b>Characteristics of the Site and Area:</b><br>The site abuts the northern boundary of the settlement limit of Edendork as identified in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and a large yard area, while to the north east are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site area predominantly residential dwellings. To the south, and abutting the access lane, is a listed building at 230 Coalisland Road.<br><br>The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by c.90m and is accessed via an existing lane that runs alongside the listed building at no 230 Coalisland Road. There are established trees along the boundaries of the site. |  |

**Description of Proposal**

This is a full application for a dwelling and garage/store.

**Deferred Consideration:**

This application was presented before the committee in September 2021 and was deferred for an office meeting. The application was again presented before the planning committee as a deferred application in May 2022 with a recommendation to refuse and it was deferred by Members for a site visit which took place on 27 May 2022.

Members who attended the site visit had an opportunity to see the site in its context and were reminded of the justification for approving the dwelling at outline stage based on a rounding off. Objections have been received to the planning application and these were discussed with members at the site visit and members were advised of the amendments which have been received to the proposed design of the garage/store.

The proposed dwelling and garage are outside the settlement limits of Edendork as identified in the Area Plan. Outline planning permission was granted as an exception with a siting restriction, the purpose of which was to ensure the development reads as a rounding off. This current application sits outside that approved area and therefore the proposal will not read as a rounding off which was the basis of the outline approval.

The approval of the outline application was based on a siting condition which had development on 3 sides. The garage has been sited in the restricted area, but the entirety of the agricultural field is required for the development. There are overhead lines running over the area identified in the siting condition and the applicant states these prevent a dwelling be sited here. The overhead lines can be moved to facilitate a new dwelling on the area conditioned at outline stage and are not a reason to prevent development.

A refusal is recommended.

**Reasons for Refusal:**

The proposal is contrary to Policy CTY 1 of PPS 21 in that it has not been demonstrated this development meets with any of the policies for a dwelling in the countryside or there are any overriding reasons why it is essential in the countryside or could not be located within a settlement.

The proposal is contrary to Policy CTY 15 of PPS21 as the development would not constitute rounding off of the settlement limit and would mar the distinction between the settlement of Edendork and the surrounding countryside.

**Signature(s)**

**Date:**



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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

| Summary   |  |
|---|--|
| <b>Case Officer:</b> Phelim Marrion   |  |
| <b>Application ID:</b> LA09/2021/0739/F   | <b>Target Date:</b> <add date>   |
| <b>Proposal:</b><br>Proposed dwelling & Garage/Store.   | <b>Location:</b><br>150m NE of 230 Coalisland Road Gortin Dungannon<br>BT71 6EP                    |
| <b>Applicant Name and Address:</b> Mr<br>Cathal Keogh<br>232 Coalisland Road<br>Dungannon<br>BT71 6EP   | <b>Agent name and Address:</b><br>CMI Planners Ltd<br>38b Airfield Road<br>Toomebridge<br>BT41 3SG |
| <b>Summary of Issues:</b><br>The proposed development sits outside the settlement limits for Edendork and outline planning permission was granted as an exception with a siting restriction to ensure the development was considered as rounding off. This proposed development sits outside the area that was identified and does not result in rounding off.  |  |
| <b>Summary of Consultee Responses:</b><br><br>No new consultees were carried out under this application as were consultations were carried out under the previous application and this proposal does not alter those responses.   |  |
| <b>Characteristics of the Site and Area:</b><br><br>The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.<br><br>The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an |  |

existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

### **Description of Proposal**

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

### **Deferred Consideration:**

This application was before the Committee In September 2021 with a recommendation to refuse, it was deferred for a meeting with the Planning Manger, which took place virtually on 18 September 2021. At the meeting it was explained outline planning permission was granted as an exception to planning policy and this was due to a specific set of with any new development located tight to the existing development as rounding off.

Since the meeting, amended plans have been submitted, these were in response to objections and show the levels of the proposed development as well as the proposed garage being reduced in scale and size to something that appears to be domestic in scale and appearance, not the large industrial type shed that was previously submitted. The revised plans do not result in the development being located within the area that was identified at the outline planning permission stage. The agent has indicated there are overhead power lines that will prevent the applicant from developing in the area that was considered acceptable and also indicates the proposed dwelling will not be visible from any area of public view.

Members are reminded that outline planning permission was granted on 10 July 2020 under reference LA09/2019/0767/O given the existing development in Edendork and the approved and commenced development for Gradeall International (M/2003/1631/F), off the Farlough Road. This resulted in the south part of the site being contained on 3 sides by development and was assessed as rounding off.

The proposed development will extend the proposed development further into the existing field and does not have the containment on 3 sides that allowed the previous application to be granted. This is not a visual assessment of the site from the surrounding areas, it relates to the definition of boundary of the sentient limits, which is usually carried out through the development plan process and asses what are appropriate features to define the limits. The applicant has identified the existing overhead power lines as being an impediment to the development of the site, however these can be moved to accommodate development and as such should not be relied on as immovable features that constrain the development of the site. There has been no further persuasive arguments put forward to set out how the proposed development meets any of the planning polices or why it should be considered as an exception to any planning policy.



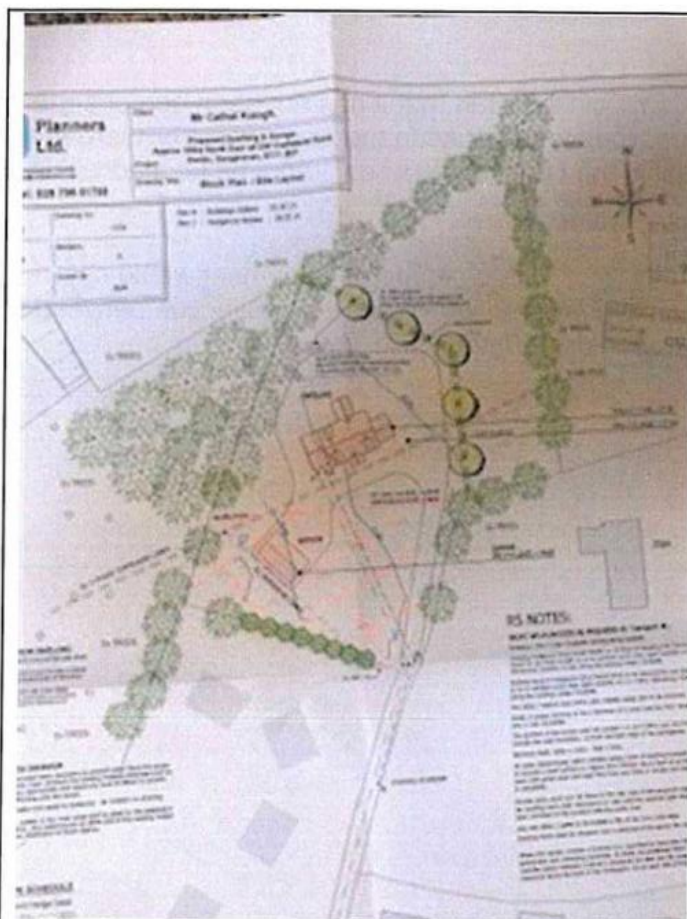


Fig 1 – area coloured orange identified as acceptable in LA09/20219/0767/O

Objections were received to the proposed development, these had raised issues with the previous approval on the site and the scale and size of the proposed garage at the rear of their properties as well as noise and nuisance as they have a particular sensitivity to noise. The previous approval was granted with a site specific condition as previously assessed and accepted on the rounding off basis. The proposed garage was initially 8.5m x 13.0m with a 6m ridge height, finished with brown cladding to the roof and upper walls, smooth render blockwork walls and a 4.0m roller door in one gable. This did have the appearance of an industrial type development. It is now proposed as 10.8m x 6.8m with a 5.5m ridge height and has the appearance of a double garage with walls and roof to match the proposed dwelling. While it has been noted the objectors have concerns about the use of the garage, this is proposed as a domestic garage and that is what must be assessed. Any noise or nuisances associated with anything that is not domestic in scale will be subject to investigations by the Councils Enforcement Team and Environmental Health Officers.

In light of the above, the previous report from September 2021 and the planning history of the site, I do not consider the applicant has demonstrated that this development meets with any of the planning policies for development in the countryside and if approved would result in unacceptable urban sprawl. It is my recommendation this proposal is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of PPS21 in that it has not been demonstrate this development meets with any of the polices for a house in the countryside or there are any overriding reasons why it is essential in the countryside or could not be located within a settlement.
2. The proposal is contrary to Policy CTY15 of PPS21 as the development would not constitute rounding off of the settlement limits and would mar the distinction between the settlement of Edendork and the surrounding countryside.

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



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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b> 07/09/2021   | <b>Item Number:</b>  |
| <b>Application ID:</b> LA09/2021/0739/F   | <b>Target Date:</b>  |
| <b>Proposal:</b><br>Proposed dwelling & Garage/Store  | <b>Location:</b><br>150m NE of 230 Coalisland Road<br>Gortin<br>Dungannon<br>BT71 6EP              |
| <b>Referral Route:</b><br><br>1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.<br><br>2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.  |  |
| <b>Recommendation:</b>  | <b>Refusal</b>   |
| <b>Applicant Name and Address:</b><br>Mr Cathal Keogh<br>232 Coalisland Road<br>Dungannon<br>BT71 6EP   | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38b Airfield Road<br>Toomebridge<br>BT41 3SG |
| <b>Executive Summary:</b><br>The application site is in the countryside and on the boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. Condition 4 of planning approval LA09/2019/0767/O is a siting condition where the curtilage of the site should be within a hatched area nearest the existing dwellings within the settlement. This siting condition was to prevent urban sprawl and round off the existing development. In this application the applicant has shown the curtilage outside the hatched area and further north within the red line. It is stated this is because there are overhead electricity power lines passing over the hatched area but I do not consider this is a reason to move |  |



the curtilage outside the hatched area.

**Signature(s):**

### Case Officer Report

#### Site Location Plan



**Consultations:** None Required

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|-------------------|-----------|----------|

#### Representations:

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

#### Characteristics of the Site and Area

The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.

The application site is a rectangular shaped plot with a topography that rises slightly from

south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

#### **Description of Proposal**

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

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

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

#### **Representations**

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

#### **Planning History**

LA09/2019/0767/O - Proposed dwelling and garage (Amended Access Position) - Approx 150m NE of 230 Coalisland Road, Gortin, Dungannon – Permission Granted 10<sup>th</sup> July 2020

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

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

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

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

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

#### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development



will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

LA09/2019/0767/O granted outline approval at the application site on 10<sup>th</sup> July 2020. As this is a full application and has been submitted within 5 years from the date of the outline I am content there is a live approval at the site.

**Policy CTY 2a – New Dwellings in Existing Clusters**

As stated in the Preamble in PPS 21 the countryside is defined as land lying outside of settlements as defined in development plans. The application site is located on the northern boundary of the settlement limit of Edendork and as such, any development to the south of the site inside Edendork cannot be considered in the assessment of CTY 2a.

**Policy CTY 15 – Setting of Settlements**

The application site is abutting the northern boundary of the settlement limit of Edendork. There is a housing development of 6 houses and several detached dwellings immediately south of the site within the settlement limit. The site is an agricultural field and fields abut all other boundaries of the site.

LA09/2019/0767/O granted approval at the application site under the principle that the development would round off existing development to the south. Condition 4 of planning approval LA09/2019/0767/O stated the dwelling and its curtilage should be sited within the blue hatched area as shown in figure 1 below. In the drawings submitted with this application the applicant has sited the dwelling and garage further north towards the red line and outside the hatched area. The application site is on the boundary of the settlement limit and the hatched area was conditioned as it was felt that this area would round off the existing dwellings. I consider the siting on the drawings submitted is unacceptable as it is outside the conditioned hatched area. The proposed siting further north within the red line will not round off the existing development within the Edendork settlement limit and lead to further development on the settlement boundary. Therefore I would recommend refusal of this proposal as it would add to urban sprawl.

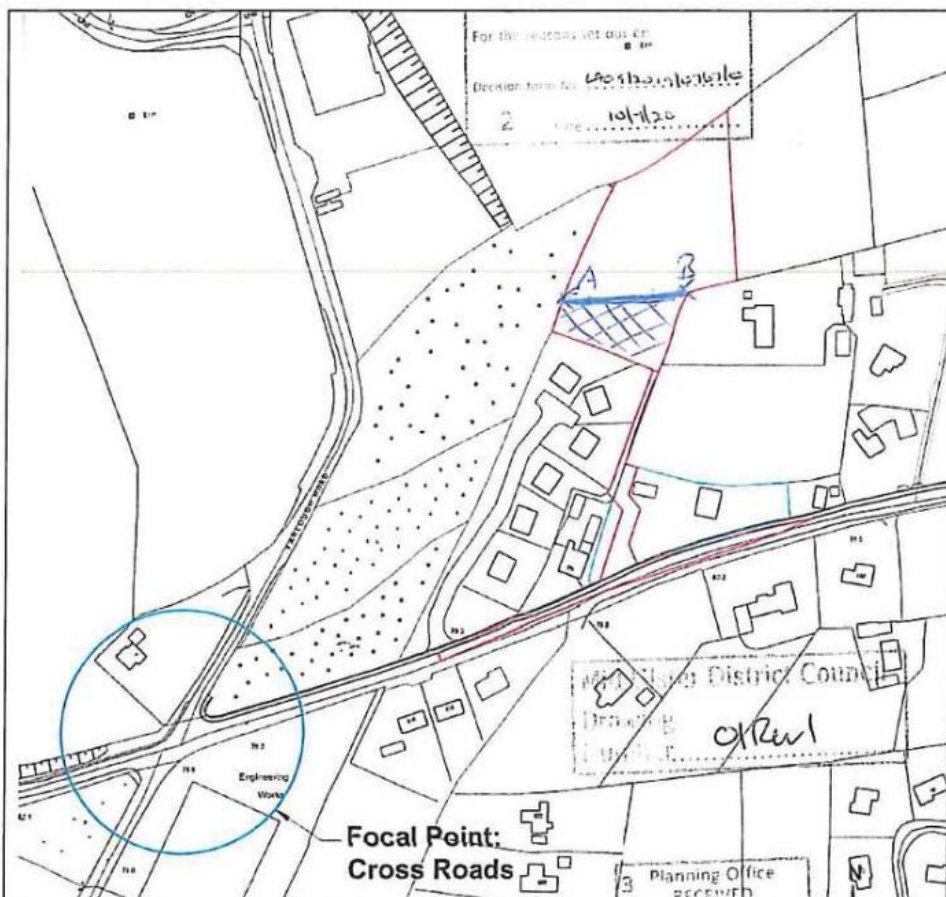


Figure 1 – Screenshot of the stamped approved site location plan from LA09/2019/0767/O

### CTY 13 – Integration and Design of Buildings

I am content the dwelling will not be a prominent feature in the landscape. The site is set back from the public road by approximately 100m and is accessed via an existing laneway. There are no critical views in either direction from the public road due to established trees and hedgerow along the roadside frontage.

There are established trees and hedgerow along all boundaries of the site so I am content the proposal will integrate into the landscape. I am content new planting will not be primarily relied on for the purposes of integration.

The proposed dwelling is 6.8m to finished floor level and one and half storey. The dwelling has a long rectangular form and built in dormers on the front elevation. The windows have a vertical emphasis and the chimneys project from the ridge line of the dwelling. There is a small porch on the front elevation of the dwelling. I am content the scale and massing of the dwelling is acceptable and the design is in keeping with a rural dwelling.



Figure 2 – Screenshot of the proposed dwelling

The proposed garage is sited in the northern corner of the application site and as stated earlier in the assessment this is outside the conditioned hatched area in the outline planning approval. The garage has a rectangular form and a ridge height of 6m to finished floor level. The garage has external finishes of dark brown roof panels, grey blockwork walls and dark brown roller shutter doors. The garage has the appearance of an agricultural building but as the proposal is outside the settlement limit I have no concerns and the building is set back from the main road.

As shown on the block plan the applicant has proposed new landscaping and the retention of existing trees, therefore I have no concerns and I consider there is a suitable degree of enclosure to integrate into the landscape.

The proposal will use an existing laneway and the new access will extend along the east boundary. As the access will run for a short distance I am content the access will not have an unacceptable impact on the character of the site.

I am content the design of the proposed garage and dwelling is acceptable.

#### **CTY 14 – Rural Character**

I am content the proposal will not be unduly prominent in the landscape. I am of the opinion the revised siting further north will not round off the existing development and exacerbate urban sprawl. Therefore the proposal will be detrimental to the rural character of the surrounding area.

|                                       |     |
|---------------------------------------|-----|
| <b>Neighbour Notification Checked</b> | Yes |
|---------------------------------------|-----|

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

The proposal is recommended for refusal as it will create urban sprawl.

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

1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21,



Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.

2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.

**Signature(s)**

**Date:**





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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

| Summary   |  |
|---|--|
| <b>Case Officer:</b> Phelim Marrion   |  |
| <b>Application ID:</b> LA09/2021/0739/F   | <b>Target Date:</b> <add date>   |
| <b>Proposal:</b><br>Proposed dwelling & Garage/Store.   | <b>Location:</b><br>150m NE of 230 Coalisland Road Gortin Dungannon<br>BT71 6EP                    |
| <b>Applicant Name and Address:</b> Mr<br>Cathal Keogh<br>232 Coalisland Road<br>Dungannon<br>BT71 6EP   | <b>Agent name and Address:</b><br>CMI Planners Ltd<br>38b Airfield Road<br>Toomebridge<br>BT41 3SG |
| <b>Summary of Issues:</b><br>The proposed development sits outside the settlement limits for Edendork and outline planning permission was granted as an exception with a siting restriction to ensure the development was considered as rounding off. This proposed development sits outside the area that was identified and does not result in rounding off.  |  |
| <b>Summary of Consultee Responses:</b><br><br>No new consultees were carried out under this application as were consultations were carried out under the previous application and this proposal does not alter those responses.   |  |
| <b>Characteristics of the Site and Area:</b><br><br>The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.<br><br>The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an |  |



existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

### **Description of Proposal**

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

### **Deferred Consideration:**

This application was before the Committee In September 2021 with a recommendation to refuse, it was deferred for a meeting with the Planning Manger, which took place virtually on 18 September 2021. At the meeting it was explained outline planning permission was granted as an exception to planning policy and this was due to a specific set of with any new development located tight to the existing development as rounding off.

Since the meeting, amended plans have been submitted, these were in response to objections and show the levels of the proposed development as well as the proposed garage being reduced in scale and size to something that appears to be domestic in scale and appearance, not the large industrial type shed that was previously submitted. The revised plans do not result in the development being located within the area that was identified at the outline planning permission stage. The agent has indicated there are overhead power lines that will prevent the applicant from developing in the area that was considered acceptable and also indicates the proposed dwelling will not be visible from any area of public view.

Members are reminded that outline planning permission was granted on 10 July 2020 under reference LA09/2019/0767/O given the existing development in Edendork and the approved and commenced development for Gradeall International (M/2003/1631/F), off the Farlough Road. This resulted in the south part of the site being contained on 3 sides by development and was assessed as rounding off.

The proposed development will extend the proposed development further into the existing field and does not have the containment on 3 sides that allowed the previous application to be granted. This is not a visual assessment of the site from the surrounding areas, it relates to the definition of boundary of the sentient limits, which is usually carried out through the development plan process and asses what are appropriate features to define the limits. The applicant has identified the existing overhead power lines as being an impediment to the development of the site, however these can be moved to accommodate development and as such should not be relied on as immovable features that constrain the development of the site. There has been no further persuasive arguments put forward to set out how the proposed development meets any of the planning polices or why it should be considered as an exception to any planning policy.

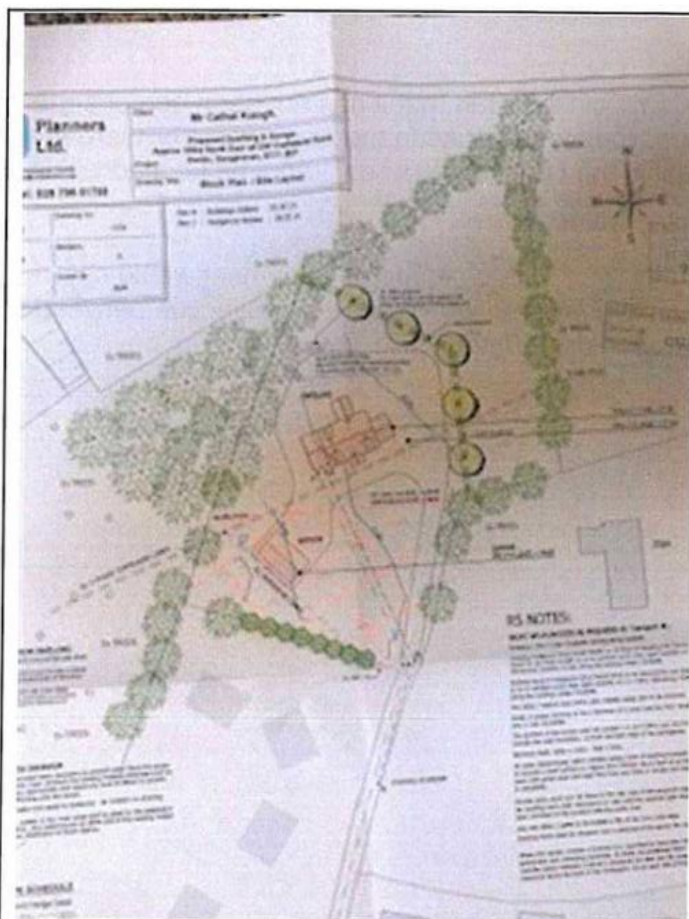


Fig 1 – area coloured orange identified as acceptable in LA09/20219/0767/O

Objections were received to the proposed development, these had raised issues with the previous approval on the site and the scale and size of the proposed garage at the rear of their properties as well as noise and nuisance as they have a particular sensitivity to noise. The previous approval was granted with a site specific condition as previously assessed and accepted on the rounding off basis. The proposed garage was initially 8.5m x 13.0m with a 6m ridge height, finished with brown cladding to the roof and upper walls, smooth render blockwork walls and a 4.0m roller door in one gable. This did have the appearance of an industrial type development. It is now proposed as 10.8m x 6.8m with a 5.5m ridge height and has the appearance of a double garage with walls and roof to match the proposed dwelling. While it has been noted the objectors have concerns about the use of the garage, this is proposed as a domestic garage and that is what must be assessed. Any noise or nuisances associated with anything that is not domestic in scale will be subject to investigations by the Councils Enforcement Team and Environmental Health Officers.

In light of the above, the previous report from September 2021 and the planning history of the site, I do not consider the applicant has demonstrated that this development meets with any of the planning policies for development in the countryside and if approved would result in unacceptable urban sprawl. It is my recommendation this proposal is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of PPS21 in that it has not been demonstrate this development meets with any of the polices for a house in the countryside or there are any overriding reasons why it is essential in the countryside or could not be located within a settlement.
2. The proposal is contrary to Policy CTY15 of PPS21 as the development would not constitute rounding off of the settlement limits and would mar the distinction between the settlement of Edendork and the surrounding countryside.

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



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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b> 07/09/2021  | <b>Item Number:</b>  |
| <b>Application ID:</b> LA09/2021/0739/F  | <b>Target Date:</b>  |
| <b>Proposal:</b><br>Proposed dwelling & Garage/Store   | <b>Location:</b><br>150m NE of 230 Coalisland Road<br>Gortin<br>Dungannon<br>BT71 6EP              |
| <b>Referral Route:</b><br><br>1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.<br><br>2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.   |  |
| <b>Recommendation:</b>   | <b>Refusal</b>   |
| <b>Applicant Name and Address:</b><br>Mr Cathal Keogh<br>232 Coalisland Road<br>Dungannon<br>BT71 6EP  | <b>Agent Name and Address:</b><br>CMI Planners Ltd<br>38b Airfield Road<br>Toomebridge<br>BT41 3SG |
| <b>Executive Summary:</b><br>The application site is in the countryside and on the boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. Condition 4 of planning approval LA09/2019/0767/O is a siting condition where the curtilage of the site should be within a hatched area nearest the existing dwellings within the settlement. This siting condition was to prevent urban sprawl and round off the existing development. In this application the applicant has shown the curtilage outside the hatched area and further north within the red line. It is stated this is because there are overhead electricity power lines |  |



passing over the hatched area but I do not consider this is a reason to move the curtilage outside the hatched area.

**Signature(s):**

## Case Officer Report

### Site Location Plan



**Consultations:** None Required

| Consultation Type | Consultee | Response |
|-------------------|-----------|----------|
|-------------------|-----------|----------|

### Representations:

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

### Characteristics of the Site and Area

The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.

The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

### **Description of Proposal**

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

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

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

### **Representations**

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

### **Planning History**

LA09/2019/0767/O - Proposed dwelling and garage (Amended Access Position) - Approx 150m NE of 230 Coalisland Road, Gortin, Dungannon – Permission Granted 10<sup>th</sup> July 2020

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

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

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

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

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will

only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

LA09/2019/0767/O granted outline approval at the application site on 10<sup>th</sup> July 2020. As this is a full application and has been submitted within 5 years from the date of the outline I am content there is a live approval at the site.

**Policy CTY 2a – New Dwellings in Existing Clusters**

As stated in the Preamble in PPS 21 the countryside is defined as land lying outside of settlements as defined in development plans. The application site is located on the northern boundary of the settlement limit of Edendork and as such, any development to the south of the site inside Edendork cannot be considered in the assessment of CTY 2a.

**Policy CTY 15 – Setting of Settlements**

The application site is abutting the northern boundary of the settlement limit of Edendork. There is a housing development of 6 houses and several detached dwellings immediately south of the site within the settlement limit. The site is an agricultural field and fields abut all other boundaries of the site.

LA09/2019/0767/O granted approval at the application site under the principle that the development would round off existing development to the south. Condition 4 of planning approval LA09/2019/0767/O stated the dwelling and its curtilage should be sited within the blue hatched area as shown in figure 1 below. In the drawings submitted with this application the applicant has sited the dwelling and garage further north towards the red line and outside the hatched area. The application site is on the boundary of the settlement limit and the hatched area was conditioned as it was felt that this area would round off the existing dwellings. I consider the siting on the drawings submitted is unacceptable as it is outside the conditioned hatched area. The proposed siting further north within the red line will not round off the existing development within the Edendork settlement limit and lead to further development on the settlement boundary. Therefore I would recommend refusal of this proposal as it would add to urban sprawl.

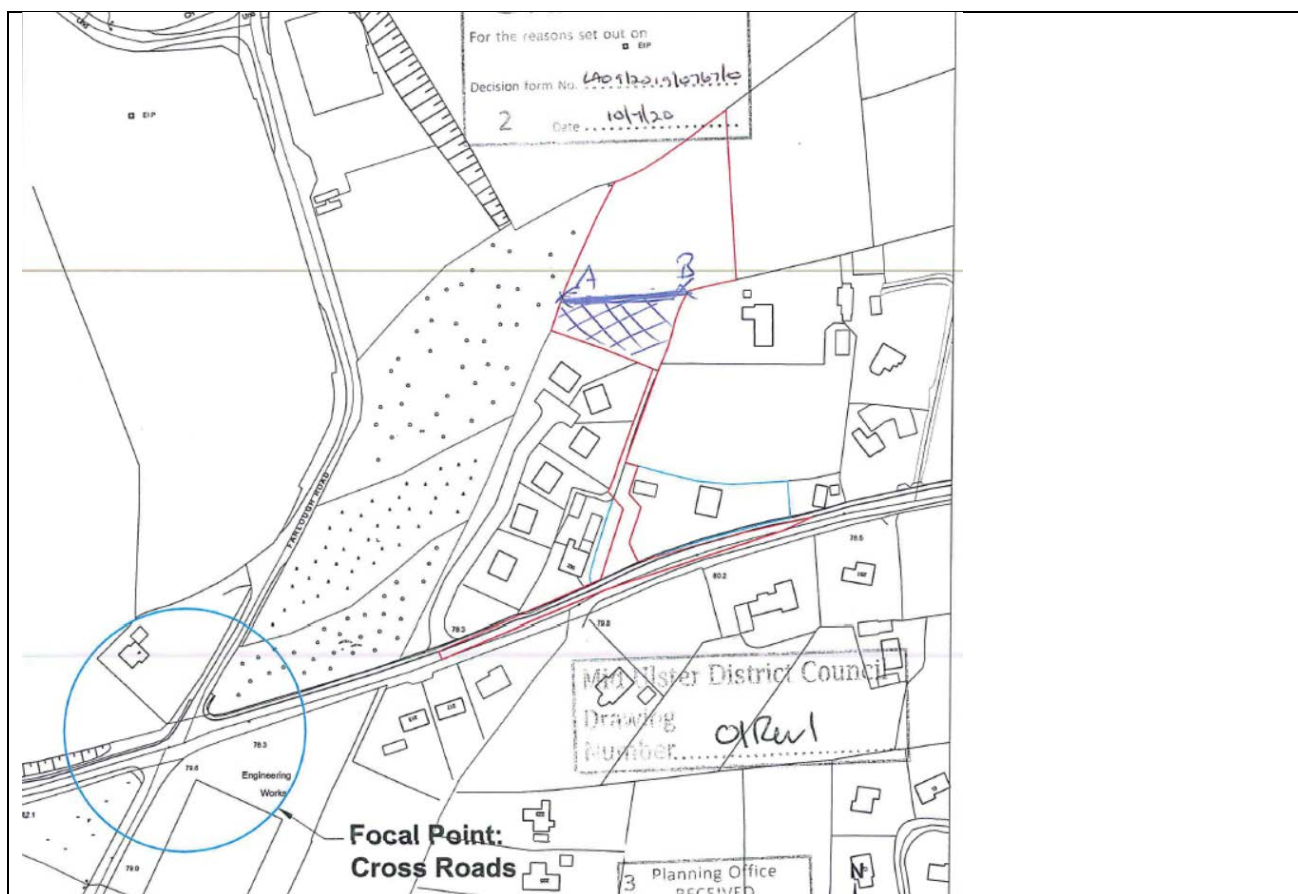


Figure 1 – Screenshot of the stamped approved site location plan from LA09/2019/0767/O

### CTY 13 – Integration and Design of Buildings

I am content the dwelling will not be a prominent feature in the landscape. The site is set back from the public road by approximately 100m and is accessed via an existing laneway. There are no critical views in either direction from the public road due to established trees and hedgerow along the roadside frontage.

There are established trees and hedgerow along all boundaries of the site so I am content the proposal will integrate into the landscape. I am content new planting will not be primarily relied on for the purposes of integration.

The proposed dwelling is 6.8m to finished floor level and one and half storey. The dwelling has a long rectangular form and built in dormers on the front elevation. The windows have a vertical emphasis and the chimneys project from the ridge line of the dwelling. There is a small porch on the front elevation of the dwelling. I am content the scale and massing of the dwelling is acceptable and the design is in keeping with a rural dwelling.





Figure 2 – Screenshot of the proposed dwelling

The proposed garage is sited in the northern corner of the application site and as stated earlier in the assessment this is outside the conditioned hatched area in the outline planning approval. The garage has a rectangular form and a ridge height of 6m to finished floor level. The garage has external finishes of dark brown roof panels, grey blockwork walls and dark brown roller shutter doors. The garage has the appearance of an agricultural building but as the proposal is outside the settlement limit I have no concerns and the building is set back from the main road.

As shown on the block plan the applicant has proposed new landscaping and the retention of existing trees, therefore I have no concerns and I consider there is a suitable degree of enclosure to integrate into the landscape.

The proposal will use an existing laneway and the new access will extend along the east boundary. As the access will run for a short distance I am content the access will not have an unacceptable impact on the character of the site.

I am content the design of the proposed garage and dwelling is acceptable.

#### **CTY 14 – Rural Character**

I am content the proposal will not be unduly prominent in the landscape. I am of the opinion the revised siting further north will not round off the existing development and exacerbate urban sprawl. Therefore the proposal will be detrimental to the rural character of the surrounding area.

|                                       |     |
|---------------------------------------|-----|
| <b>Neighbour Notification Checked</b> | Yes |
|---------------------------------------|-----|

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

The proposal is recommended for refusal as it will create urban sprawl.

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

1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.

2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.

**Signature(s)**

**Date:**

## Deferred Consideration Report

|  |   |
|--|---|
| <b>Summary</b>   |   |
| <b>Case Officer:</b> Karla McKinless   |   |
| <b>Application ID:</b> LA09/2021/1286/O<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 28 October 2021   |
| <b>Proposal:</b><br>Dwelling and garage under CTY 10   | <b>Location:</b><br>30M South West Of 30 Cloane Road<br>Draperstown                             |
| <b>Applicant Name and Address:</b><br>Sean Gallagher<br>30 Cloane Road<br>Draperstown  | <b>Agent name and Address:</b><br>Cmi Planners Ltd<br>38 Airfield Rd<br>Toomebridge<br>BT41 3SQ |
| <b>Summary of Issues:</b><br><br><p>This application was presented to Members as a refusal at February 2023 Planning Committee. It was considered that the proposal failed to comply with Policies CTY 1, CTY 10 and CTY 13 of PPS 21. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planner, which took place on the 17th February 2023. Following this meeting additional information was submitted by the agent to support his case and a site visit was carried out by the Senior Planner. The proposal is now being recommended for Approval with justification provided further in this report.</p>  |   |
| <b>Summary of Consultee Responses:</b><br><br>   |   |
| <b>Characteristics of the Site and Area</b><br><br><p>The site is located 30M South West Of 30 Cloane Road, Draperstown and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a roadside portion of a large agricultural field. The elevation of the site is relatively flat. The boundaries to the west is comprised of very low level vegetation, the boundary to the south is undefined and the boundary east is undefined with a farm shed located along this boundary. The boundary to the North (roadside boundary) is comprised of low level hedgerows. The Five mile straight road runs along the North of the site. H&amp;A Mechanical Services are located directly opposite the site to the north. The surrounding area is rural in character with scattered dwellings and farm holdings.</p> |   |

|   |
|---|
|   |
| <p><b>Description of Proposal</b></p> <p>This application seeks outline planning permission for a dwelling and garage under CTY 10.</p>   |
| <p><b>Deferred Consideration:</b></p> <p>This case was initially recommended for refusal as the applicant had failed to adequately demonstrate that the farm business, which is established, was currently active. Whilst no claims are made on the land, receipts were only provided to demonstrate activity from 2016 - 2020. Furthermore the farm buildings the applicant were relying upon for siting beside were not shown to be in his ownership. Following the deferred office meeting the applicant has since submitted receipts which demonstrate some level of activity (ie) keeping his land in good agricultural condition for the period 2021-2023. I have also carried out a site inspection and i can confirm that the lands in question are well maintained. A revised site location has been submitted showing the adjacent farm buildings as being in his ownership. On the basis of this new information. it is my opinion that the policy tests of CTY 10 have now been met.</p> <p>Concerns were raised by the initial case officer that the site lacked sufficient boundary treatment to assist in the integration of a dwelling on this roadside site. Following my site inspection I am content that if a single storey dwelling were to be conditioned to be sited in the SE portion of the site then it would benefit from the integration and clustering provided by the existing farm buildings to the NE. It would sit at a slightly lower level than the Filemilestraight Road and any views of the dwelling would be short term and fleeting.</p> <p>Approval is recommended subject to a standard time condition, siting, 5.5m ridge height, landscaping and levels</p> |
| <p><b>Conditions/Reasons for Refusal:</b></p> <p><b>Approval Conditions</b></p> <p>Condition 1<br/>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:-</p> <ul style="list-style-type: none"> <li>i. the expiration of 5 years from the date of this permission; or</li> <li>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</li> </ul> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>Condition 2<br/>Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.</p>  |

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

**Condition 3**

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

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

**Condition 4**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

**Condition 5**

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level

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

**Condition 6**

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

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

**Condition 7**

The proposed dwelling shall be sited in the area shaded green on the approved plan numbered 01 R 1, uploaded on Public Access on 13 March 2023

Reason: To ensure that the development is satisfactorily integrated into the landscape and in order to protect rural character in this area.

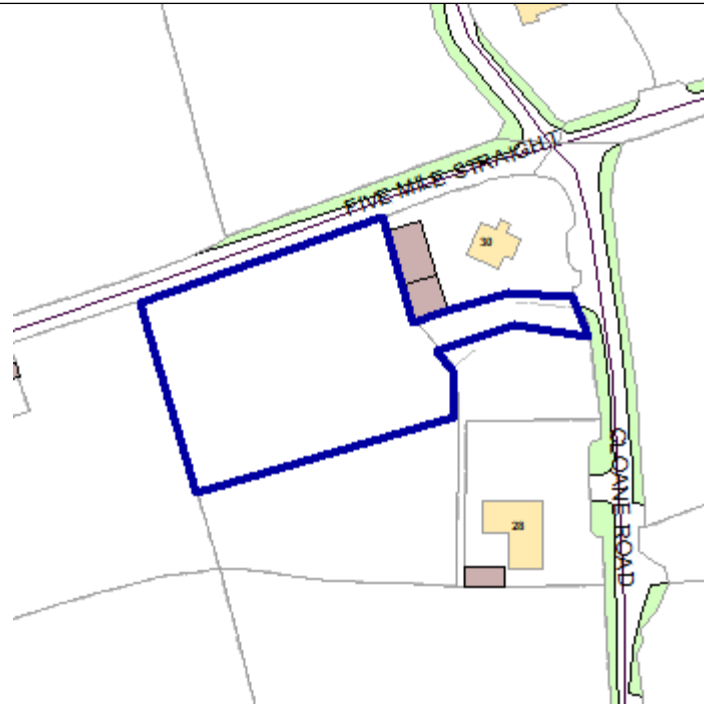
**Signature(s):**Karla McKinless

**Date:** 2 May 2023



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>7 February 2023                                     | <b>Item Number:</b><br>5  |
| <b>Application ID:</b><br>LA09/2021/1286/O  | <b>Target Date:</b> 28 October 2021   |
| <b>Proposal:</b><br>Dwelling and garage under CTY 10                                  | <b>Location:</b><br>30M South West Of 30 Cloane Road<br>Draperstown                             |
| <b>Referral Route:</b><br>Refuse is recommended                                       |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Sean Gallagher<br>30 Cloane Road<br>Draperstown | <b>Agent Name and Address:</b><br>Cmi Planners Ltd<br>38 Airfield Rd<br>Toomebridge<br>BT41 3SQ |
| <b>Executive Summary:</b>   |   |

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

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**Consultations:**

| Consultation Type | Consultee                           | Response                            |
|-------------------|-------------------------------------|-------------------------------------|
|                   | DAERA - Coleraine                   | Substantive:<br>TBCResponseType: FR |
|                   | Historic Environment Division (HED) | Substantive:<br>YResponseType: FR   |
|                   | DFI Roads - Enniskillen Office      | Substantive:<br>YResponseType: FR   |

**Representations:**

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

**Summary of Issues**

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

**Characteristics of the Site and Area**

The site is located 30M South West Of 30 Cloane Road, Draperstown and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a roadside portion of a large agricultural field. The elevation of the site is relatively flat. The boundaries to the west is comprised of very low level vegetation, the boundary to the south is undefined and the boundary east is undefined with a farm shed located along this boundary. The boundary to the North (roadside boundary) is comprised of low level hedgerows. The Five mile straight road runs along the North of the site. H&A Mechanical Services are located directly opposite the site to the north. The surrounding area is rural in character with scattered dwellings and farm holdings.

### **Description of Proposal**

This application seeks outline planning permission for a dwelling and garage under CTY 10.

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

#### **Policy Consideration**

##### **Planning History**

There is no planning history relevant to the determination of this application.

##### **Representations**

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

##### **Assessment**

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

##### **Planning History**

There is no planning history relevant to the determination of this application.

##### **Representations**

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



## Assessment

The Strategic Planning Policy Statement for Northern Ireland (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. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) 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 dwellings on a farm under Policy CTY 10. There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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

PPS 21, Policy CTY1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons or
  - Verifiable plans to expand the farm business at the existing building group(s)

With regard to (a) the applicant has provided details surrounding the farm business ID. DAERA were consulted and responded to say that the farm business Id provided had been in existence for 6 or more years but was not active. Evidence of the farm activity was requested from the agent several times and some receipts were eventually provided. These were only for drains. I contacted the agent for further clarity around the use of the land and the farm activity but at the time of writing this report a response had not been received. Following an internal group meeting it was agreed that these were insufficient to show sufficient farming activity. Therefore the proposal fails to meet the criteria of this policy.

With regard to (b) there are no records indicating that any dwellings or development

opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With respect to (c), the proposed development is located on roadside portion of an agricultural field. The proposed group of existing farm buildings on the farm as indicated on drawing no 01, date stamped 02nd September 2021, are discounted as they are not included in the red line of the application site or outlined in blue to indicated the applicant owns them. I emailed the agent to enquire about the sheds and at the time of writing this report, no response had been received. Therefore the application fails to meet this policy test.

The P1 form indicates that the proposal includes the alteration of an existing access to the public road. DFI Roads were consulted on the application, and they responded to say that they were content subject to conditions.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal is for outline planning permission and details of design have not been submitted at this stage. The site is not sited to cluster with an existing group of building on the farm and potentially will not integrate sufficiently into the landscape, especially as it is a roadside location and existing vegetation is all very low level.

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 the area. In my opinion the proposal may cause detrimental change or erode the rural character of the area. Therefore, this proposal is contrary to the criteria set out in policy CTY13 &14.

#### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

##### Reason 2

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active for 6 years or more. Also, the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

This proposal is contrary to the criteria set out in policy CTY13 &14, as this is a road side location and there is insufficient existing vegetation to adequately screen the proposal and therefore would fail to integrate successfully into the existing landscape.

**Case Officer:** Siobhan Farrell

**Date:** 20 January 2023

|   |                   |
|---|-------------------|
| <b>ANNEX</b>  |                   |
| <b>Date Valid</b>   | 2 September 2021  |
| <b>Date First Advertised</b>  | 14 September 2021 |
| <b>Date Last Advertised</b>   | 14 September 2021 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>28 Cloane Road Draperstown Londonderry BT45 7EF<br>The Owner / Occupier<br>30, Five Mile Straight, Cloane, Draperstown, Londonderry, BT45 7EG,<br>(Uprn<br>The Owner / Occupier<br>28, Five Mile Straight, Cloane, Draperstown, Londonderry, BT45 7EG,<br>(Uprn   |                   |
| <b>Date of Last Neighbour Notification</b>  | 23 September 2021 |
| <b>Date of EIA Determination</b>  |                   |
| <b>ES Requested</b>   | <events screen>   |
| <b><u>Planning History</u></b><br><br>Ref: LA09/2021/1286/O<br>Proposals: Dwelling and garage under CTY 10<br>Decision:<br>Decision Date:<br><br>Ref: H/1978/0405<br>Proposals: RETIREMENT BUNGALOW<br>Decision: PG<br>Decision Date:<br><br>Ref: H/1978/0285<br>Proposals: EXTENSION TO DWELLING<br>Decision: WITHDR<br>Decision Date:<br><br>Ref: H/1991/0279<br>Proposals: ALTERATIONS AND ADDITIONS TO DWELLING<br>Decision: PG<br>Decision Date:<br><br>Ref: H/2012/0327/O |                   |

Proposals: Proposed farm dwelling and garage

Decision: PG

Decision Date: 12-APR-13

Ref: H/2015/0085/RM

Proposals: Proposed farm dwelling and garage in accordance with H/2012/0327/O

Decision: PG

Decision Date: 09-JUL-15

Ref: H/1973/0080

Proposals: ADDITIONS TO HOUSE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DAERA - Coleraine-Substantive: TBCResponseType: FR

Historic Environment Division (HED)-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



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

Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

| Summary  |   |
|--|---|
| <b>Case Officer:</b> Phelim Marrion  |   |
| <b>Application ID:</b> LA09/2021/1366/F  | <b>Target Date:</b> <add date>  |
| <b>Proposal:</b><br>Proposed 5 No. glamping pods and associated external works   | <b>Location:</b><br>170M South East Of 52 Derrycourtney Road<br>Caledon   |
| <b>Applicant Name and Address:</b><br>Mr Jim Moore<br>52 Derrycourtney Road<br>Caledon<br>Dungannon<br>BT68 4UQ  | <b>Agent Name and Address:</b><br>Holmes And Doran Ltd<br>1ST Floor The Old Savings Bank<br>1 Victoria Street<br>Armagh<br>BT61 9DS |
| <b>Summary of Issues:</b><br>Farm diversification scheme in the countryside which does not use existing buildings and uses an existing access off a protected route.   |   |
| <b>Summary of Consultee Responses:</b><br>DFI Roads – recommend refusal and full consideration of protected routes policy, access will require improvements to provide visibility splays of 2.4m x 120.0m to bring up to standard<br>DAERA – farm business established 2013, not claimed for in all of last 6 years  |   |
| <b>Characteristics of the Site and Area:</b><br><br>The site is located at lands approx. 170m SE of 52 Derrycourtney Road, Caledon. The site sits quite a considerable distance back from the public road and is located on lands which are raised in comparison to the roadside. The site at present is an open field and is bounded by a mixture of trees, hedgerows and post and wire fencing. The application originally proposed a new access off the Derrycourtney Road (which is a protected route) however amended plans were received which accessed the site using the existing access point. The area surrounding the site is generally rural in nature, scattered with single dwellings and their associated outbuildings. Caledon is located approx. 1.5km east where the crow flies from the site. |   |

**Description of Proposal**

Full planning permission is sought for proposed 5 no. glamping pods and associated external works.

**Deferred Consideration:**

This application was before the Planning Committee in October 2022 where it was deferred for a meeting with the Service Director to discuss the proposal and any other information that may be relevant to the considerations.

At the deferral meeting on 13 October there was discussion about the proposal and the agent agreed to provide further information in relation to the policy for farm diversification and protected routes.

I consider it important to establish the principle for the development under PPS21, CTY11 – Farm Diversification. This policy is stated to promote diversification including suitable tourism and agri-tourism schemes. The policy requires there to be an active and established farm business and advises the criteria for an active and established farm business is set out in CTY10. Members will be aware that Policy CTY10 requires the farm business to be currently active and established for a period of 6 years. DAERA have advised the farm business id for the applicant is a category 1 farm business and it was allocated on 06/11/2013, I am content the farm business has been established for a period of over 6 years. When I visited the site on 30 January 2023 I noted the applicants fields had sheep in them and that sheep were being housed beside the applicants house. I am of the view this demonstrates the farm is currently active and as such this is an active and established farm business. Criteria a of CTY11 has been satisfied. The proposed development will only require a small part of the existing holding to accommodate the proposal and as such I consider this development can be run in conjunction with the sheep farming that is currently on-going.

The proposal is for 5 glamping pods, of wooden construction with steep roofs and a ridge height of 4.5m above the floor levels. The pods will be located on an elevated site above Derrycourtney Road, however due to the land form, intervening vegetation, back drop of rising ground and mature vegetation, I do not consider these will be visible from the surrounding public road network. Annaghroe/Annacramp SLNCI to the south west, the former school at Anacramp to the north east and a rath in Knockaginny further to the north east are the closest landscape and historic features to the site. These are well removed from the application and as such I do not consider the proposal would have any adverse affect on these. I consider criteria b and c of CTY11 have been met.

The proposed development is located approx. 150 metres from the applicants dwelling, which is the closest residential property to it. It is 185metres from a dwelling at 40 Derrycourtney Road to the south east, this is set well back from the main road with a group of agricultural buildings between it and the proposed site. No 62 Derrycourtney Road is off a dead end road to the south west of the site and is 320 metres at its closest. Due to the remote rural location, there may be noise from the proposed development perceptible at these other properties, however the applicant is the closest and will be able to manage any issues that arise on the site. As the proposed development is over 150 metres from other properties, waste water will be dealt with on site through a septic tank and the applicants can deal with other waste, I do not consider the proposal will result in

any unacceptable smell or pollution problems. In light of this I consider the proposal is unlikely to adversely impact on residential amenity and as such meets criteria d of CTY11.

The policy seeks to re-use and adapt existing buildings, but has an exceptionality test, where a new building may be granted if there is no existing building to accommodate the use. In this case the buildings on the farm are the applicants home and buildings to shelter and lamb sheep. These, in my opinion, are not suitable for tourist accommodation and as such a new building is warranted under the exception within the policy. Members should be aware the proposal here is for 5 new buildings, not **a new building**, as such the policy as written does not allow more than one building. The policy goes on to say that any new building should be satisfactory integrated within an existing group of buildings. The proposed units are located approx. 150 metres from the existing buildings and as such do not meet this part of the policy. Members could refuse the application as it is for more than one building, they are not sited within a group of buildings and fail to meet these parts of Policy CTY12.

The application was previously assessed against the Tourism Policies in PPS16, which allows for 3 or more new self catering units to be built in the rural area provided they are located at or close to an existing or approved tourist amenity that is/will be a significant tourist attraction. At the office meeting Cllr Gildernew highlighted the need for tourist accommodation in this area as there is a severe lack of any good accommodation. Cllr Gildernew also highlighted the tourism facilities in the locality:

- a number of fishing locations, the River Blackwater which runs through Caledon 2kms to east, Glenkeen Fisheries 5km to the west, Brantry Lough, Enagh Lough, Legane Lough and White Lough all within 8kms of the site,
- the historic village of Caledon which had its beam engine driven mill 2kms to the east.
- the site is also close to the village of Glaslough (4.5km south ) where Sir Paul McCartney was married and a sought after wedding venue.
- the line of the Ulster Canal is located to the east of Caledon and part of this is being restored to provide a greenway with other sections to be repaired
- the village of Tynan where the railway station is sitting as it was the day the last train pulled out

Further afield is the historic Navan Fort 10km south east and Armagh's Cathedral City.

It is noted the policy defines tourist amenity as 'An amenity, facility or service provided for tourists but does not include tourist accommodation'. Tourists are defined as 'includes overnight visitors and same day visitors'. Members should note the above examples of tourist amenities in the locality does provide a wide range of existing tourist amenities surrounding the application site. The policy does not give any quantifiable distance between the proposed development and the tourist amenity, to allow any specific limit. Taking into account the range of tourist amenities on offer in the locality and the apparent lack of accommodation close by and I am persuaded this development does meet with the general thrust of Policy TSM5 and could be approved as tourism development. In accordance with the policy and guidance in TSM5 I consider it is appropriate and necessary to limit the occupation of the pods for tourist use only and removed any Permitted Development Rights for fences or boundary treatments between the pods to prevent and discourage permanent occupancy of these pods. As I consider the proposal meets with TSM5, then it also meets with CTY1 as the TOU Policies in a Planning Strategy for Rural Northern Ireland were superseded by the Policies in PPS16 and this development meets TSM5.



DFI Roads Engineers have advised the access to the development is onto a Protected Route and it should be refused as it will intensify the use of the access. Members are directed to the Consequential Amended to AMP3 of PPS3 as contained in PPS21. Policy CTY 1 allows this development, as it meets with the tourism policies which superseded the TOU Policies in PSRNI, and I consider Criteria d in AMP3 of the Consequential Revision is relevant to the decision. The policy seeks to have any accesses off minor roads instead of the Protected Route, but accepts that where it this cannot reasonably be achieved then the access must be from an existing vehicular access onto the Protected Route. Members will be aware that Policies in PPS 3 do not consider an agricultural access to be a vehicular access for the purposes of the policy. In this case the applicant does not have other lands here that front onto any road, other than the Protected Route. The nearest minor road is 320 metres to the west, it is a dead-end lane with sight lines at the junction with Derry Courtney Road to the south partially obscured by a hedge. As the lane to the west is a public road, there is no way to require the applicant to improve that junction. The applicant does own all the land necessary to provide sight lines of 2.4m x 120.0m within their control. There is a crest in the road to the northwest, however this does not affect the 120.0m sight distance requested by DFI Roads Engineers. As this meets the standard requested then it is clear the access the access can be improved, as required by Policy AMP2 and the proposal meets with Policies AMP2 and the Consequential Amendment to AMP3. I consider it is necessary to condition this is carried out prior to any development commencing on the site.

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

As I have concluded this proposal meets with Policies TSM5, AMP2 and the Consequential Amendment to AMP3, I recommend it is approved with conditions.

Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
2. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 120.0m in both directions, where the existing access meets Derrycourtney Road, as identified within the red line on drawing No 01a bearing the stamp dated 28 APR 2022 shall be provided. 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. All hard and soft landscape works as detailed on drawing no 01a bearing the stamp dated 28 APR 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.  
Reason: In the interests of visual amenity
4. All existing vegetation on and within the site identified in red on drawing 01a bearing the stamp dated 28 APR 2022 shall be retained. In the event of the vegetation becoming dangerous and removed then a full report shall be provided to the Council as soon as practicable after the trees are removed setting out why they were removed and including proposals for replacement landscaping. Any replacement landscaping shall be carried out within 1 year of being agreed and shall be permanently retained.  
Reason: In the interests of visual amenity
5. The glamping pods hereby approved shall be for short term letting only in accordance with Class C2 of the Planning (Uses Classes) Order (NI) 2015 and shall not be used for any other purpose within Part C of the Planning ( Use Classes) Order (NI) 2015 without the express written consent of Mid Ulster District Council.  
Reason: These units are approved under tourism policies and are not for permanent dwellings.
6. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no walls, gates or fences, shall be erected, provided, maintained or improved between or near the glamping pods hereby approved, unless shown on drawing No01a bearing the stamp dated 28 APR 2022.  
Reason: These units are approved under tourism policies and are not for permanent dwellings.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

| Summary   |   |
|---|---|
| <b>Committee Meeting Date:</b><br>4 October 2022  | <b>Item Number:</b><br>5.2  |
| <b>Application ID:</b><br>LA09/2021/1366/F  | <b>Target Date:</b> 12 November 2021  |
| <b>Proposal:</b><br>Proposed 5 No. glamping pods and associated external works                                  | <b>Location:</b><br>170M South East Of 52 Derrycourtney Road<br>Caledon   |
| <b>Referral Route:</b> Refuse is recommended  |   |
| <b>Recommendation:</b> Refuse   |   |
| <b>Applicant Name and Address:</b><br>Mr Jim Moore<br>52 Derrycourtney Road<br>Caledon<br>Dungannon<br>BT68 4UQ | <b>Agent Name and Address:</b><br>Holmes And Doran Ltd<br>1ST Floor The Old Savings Bank<br>1 Victoria Street<br>Armagh<br>BT61 9DS |
| <b>Executive Summary:</b>   |   |

## Case Officer Report

### Site Location Plan

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### Consultations:

| Consultation Type       | Consultee                      | Response                                   |
|-------------------------|--------------------------------|--|
|                         | DFI Roads - Enniskillen Office | Substantive:<br>YResponseType: FR          |
|                         | DFI Roads - Enniskillen Office | Substantive: TBC                           |
|                         | DFI Roads - Enniskillen Office | Substantive: TBC                           |
| Statutory Consultee     | DFI Roads - Enniskillen Office | 05-08-2021 Refusal.docx                    |
| Non Statutory Consultee | DAERA - Omagh                  | LA09-2021-1366-F.DOCXSee uploaded document |

### Representations:

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

### Summary of Issues

There were no representations recieved in relation to the proposal.

### Characteristics of the Site and Area

The site is located at lands approx. 170m SE of 52 Derrycourtney Road, Caledon. The site sits quite a considerable distance back from the public road and is located on lands which are raised in comparison to the roadside. The site at present is an open field and is bounded by a mixture of trees, hedgerows and post and wire fencing. The application originally proposed a new access off the Derrycourtney Road (which is a protected route) however amended plans were recieved which accessed the site using the existing access point. The area surrounding the site is generally rural in nature, scattered with single dwellings and their associated outbuildings. Caledon is located approx. 1.5km east where the crow flies from the site.

### Description of Proposal

Full planning permission is sought for proposed 5 no. glamping pods and associated external works.

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

### **Policy Consideration**

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Dungannon and South Tyrone Area Plan 2010
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside
- Planning Policy Statement 16: Tourism

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

### **Representations**

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

### **Planning History**

There is not considered to be any relevant planning history associated with this site.

The Dungannon and South Tyrone Area Plan 2010 identify the site as being located outside any settlement limits, with Caledon approx. 1.5km to the East of the site. The site has no other zonings within the Plan.

The Strategic Planning Policy Statement for Northern Ireland advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) are retained.

PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21 including tourism development in accordance with the TOU policies contained within PSRNI. These TOU policies have since been superseded by PPS16 - Tourism therefore this proposal will be considered under the relevant policy within PPS16. SPPS does not make any changes to these policy considerations.

Tourism makes a vital contribution to the Northern Ireland economy, it can play an important role in helping to support the viability of many local suppliers, services and facilities. However, tourism accommodation located in the countryside needs to be located at appropriate locations and managed in a sustainable manner in order to protect the rural landscape and environment in line with the area plan and other material considerations.

This proposal is for self-catering accommodation in the countryside and the agent/applicant has provided a supporting statement which refers to both a farm diversification scheme under CTY 11 of PPS 21 and the policy provisions of PPS 16 for Tourism. Therefore both policies will be assessed within this report, however it is important to note that DfI Roads comments are also at the crux of the recommendation for refusal as they note they would not be content with an intensification of the access onto a protected route.

TSM5 deals with self catering accommodation in the countryside and it states that permission will be granted for self-catering units of tourist accommodation should the proposal meet any one of three circumstances. In my view the proposal does not meet any of the circumstances set out in policy as;

- a) it is not located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park;
- b) although the proposal is a cluster of 5 units, it has not been demonstrated that the proposal is located at or close to an existing or approved tourist amenity with a significant visitor attraction requiring these units.
- c) it is not for the restoration of an existing clachan or close.

Paragraph 7.25 of Policy TSM5 states “Where units are proposed in association with a tourist amenity, Policy requires that the tourist amenity must be a significant visitor attraction in its own right”. The agent/applicant has failed to specify the tourism facility in which the proposal will cater or provide evidence of visitor numbers or the provision of existing facilities linked to and enabling usage of the attraction. It is acknowledged that each of the places referred to in the supporting statement are located within a reasonable distance to travel to from the application site, however there is insufficient information to demonstrate the numbers of tourists that these pods would attract or the existing facilities in place that would attract or accommodate them. There are also no such signature project which exist close to this site and the area does not benefit from established tourism amenities and accommodation. I am content that the design and layout would deter for permanent residential accommodation. There is a single bed, a sink and wash room included in each pod. They have communal parking, each having its own curtilage and bbq area, however it doesn’t appear overly defined.

Policy TSM7 of PPS 16 applies to all types of tourism development there is a number of criterion which need to be met. Some of the criterion do not apply to this proposal, however the main concern about this proposal in relation to the criterion within TSM 7 centres around the access to and from the site to a protected route. Criterion (l) and (n) refer to the access and the impact this would have on road safety, particularly onto a protected route. As noted before, DfI Roads have been consulted on the proposal and have stated the proposal is contrary to AMP 3 of PPS 3 in that, it would if permitted result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

Policy CTY 11 which deals with farm diversification is the other policy which the agent has

referred to within their supporting statement. This policy notes that the proposal must be run in conjunction with the agricultural operations on the farm. From the information provided within their supporting statement, the agent/applicant they have not indicated that they carry out any other agricultural activities and as such I do not consider the applicant has demonstrated the proposal will be run in conjunction with agricultural activities on the farm, thus contrary to Policy CTY 11. They have noted that due to the nature of the proposal it would not be feasible to re-use existing buildings and that any existing buildings are in active use. The proposal is also sited approx. 300m South of the existing dwelling and therefore wouldn't be sited beside existing buildings on the farm.

DAERA have confirmed that the farm business was established in 2013 and claims were made over the last number of years, excluding 2021 and 2022. The 5 pods would be sited within a site which has existing landscaping along the boundaries and would be set back from the main public views and thus would, in my opinion blend in sympathetically with the surroundings. Additional landscaping on the boundaries will also assist the development to be further integrated into the surroundings over time. I consider this criteria is met. I have no concerns relating to the impact the proposal would have on any known natural or built heritage. I am content that the proposal is sited far enough way from any 3<sup>rd</sup> party neighbours to avoid any impact on their amenity.

In terms of policy CTY13 of PPS21, it is my view that the proposal will integrate into the landscape as it is set back from the public road with limited public views and is of a size, scale and location that will not significantly impact the visual character or landscape quality of the area. I consider the proposal will not have a detrimental impact on the rural character of the area and therefore complies with Policy CTY14 also.

Overall, I do not feel the proposal is in line with the policy requirements of AMP 3, TSM 5, TSM 7 and CTY 11 and thus is recommended for refusal.

### **Summary of Recommendation:**

Refuse is recommended

Refusal is recommended.

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated the proposed development will be run in conjunction with agricultural operations on the farm, there has been no justification for these new building and they are not sited to be satisfactorily

integrated with an existing group of buildings.

**Reason 3**

The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM5 of Planning Policy Statement 16 Tourism in that it has not been demonstrated that the proposal is located at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right.

**Reason 4**

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

**Signature(s):** Sarah Duggan

**Date:** 21 September 2022



|  |                   |
|--|-------------------|
| <b>ANNEX</b>   |                   |
| <b>Date Valid</b>  | 17 September 2021 |
| <b>Date First Advertised</b>   | 30 September 2021 |
| <b>Date Last Advertised</b>  | 28 September 2021 |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>52 Derrycourtney Road, Caledon, Tyrone, BT68 4UQ   |                   |
| <b>Date of Last Neighbour Notification</b>   | 7 October 2021    |
| <b>Date of EIA Determination</b>   |                   |
| <b>ES Requested</b>  | <events screen>   |
| <b><u>Planning History</u></b>   |                   |
| <b>Summary of Consultee Responses</b><br><br>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR<br>DFI Roads - Enniskillen Office-Substantive: TBC<br>DFI Roads - Enniskillen Office-Substantive: TBC<br>DFI Roads - Enniskillen Office-05-08-2021 Refusal.docx<br>DAERA - Omagh-LA09-2021-1366-F.DOCXSee uploaded document |                   |
| <b>Drawing Numbers and Title</b><br><br>Site Location Plan Plan Ref: 01<br><br>Site Location Plan Plan Ref: 01a  |                   |

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

| Summary  |  |
|--|--|
| <b>Case Officer:</b> Karla McKinless   |  |
| <b>Application ID:</b> LA09/2022/0490/O<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 7 June 2022  |
| <b>Proposal:</b><br>Proposed dwelling and garage on a farm   | <b>Location:</b><br>194M S.W. Of 8 Killybearn Lane<br>Cookstown  |
| <b>Applicant Name and Address:</b><br>Martyn Devlin<br>9 Farm Lodge Lane<br>Magherafelt  | <b>Agent Name and Address:</b><br>OJQ Architecture<br>89 Main Street<br>Garvagh<br>Coleraine<br>BT51 5AB |
| <b>Summary of Issues:</b><br><br>This application for a dwelling on a farm was presented to Members as a refusal at February 2023 Planning Committee. It was considered to be contrary to Policies CTY 1, 10 and CTY 13 of PPS 21 and one objection had been received. Members agreed to defer the application for an office meeting with the Planning Service Director and Senior Planner. Following this meeting, the carrying out of a site visit and the submission of additional information the application is now being recommended for approval, with the justification being provided further in this report. |  |
| <b>Summary of Consultee Responses:</b><br><br>No new or additional consultations issued as part of this deferred consideration   |  |
| <b>Description of Proposal</b><br><br>This is an outline application for a proposed dwelling and garage on a farm, the site is located 194M S.W. Of 8 Killybearn Lane, Cookstown.  |  |

### **Deferred Consideration:**

Initially this proposal was recommended for refusal as it had not been demonstrated that the farm business had been established for at least six years nor was the proposed dwelling visually linked or sited to cluster with an established group of buildings on the farm. The farm case made in this application is quite complex. The applicant, Mr Devlin who has an address in the Town of Magherafelt has stated on the P1C that the owner of the active farm business is Mr Thomas Rooney who resides at 8 Killybearn Lane. Mr Devlin is the Son in Law of Mr Rooney. Mr Rooney does not have a farm business ID but leases his land out to another farmer. He does carry out some maintenance works to his holding. The lease agreement has been provided along with various receipts which demonstrate activity on the land for the required 6 year period. It was previously accepted that the farm business was active for the required period, however the recommendation to refuse was based on consideration that the farm business was not established. Mr Rooney has since submitted a statutory declaration that he and his family have farmed the lands identified on folios 13256 and 13259 in excess of 100 years. On the basis of this evidence I am now content that despite the absence of a farm business ID, the farm business can be considered established in excess of 6 years.

CTY 10 of PPS 21 also requires a farm dwelling to visually link or site to cluster with an existing group of buildings on the farm. There is an exception in the policy to site elsewhere provided there are no other sites available at another group of buildings and where there are demonstrable health and safety reasons or plans to expand the farm at the existing group. The only group of buildings on this farm is the dwelling and outbuilding at 8 Killybearn Lane. The proposed site is too far removed to be considered visually linked or clustered with these buildings. No acceptable demonstrable health and safety reasons or plans to expand have been provided to treat this site as an exception. As such the proposal fails to meet this test of the policy.

Members are however advised that following my site inspection in which I walked the confines of the site as well as viewing the site from various vantage points along the public road I would be of the opinion that a single storey dwelling sited in the extreme Southern portion of the site would be well integrated, would benefit from a backdrop of mature conifers and would be subject to very limited public views. The sites closer to the dwelling at number 8 would be more open and exposed and would lack established boundary treatment which would be required to satisfactorily integrate a dwelling. There is one elongated parcel of land to the West of number 8 which could be considered as an acceptable site closer to the farm dwelling, however based on the integration qualities of the site applied for, it would not be unreasonable for Members to consider this case as an exception to Policy CTY 10 of PPS 21. If this was the decision Members were to take then the refusal reason based on CTY 13 would no longer be relevant either.

The new information submitted in support of this application has been uploaded on Public Access and all relevant third parties were notified of such and no further objections to the application have been received.

Approval is recommended based on Members considering this proposal as an exception to Policy CTY 10 of PPS 21.

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

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

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

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

#### **Condition 3**

A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the RS1 Form available to view on Public Access.

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

#### **Condition 4**

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

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

#### **Condition 5**

The proposed dwelling shall be sited in the area shaded green as indicated on drawing 01 uploaded on Public Access on the 26 April 2022

Reason: To ensure that the development is visually linked and sited to cluster with buildings on the farm and to ensure it is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21

#### **Condition 6**

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level

Reason: To ensure that the development satisfactorily integrates.

**Condition 7**

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity

**Condition 8**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council. Development shall be carried out in accordance with the approved levels

Reason: To ensure the dwelling integrates into the landform.

**Signature(s):**Karla McKinless

**Date:** 24 May 2023



## Development Management Officer Report Committee Application

| Summary  |  |
|--|--|
| <b>Committee Meeting Date:</b><br>7 February 2023  | <b>Item Number:</b><br>5.14  |
| <b>Application ID:</b><br>LA09/2022/0490/O   | <b>Target Date:</b> 7 June 2022  |
| <b>Proposal:</b><br>Proposed dwelling and garage on a farm   | <b>Location:</b><br>194M S.W. Of 8 Killybearn Lane<br>Cookstown  |
| <b>Referral Route:</b> Refuse is recommended   |  |
| <b>Recommendation:</b> Refuse  |  |
| <b>Applicant Name and Address:</b><br>Martyn Devlin<br>9 Farm Lodge Lane<br>Magherafelt  | <b>Agent Name and Address:</b><br>OJQ Architecture<br>89 Main Street<br>Garvagh<br>Coleraine<br>BT51 5AB |
| <b>Executive Summary:</b><br><br>To Committee - Refusal - Contrary to CTY 1, 10 and CTY 13 of PPS 21 and one objection received. |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response                                   |
|-------------------------|--------------------------------|--|
| Non Statutory Consultee | DAERA - Omagh                  | LA09-2022-0490-O.DOCXSee uploaded document |
| Statutory Consultee     | DFI Roads - Enniskillen Office | Roads Consultation outline approval.docx   |
| Non Statutory Consultee | DAERA - Coleraine              | Consultee Response LA09-2022-0490-O.DOCX   |

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1, 10 and CTY 13 of PPS 21 and one objection received.



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

The proposed site is located approximately 2.75km east of the development limits of Cookstown, as such the site located within the open countryside as per the Cookstown Area Plan 2010. The site has been identified as 194m SW of 8 Killybearn Lane, Cookstown in which the red line covers the southern portion of a much larger agricultural field. The site is proposing access off the shared laneway off the Killybearn Lane. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.

### **Representations**

Seven neighbour notifications were sent out however one objection was received. Summary of objections are as below;

- Concerns over the access being safe and adequate to facilitate a family home – especially during the construction phase and transport of materials.
- Suggested that this is to be a farm dwelling and garage is economic with the true meaning of the interpretation.

## **Description of Proposal**

This is an outline application for a proposed dwelling and garage on a farm, the site is located 194M S.W. Of 8 Killybearn Lane, Cookstown.

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

### **Policy Consideration**

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy  
Strategic Planning Policy Statement (SPPS)  
Cookstown Area Plan 2010  
PPS 1 – General Principles  
PPS 3 – Access, Movement and Parking  
PPS 21 – Sustainable Development in the Countryside  
Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside  
CTY 1 – Development in the Countryside  
CTY 10 – Dwellings on the Farm

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically

with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

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

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

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

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that there was no farm business number submitted, wherein the agent confirmed that the applicant only had applied for one during this application. I note a series of receipts along with a lease agreement dating from 2014-2023 were provided to demonstrate activity. I am content that this is sufficient to show some level of activity however given the issue of the business number I am not content that the business is established.

With respect to (b), given the lack of business number there was no farm maps provided with this application. However the agent confirmed in writing that the lands shown in the location plan were the only lands associated with the business. Upon review of these lands I note that no farm approvals have been attained on it nor any other development opportunities.

With respect to (c), I first note that the registered address of the farm business sits approximately 200m north of the site with the applicant living in development limits of Magherafelt some distance away. I note that the applicant is relying on what they have identified as ‘existing animal handling facilities’ within the site for visually linkage and clustering. I have a number of concerns with this; I note that ‘existing animal handling facility’ in my opinion does not constitute a building on the farm, nor is there any planning permission for an agricultural building at this location. From the below photo it is clear that this is just a number of tin sheets and wouldn’t constitute as a building.



Even if this for whatever reason would be constituted as a building, it is not constituted as an existing group of buildings on the farm. I contend that the buildings located no.8 Killybearn Lane constitute as the only group of buildings on the farm and any dwelling should be sited beside such. I hold the view that a dwelling located within the site would be too far detached from the buildings at No.8 to constitute visual linkage or clustering.

This concern was raised to the agent and in response provided a statement to clarify the issues, they refer to approvals – LA09/2018/0874/O and LA09/2021/0168/O as precedent. In terms of LA09/2018/0874/O, state that planning permission was granted located in a field with an animal handling facility similar to this proposal. Upon review of this, I note that this building was actually discounted and the application was approved by virtue that there are no buildings on the farm and taken on its own merits. The issue here is that there are a group of buildings at no.8.

With regards to LA09/2021/0168/O, it was stated by the agent that this was approved set up a laneway some distance from the existing farm buildings but with a degree of visual linkage similar to this application. Again upon review of this, it appears that the initial opinion was that the application was unacceptable given the separation distances but seems to have been granted by virtue that that was the only location that provided adequate separation distance from a neighbouring cattle shed. This is not the case in this application. From this I hold the view that this application fails under CTY 10 of PPS 21.

Upon review of the remainder of the policies of CTY 1 I hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I hold the view than an appropriately designed dwelling will not appear as visually prominent in the landscape. I note that as much of the existing

landscaping should be retained and supplemented with additional landscaping, with such any dwelling would be able to successfully integrate. Given the landform and surrounding development I feel it necessary to restrict any ridge height to 6.5m. As noted the site is not located to cluster or visually link with an established group of buildings on the farm. Given such I hold the view that the application does not fully comply under CTY 13.

In terms of policy CTY 14 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. As such I am content that an appropriately designed dwelling would not appear unduly prominent in the landscape. I note that dwelling is unlikely to result in adverse impact on the rural character of the area. I am content that this is able to comply under CTY 14.

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

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

In response to the comments made by the objector; with regards to the comments in relation to the laneway and access. I note Roads have deemed the access acceptable and in terms of the laneway this can be easily upgraded and fit for purpose. In terms of the comments in relation to the farm, as expressed I am not content that this is a valid farm case as expressed above.

I have no ecological or residential amenity concerns.

The proposal has failed under CTY 1,10 and 13 of PPS 13 as such a refusal is recommended.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to 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 has been established for at least six years nor is the proposed dwelling visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Peter Henry

**Date:** 17 January 2023

| ANNEX   |                 |
|---|-----------------|
| <b>Date Valid</b>   | 12 April 2022   |
| <b>Date First Advertised</b>  | 3 May 2022      |
| <b>Date Last Advertised</b>   | 3 May 2022      |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>1 Killybearn Lane Cookstown Londonderry BT80 8SX<br>The Owner / Occupier<br>10 Killybearn Lane Cookstown Londonderry BT80 8SX<br>The Owner / Occupier<br>12A Killybearn Lane Cookstown Londonderry BT80 8SX<br>The Owner / Occupier<br>6 Killybearn Lane Cookstown Londonderry BT80 8SX<br><br>The Owner / Occupier<br>2 Killybearn Lane Cookstown Londonderry BT80 8SX<br>The Owner / Occupier<br>12 Killybearn Lane Cookstown Londonderry BT80 8SX<br>The Owner / Occupier<br>24 Derrygonigan Road Cookstown Londonderry BT80 8SU |                 |
| <b>Date of Last Neighbour Notification</b>  | 28 June 2022    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b>  |                 |
| <b>Summary of Consultee Responses</b><br><br>DAERA - Omagh-LA09-2022-0490-O.DOCXSee uploaded document<br>DFI Roads - Enniskillen Office-Roads Consultation outline approval.docx<br>DAERA - Coleraine-Consultee Response LA09-2022-0490-O.DOCX  |                 |

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

| Summary  |   |
|--|---|
| <b>Case Officer:</b> Karla McKinless   |   |
| <b>Application ID:</b> LA09/2022/0654/O<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 5 September 2022  |
| <b>Proposal:</b><br>Dwelling and Garage  | <b>Location:</b><br>Lands 40 Metres South West Of<br>50 Battery Road<br>Coagh         |
| <b>Applicant Name and Address:</b><br>Joanne Devlin<br>5 Ballinderry Bridge Drive<br>Ballinderry<br>Coagh  | <b>Agent Name and Address:</b><br>CMI PLanners LTD<br>38 Airfield Road<br>Toomebridge |
| <b>Summary of Issues:</b><br><br>This application was presented as a refusal at March 2023 Planning Committee as it was considered that it failed to comply with Policies CTY1 and CTY10 of PPS 21. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planner, which took place on the 24 <sup>th</sup> March 2023. Following a site visit and further consideration of the case, the application is now being recommended for approval, with the justification being provided further in this report. |   |
| <b>Summary of Consultee Responses:</b><br><br>DFI Roads, DAERA and NIW have all been consulted with this application and have raised no concerns   |   |
| <b>Description of Proposal</b><br><br>This is an outline planning application for a proposed dwelling and garage on a farm.  |   |



**Deferred Consideration:**

This proposal has been considered under Policy CTY 10 - Dwelling on a Farm. Initial consideration by the case officer did not raise any concerns in respect of there being an active and established farm business. This policy criteria was however further explored at the deferred office meeting. The applicant explained that the farm business historically belonged to her aunt for 30 years plus, who did keep it in good agricultural condition and following a site inspection of the holding, which comprises 2 small fields, i can verify that the lands are kept in good agricultural condition. Whilst the applicant has only obtained a business number in January 2022 following her inheritance of the farm, this is considered normal practice in line with DAERA guidelines. Once a person dies their business number is no longer used. The applicant has also provided a conacre agreement from 2016-2026 which is evidence that the land continues to be kept in good agricultural condition for the required period. She has also provided a statement which indicates how she hopes to utilise the land in the future to grow specialised crops which she can utilise for treatment of a medical condition she has. On the basis of the information provided i am satisfied that there is an active and established farm business.

The main concern with this proposal is that there are no group of farm buildings on the holding on which a dwelling can be sited beside in order to comply with the policy test. On the holding there is only one lawful building - a small dwelling. A second building, a small temporary shed has been recently erected, however this is not a lawful building and is of temporary construction and cannot be considered as a second building for the purposes of the policy. It is acknowledged that there are no other lands associated with this farm business and no other lawful buildings and so the applicant cannot provide any alternative site. The application site is a road side site with the lands and existing farm dwelling accessed via a laneway which is used to access other third party dwellings. A dwelling sited beside the existing farm dwelling will not give rise to any concerns in terms of prominence or integration and will cluster and visually link with the existing farm dwelling. If it is conditioned to front onto the laneway with a siting condition which does not extend to the public road then there will be no likelihood for other development along the Battery Road via infill opportunities. This would be important to prevent a proliferation of development along this section of the public road. Given the specifics of this case I would advise members that it would not be unreasonable to consider this development as an exception to policy CTY 10 which does insist on there being a group of buildings on the holding to cluster/visually link with.

Approval is recommended subject to standard conditions in respect of time, access, 6m ridge height, siting, retention of boundaries and landscaping.

**Conditions/Reasons for Refusal:****Approval Conditions****Condition 1**

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

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

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

Condition 2

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

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

Condition 3

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

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

Condition 4

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

Condition 5

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level

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

Condition 6

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

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

Condition 7

The proposed dwelling shall be sited in the area shaded green on the approved plan numbered L01 and dated May 2022

Reason: To ensure that the development is satisfactorily integrated into the landscape and in order to protect rural character in this area.

**Signature(s):**Karla McKinless

**Date:** 2 May 2023



## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

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

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

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

### **Representations**

No third-party representations have been received.

### **Description of Proposal**

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

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

#### **Policy Consideration**

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS3: Access, Movement and Parking

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 -Sustainable Development in the countryside.

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

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

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

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

(a) the farm business is currently active and has been established for at least 6 years;  
(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and  
(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.  
Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

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

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

Following a search on the planning system I am content that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

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



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

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been provided however, I am content the site could take a single storey dwelling limited to a ridge height of 6m above finished floor level. Planting should be retained on the existing boundaries which would ensure a dwelling would not be a prominent feature in the landscape and would integrate into the landscape. However, criteria (g) of CTY 13 requires it to visually link with or be sited to cluster with an established group of buildings on the farm and for this reason it fails to comply with CTY 13.

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

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

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

#### **Other Material Considerations**

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



|  |
|--|
| <p><b>Summary of Recommendation:</b></p> <p>Refuse is recommended</p>  |
| <p><b>Refusal Reasons</b></p> <p><b>Reason 1</b><br/> 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.</p> <p><b>Reason 2</b><br/> The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.</p> |
| <p><b>Signature(s):</b> Ciaran Devlin</p> <p><b>Date:</b> 21 February 2023</p>   |

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

Ref: I/1991/0139  
Type: F  
Status: PCO

Ref: I/1992/0274  
Type: O  
Status: PCO

Ref: I/1993/0022  
Type: F  
Status: PCO

Ref: LA09/2022/0654/O  
Type: O  
Status: PCO

Ref: LA09/2019/0137/O  
Type: O  
Status: PG

Ref: I/2000/0753/O  
Type: O  
Status: PG

Ref: I/2001/0490/RM  
Type: RM  
Status: PG

Ref: I/1988/0434  
Type: F  
Status: PCO

Ref: I/2005/0088  
Type: O  
Status: APPRET

Ref: I/2006/0726/RM  
Type: RM  
Status: PG

Ref: I/1988/0164  
Type: H13  
Status: PG

Ref: I/1992/0139

Type: F  
Status: PCO

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

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

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

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

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

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

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

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

### **Summary of Consultee Responses**

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

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Farm Boundary Map

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

| Summary  |  |
|--|--|
| <b>Case Officer:</b> Karla McKinless   |  |
| <b>Application ID:</b> LA09/2022/0732/O<br><b>Recommendation:</b> Approve  | <b>Target Date:</b> 21 September 2022  |
| <b>Proposal:</b><br>Dwelling and garage  | <b>Location:</b><br>110M North East Of 26 Broagh Road<br>Knockcloghrim<br>Magherafelt<br>BT45 8QX  |
| <b>Applicant Name and Address:</b><br>Martin McErlean<br>28 Broagh Road<br>Knockloughrim<br>Magherafelt<br>BT45 8QX  | <b>Agent Name and Address:</b><br>Newline Architects<br>48 Main Street<br>Castledawson<br>BT45 8AB |
| <b>Summary of Issues:</b><br><br>This application was presented as a CTY 10 refusal to Members at February 2023 Planning Committee. It was agreed by Members to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 16 <sup>th</sup> February 2023. Following discussions about the farm case and submission of additional information the application is now being presented to Members for approval, with justification provided further in this report. |  |
| <b>Summary of Consultee Responses:</b><br><br>NIW, DAERA and DFI Roads have been consulted and offer no objection.   |  |
| <b>Description of Proposal</b><br><br>This application seeks outline planning permission for a farm dwelling and garage.   |  |

**Deferred Consideration:**

This is an application for a dwelling on a farm. It was recommended for refusal at February Planning Committee as it was determined that the farm business was not currently active. One of the policy criteria of CTY 10 of PPS 21 requires there to be an active and established farm business in order to qualify for a farm dwelling.

During the processing of the application DAERA were consulted with a P1C and responded advising that the applicant, Mr Martin McErlane was allocated a Farm Business ID in 2019 and that payments have only been claimed for 4 years: 2019, 2020, 2021, and 2022. At an office meeting on the 16th February the agent for the application explained that the farm business was originally linked to John McErlane, the applicants brother. Martin did help out his brother on the farm but did not make any claims himself. His brother passed and in 2019 Martin was allocated a new farm business ID for the same holding and has made claims up until 2022. Following the office meeting the applicant has provided a solicitors letter to verify this and I have no reason to doubt that this is factual so I am satisfied that the farm business can be considered established and active for the purpose of the policy. There have been no sell off's from the holding, nor has there been any other farm dwellings approved under the farm business ID's associated with this application. A dwelling, if conditioned to be sited in a southern pocket of the irregular shaped site, will cluster and visually link with a group of buildings of the farm.

Approval is recommended.

**Conditions/Reasons for Refusal:****Approval Conditions****Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the

access to be constructed in accordance with the RS1 Form which is available to view on public access

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

**Condition 4**

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

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

**Condition 5**

The proposed dwelling shall be sited in the area shaded green as indicated on drawing 01 bearing date stamp 8th June 2022

Reason: To ensure that the development is visually linked and sited to cluster with buildings on the farm and to ensure it is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21

**Signature(s):**Karla McKinless

**Date:** 2 May 2023



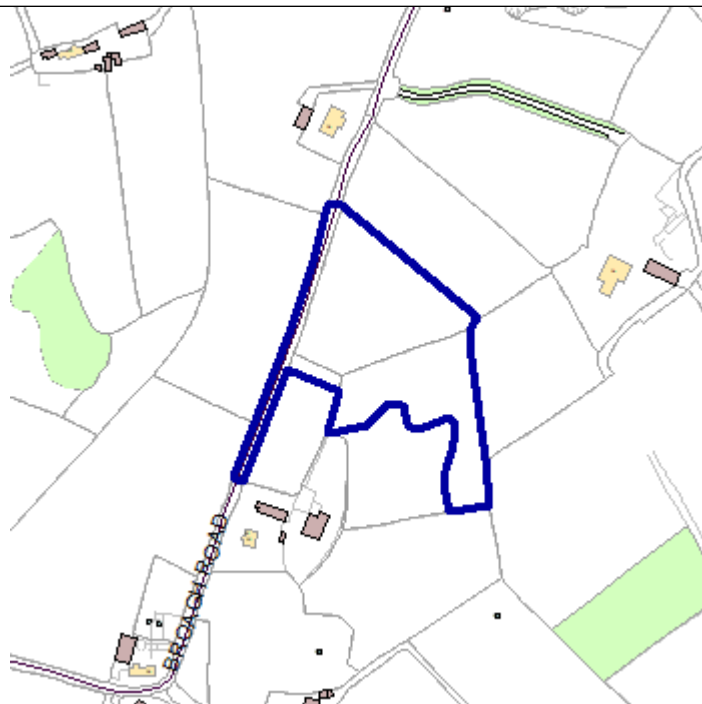


## Development Management Officer Report Committee Application

| Summary   |  |
|---|--|
| <b>Committee Meeting Date:</b><br>7 February 2023   | <b>Item Number:</b><br>5.18  |
| <b>Application ID:</b><br>LA09/2022/0732/O  | <b>Target Date:</b> 21 September 2022  |
| <b>Proposal:</b><br>Dwelling and garage   | <b>Location:</b><br>110M North East Of 26 Broagh Road<br>Knockcloghrim<br>Magherafelt<br>BT45 8QX  |
| <b>Referral Route:</b> Refuse is recommended  |  |
| <b>Recommendation:</b> Refuse   |  |
| <b>Applicant Name and Address:</b><br>Martin McErlean<br>28 Broagh Road<br>Knockloughrim<br>Magherafelt<br>BT45 8QX | <b>Agent Name and Address:</b><br>Newline Architects<br>48 Main Street<br>Castledawson<br>BT45 8AB |
| <b>Executive Summary:</b>   |  |

## Case Officer Report

### Site Location Plan



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### Consultations:

| Consultation Type       | Consultee                      | Response                                     |
|-------------------------|--------------------------------|--|
| Non Statutory Consultee | DAERA - Coleraine              | Consultee Response LA09-2022-0732-O.DOCX     |
| Statutory Consultee     | DFI Roads - Enniskillen Office | Outline resp.docx                            |
| Non Statutory Consultee | NI Water - Single Units West   | LA09-2022-0732-O.pdf                         |
| Non Statutory Consultee | DAERA - Coleraine              | Consultee Response LA09-2022-0732-O (2).DOCX |

### Representations:

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

### Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

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

The site is located 110M North East Of 26 Broagh Road Knockcloghrim, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large, irregular shaped agricultural field . The elevation of the site rises very gently from the roadside. The boundaries of the sight are mainly comprised of mature hedgerows with some mature trees along the south and south-west boundaries. The surrounding area is rural in character with scattered dwellings and farm holdings.

## **Description of Proposal**

This application seeks outline planning permission for a farm dwelling and garage.

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

### **Policy Consideration**

#### Planning History

There is no planning history relevant to the determination of this application.

#### Representations

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

#### Assessment

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

### Planning History

There is no planning history relevant to the determination of this application.

### Representations

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

### Assessment

The Strategic Planning Policy Statement for Northern Ireland (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. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) 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 dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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

PPS 21, Policy CTY1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons or
  - Verifiable plans to expand the farm business at the existing building group(s)

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

[illegible]

APPLI  
ACKN

south west of the site would not cause detrimental change or erode the rural character of the area. Therefore, this proposal is compliant with the criteria set out in policy CTY13 &14.

#### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

##### Reason 2

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active for 6 years or more.

**Signature(s):** Siobhan Farrell

**Date:** 20 January 2023

|   |                 |
|---|-----------------|
| <b>ANNEX</b>  |                 |
| <b>Date Valid</b>   | 8 June 2022     |
| <b>Date First Advertised</b>  | 28 June 2022    |
| <b>Date Last Advertised</b>   | 28 June 2022    |
| <b>Details of Neighbour Notification</b> (all addresses)<br>The Owner / Occupier<br>26 Broagh Road, Magherafelt Londonderry BT45 8QX<br>The Owner / Occupier<br>19 Broagh Road Magherafelt Londonderry BT45 8QX   |                 |
| <b>Date of Last Neighbour Notification</b>  | 28 June 2022    |
| <b>Date of EIA Determination</b>  |                 |
| <b>ES Requested</b>   | <events screen> |
| <b><u>Planning History</u></b><br><br>Ref: H/1995/0480<br>Type: O<br>Status: PCO<br><br>Ref: H/2003/0468/O<br>Type: O<br>Status: PG<br><br>Ref: H/2007/0518/F<br>Type: F<br>Status: PG<br><br>Ref: H/2004/1182/F<br>Type: F<br>Status: PG<br><br>Ref: H/2012/0210/F<br>Type: F<br>Status: PG<br><br>Ref: H/2005/0193/F<br>Type: F |                 |

Status: PG

Ref: LA09/2022/0732/O

Type: O

Status: PCO

Ref: H/1985/0078

Type: H13

Status: PG

Ref: H/2004/1362/O

Type: O

Status: PR

Ref: H/2005/0117/O

Type: O

Status: PG

Ref: H/2004/0214/F

Type: F

Status: PG

Ref: H/1996/0006

Type: O

Status: PCO

Ref: H/2000/0890/O

Type: O

Status: PG

Ref: H/2009/0154/F

Type: F

Status: PG

Ref: H/2009/0540/RM

Type: RM

Status: PG

Ref: H/1979/0303

Type: H13

Status: WITHDR

Ref: LA09/2016/1591/F

Type: F

Status: PG



Ref: LA09/2019/0301/F

Type: F

Status: PG

Ref: H/1993/0314

Type: O

Status: PCO

Ref: H/1995/0382

Type: RM

Status: PCO

Ref: H/1993/0174

Type: F

Status: PCO

Ref: H/1984/0049

Type: O

Status: PG

Ref: H/1984/0316

Type: F

Status: PG

Ref: H/2010/0299/F

Type: F

Status: APPRET

### **Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2022-0732-O.DOCX

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-0732-O.pdf

DAERA - Coleraine-Consultee Response LA09-2022-0732-O (2).DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

|                          |  |
|--------------------------|--|
| <b>Report on</b>         | Proposal for changes to Property Certificate charges |
| <b>Date of Meeting</b>   | 12 <sup>th</sup> June 2023                           |
| <b>Reporting Officer</b> | Dr Chris Boomer                                      |
| <b>Contact Officer</b>   | Jean Connolly  |

|   |     |   |
|---|-----|---|
| <b>Is this report restricted for confidential business?</b>         | Yes |   |
| If 'Yes', confirm below the exempt information category relied upon | No  | x |

|            |  |
|------------|--|
| <b>1.0</b> | <b>Purpose of Report</b>   |
| 1.1        | To seek approval for revisions to the charges for Regional Property Certificates (RPC) processed by the Planning Department.   |
| <b>2.0</b> | <b>Background</b>  |
| 2.1        | When Planning functions were devolved to local authorities in April 2015, the RPC process was administered by Fermanagh & Omagh Council, on behalf of all 11 councils.   |
| 2.2        | When Mid Ulster Council implemented their own new planning computer system, independent of the other councils and the Department in 2022, the RPC function passed to Council's Planning Department to provide this service for the Mid Ulster area.  |
| 2.3        | From June 2022 the Planning Department began issuing RPCs on the same basis as those issued by Fermanagh & Omagh, including the £70 fee (inclusive of VAT) charged for the service. However, Fermanagh & Omagh have now increased their charges for the Property certificate to £80.50. MUDC has to therefore to consider if we should do the same.  |
| 2.4        | The Council's Building Control (BC) Department are responsible for the issue of Local Property Certificates (LPC). Up until now, the fee for the LPC matched that of the RPC at £70 incl VAT for a standard certificate. However, BC also charge an additional £10 administration fee if the application is submitted manually i.e. not through their on-line system Tascomi system. The fee for the LPC is due to be increased to £90 in July 2023 and will therefore no longer be in line with the fee for a RPC. The additional £10 admin fee will remain after the increase. |

|            |  |
|------------|--|
| 2.5        | A recent audit of the Property Certificate function in MUDC recommended that the administration charged by Building Control for processing Property Certificates not received on-line should be extended to the Planning Department when the on-line facility becomes available.   |
| 2.6        | Work is ongoing to introduce an improved on-line system for the processing of the RPC and it is expected that this will be achieved by August 2023 although the final date has yet to be announced.  |
| <b>3.0</b> | <b>Main Report</b>   |
| 3.1        | A revised fee for the RPC administered by Fermanagh & Omagh Council for all council areas except Mid Ulster has already been increased to £80.50 (incl VAT), with £7 per additional property included in the search. The revised fee for a standard LPC is £90, with an additional £10 fee if the application is submitted other than on-line through the Council's Tascomi system.  |
| 3.2        | It is clear then that there is a requirement for MUDC to amend the fee for the RPC processed by the Planning Department and there are various options to be considered.<br><br><u>OPTION 1</u>   |
| 3.3        | The basic fee could be increased to £80.50 in line with the that implemented by Fermanagh & Omagh Council who are administering RPC's for all the other Councils'<br><br>This would keep MUDC in line with the charge for the RPC in all the other Council areas   |
| 3.4        | <u>OPTION 2</u><br><br>The fee could be increased to £80.50 in line with the that implemented by Fermanagh & Omagh Council who are administering RPC's for all the other Councils'. However, a £10 administration fee could be introduced for those applications not received on-line when this facility becomes available.<br><br>This would keep the parity with the other Council areas but would also meet the audit requirement that Council policy on claims not made on line have an additional administrative charge |
| 3.5        | <u>OPTION 3</u><br><br>The fee could be increased to £90 in line with what is charged by Building Control for processing the LPC, with the £10 additional fee for those applications not received on-line when this facility becomes available.<br><br>Whilst this would provide uniformity within MUDC, we could be criticized for charging more for the same service than that received for other council areas.   |

|            |   |
|------------|---|
| 3.6        | The aim would be to align the fee increase with the improvements to the computer system.  |
| <b>4.0</b> | <b>Other Considerations</b>   |
| <b>4.1</b> | <b>Financial, Human Resources &amp; Risk Implications</b>   |
|            | Financial:<br>This will affect the income generated for the Council   |
|            | Human:<br>N/A   |
|            | Risk Management:  |
| <b>4.2</b> | <b>Screening &amp; Impact Assessments</b>   |
|            | Equality & Good Relations Implications:<br><br>N/A  |
|            | Rural Needs Implications:<br>N/A  |
| <b>5.0</b> | <b>Recommendation(s)</b>  |
| 5.1        | It is recommended that Option 2 be considered the preferred option and that the increases be introduced alongside the improved system implementation. |
| <b>6.0</b> | <b>Documents Attached &amp; References</b>  |
| 6.1        | Appendix 1 - Notice of increase in RPC fees   |

# Regional Property Certificates Unit

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**Process  
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## **\*\* Proposed changes to fees for Regional Property Certificates**

There is a proposed change to the fee structure for Regional Property Certificates that will come in to effect from **Thursday 06 April 2023.**

By way of background, Fermanagh and Omagh District Council co-ordinate and manage this service on behalf of the sector and other statutory partners and the net fee is distributed by us to your Council representing their work on this.

The new increase reflects some elements of the additional costs in relation to this service. Other aspects of charges, including the charge for additional sites and maximum fee will remain unchanged.

The change to the fee structure is as follows:

| <b>Enquiry Submission</b>                | <b>Fee (excluding VAT)</b> | <b>Total Cost (including VAT)</b>               |
|--|----------------------------|---|
| Single Property                          | £67.08                     | £80.50  |
| Each additional property on the same map | £7.00                      | £67.08 + (£7 x number of additional properties) |
| Up to a maximum of 30 properties or      | £324.10                    |   |

## **Current Fees: Regional Property Certificates**

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| Enquiry submission                            | Fee (excluding VAT) | Total cost  |
|---|---------------------|---|
| Single property                               | £58.33 + VAT        | £70   |
| Each additional property on the same map      | £7 + VAT            | £58.33 + (£7 x number of additional properties) + VAT |
| * Up to a maximum of 30 properties or £313.60 |                     |   |

You can go to the Mid Ulster District Council's website to find out details about the costs of Mid Ulster District Council's certificates.

## How to apply for a Regional Property Certificate

Regional Property Certificates are usually sought by solicitors on behalf of their clients who are buying or selling property. Application details are listed below.

| Method of contacts | Information  |
|--------------------|--|
| Address            | Regional Property Certificate Unit, 2 Townhall Street, Enniskillen, BT74 7BA |
| Telephone          | 028 66 321 828   |



| Method of contacts   | Information   |
|--|---|
| Email  | propcerts@fermanaghomagh.com  |
| Website  | <a href="https://planningregister.planningsystemni.gov.uk">https://planningregister.planningsystemni.gov.uk</a> |
| * You will need to click the new Portal website link to create an account. |   |



|                          |   |
|--------------------------|---|
| <b>Report on</b>         | DFIs Consultation on Revised Regional Strategic Planning Policy (Renewable and Low Carbon Energy) |
| <b>Date of Meeting</b>   | 12 <sup>th</sup> June 2023  |
| <b>Reporting Officer</b> | Melvin Bowman   |
| <b>Contact Officer</b>   | Dr Chris Boomer.  |

|   |     |   |
|---|-----|---|
| <b>Is this report restricted for confidential business?</b>         | Yes |   |
| If 'Yes', confirm below the exempt information category relied upon | No  | x |

|            |  |
|------------|--|
| <b>1.0</b> | <b>Purpose of Report</b>   |
| 1.1        | The purpose of this report is to invite members views on how the Council should respond to a current public consultation exercise on a draft Regional Strategic Policy on Renewable and Low Carbon Energy. The consultation period ends at 5pm on the 30 <sup>th</sup> June 2023.  |
| <b>2.0</b> | <b>Background</b>  |
| 2.1        | DFI have stated that the Aim of this policy review is to ensure that policy on renewable and low carbon energy development remains fit for purpose. It is also intended to inform the Local Development Plan (LDP) process.  |
| 2.2        | This is being carried out within the framework of regional strategic planning policy and the wider contemporary context for energy and climate change. This includes NIs Energy Strategy, published on 16 Dec 2021, and the Climate Change (NI) Act 2022. The energy strategy established a renewable electricity consumption target of 70% by 2030 that was then increased to 80% by 2030 by the Climate Change Act 2022. |
| 2.3        | Dfi recognise that the planning system has already made a positive contribution to meeting and exceeding previous renewable energy strategy targets with 51% of electricity consumed being generated from indigenous renewable sources to date.  |
| <b>3.0</b> | <b>Main Report</b>   |

|     |   |
|-----|---|
| 3.1 | <p>The following is an analysis of the key paragraphs within the draft consultation paper to which the Council would offer a response:</p> <p>MUDC is in general support of the 80% renewable electricity consumption target and ideally a self sufficient position being established after 2030 given that more energy will be needed for electric vehicles, heating and industrial uses.</p> <p>Given that demand is going to exceed any existing targets, accordingly the Council supports a permissive approach to renewable and low carbon energy development. Indeed this is supported by a presumption in favour of such development in our Draft Plan Strategy 2030 for most of the district.</p> <p>However, as written the Revised Regional Planning Policy document (Renewable and Low Carbon Energy) is at times contradictory and provides opportunities for Local Development Plans to be legally challenged and any decisions made to also be legally challenged.</p> <p><b>Council Responses to individual Paragraphs of the paper.</b></p>   |
| 3.2 | <p>Paragraph 1.6 – the Council disagree that it <b>must</b> maximise sustainable renewables and low carbon energy for the simple reason that there are areas the SPPS recognize that a cautious approach be taken to renewable energy proposals. In MUDC area the highest wind speeds are on the top of the Sperrin's and quite simply at this moment in time it would be inappropriate to cover these with turbines. Accordingly references to 'must' within the draft policy should be removed.</p> <p>Par. 1.9 / 1.10 – Our DPS already identifies a presumption in favour. This paragraph is confusing as one must ask if it proposed here that such a presumption in favour would not existing outside identified 'appropriate areas'? Whilst the Council does not object to any Authority identifying the 'most appropriate areas', we equally feel that this is unduly onerous on LDPs especially if the plan provides a general presumption in favour of renewables and sets out criteria against which these types of development proposals will be assessed.</p> <p>Par.1.11 – MUDC recognizes in AONBs and other valuable landscapes that a more cautious approach is needed for renewable and low carbon energy development proposals. Whilst all areas in AONBs should not be excluded, we feel it is helpful to identify certain landscapes where tall structures are unacceptable, doing so provides developers / local authorities with more certainty and reduces wasted resources.</p> <p>Par. 1.12 / 1.13 – MUDC supports the criteria as set out in these paragraphs.</p> |

Par.1.14 – at the outset MUDC does not take the view that in assessing an application for renewable or low carbon energy that ALL targets need to be taken into account as a permissive policy is the means by which these should be achieved. It is also next to impossible to pin down a developer to what contribution their proposal will make by way of the amount of energy generated.

Par.1.16 – MUDC supports a 500m min or 10 times rotor diameter to occupied property but it is important to stress that we have already examined this for some areas within our District. For areas outside the 500m this will provide very little scope to develop wind farms and suggests there are very little appropriate locations. Thus, if wind farms are to be supported it is clear that properties will potentially need to be acquired by the developer. This also suggests that a wider Regional analysis is required across NI to look at the possible acquiring of property.

Par.1.17 – MUDC, whilst supporting Solar farms on previously developed or low value land, believe this should not rule out the ability to provide for solar farms on better quality or good agricultural lands.

Par.1.18 – MUDC feels that the need to site ‘close’ to the source of waste is too restrictive. AD plants can after all also be a source of heat and a means by which waste can be sustainably dealt with. The burden of considering the location of the waste should not be placed on the decision maker given that overall site suitability is more important. A test in relation to locating next to farm buildings needs to recognise that if these are occupied that there is the potential for nuisance to result. Provision should be made to allow AD plants to utilize existing landforms if there is no ability to site with a group of buildings.

Par.1.19 – we support the aspect and the re-powering and life extension of turbines. We do not support the notion that any identified areas are ‘in perpetuity’ and also ask if that this would also apply to other consented areas outside any identified appropriate areas. In addition as technology is ever changing, and given that better long term solutions may be found, as well as the fact that wind turbines over time de-grade, we would not support any ‘in perpetuity’ approach to approvals, if indeed this is also the intention of this aspect of the proposal policy.

Par1.21 – On micro-generation energy, there is no need to require LDPs to encourage these as we have already provided a presumption in favour in our LDP (DPS).

|     |   |
|-----|---|
| 3.3 | <p>Par.1.22 / 1.23- MUDC have no objection to the approach here in relation to visual impact and noise.</p> <p>Par.1.24 – MUDC objects to references that it must ‘support’ emerging technologies as our approach to renewables is as previously stated permissive. There are also risks with new technologies, for example fracking / Bio-mass, where there is the potential for hazards to occur. Accordingly full and proper assessments of these types of development is needed and we would request that instead, a ‘careful’ consideration be proposed in any revised policy.</p> <p>Par.1.30 - MUDC agrees that community benefits offered should not be a material consideration. However, we suggest that ‘Planning Agreements’ may have a role in off-setting any ‘disbenefits’.</p> <p><b>Conclusion.</b></p> <p>Any revised Policy we feel should simply replace the relevant parts of the SPPS, thus helping to avoid the creation of a future policy lacuna with Local Development Plans now proceeding at differing stages and currently existing policy.</p> <p>The consultation concludes with a request for the Council to provide an answer to the following questions:</p> <p><u>Consultation Questions</u></p> <p>Q1: Do you agree, that overall, the revised policy will help to ensure that the planning system can play its part in supporting wider efforts of government in addressing climate change and decarbonising the energy sector? If not, please explain how the draft policy can be improved.</p> <p>Q2: Do you agree that the new provisions for a spatial approach through LDPs will assist in providing certainty and clarity to planning authorities, communities and developers alike by providing a presumption in favour of development in areas identified in LDPs? If not, please explain how the draft policy can be improved.</p> <p>Q3: Do you agree with the draft revised policy approach to provide a presumption in favour of re-powering, extending and expanding solar and wind farm developments, where appropriate? If not, please explain how the draft policy can be improved.</p> <p>Q4: Do you consider that the draft revised policy provides an appropriate regional strategic planning policy framework for plan-making and decision-taking for all forms of renewable and low carbon energy development? If not, please explain how the draft policy can be improved.</p> |
|-----|---|

|            |  |
|------------|--|
| 3.4        | <p>Where possible, your comments should include supporting evidence. Please note that all comments should relate to planning policy matters only.</p> <p>The Council has decided not to directly answer these Questions. We see these as being questions which do not address the key issues of detail. Instead we respectfully request that the content of this report is considered as the formal response to DFI on the Consultation.</p> |
| <b>4.0</b> | <b>Other Considerations</b>  |
| 4.1        | <p><b>Financial, Human Resources &amp; Risk Implications</b></p> <p>Financial: N/A</p> <p>Human:N.A</p> <p>Risk Management: N/A</p>  |
| 4.2        | <p><b>Screening &amp; Impact Assessments</b></p> <p>Equality &amp; Good Relations Implications: N/A</p> <p>Rural Needs Implications: N/A</p>   |
| <b>5.0</b> | <b>Recommendation(s)</b>   |
| 5.1        | That members accept that this report is forward to the Department as its formal response to the consultation exercise.   |
| <b>6.0</b> | <b>Documents Attached &amp; References</b>   |
| 6.1        | Appendix A – copy of Draft consultation Paper.   |

# Revised Regional Strategic Planning Policy

## Renewable and Low Carbon Energy

**Public Consultation Draft**



Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

**April 2023**



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## Public Consultation: Give us your views

You are invited to give your views on this (draft) revised regional strategic planning policy on renewable and low carbon energy by using the weblink below:

[www.infrastructure-ni.gov.uk/consultations/draft-renewable-and-low-carbon-energy](http://www.infrastructure-ni.gov.uk/consultations/draft-renewable-and-low-carbon-energy)

All responses to this public consultation exercise should be made electronically.

The draft policy consultation is accompanied by an Environmental Report, Non-Technical Summary and Section 75 Equality of Opportunity Screening Analysis Form. These are available to view or download from the abovementioned web link. You may wish to reference these supplementary documents when responding to the Department with your views on the draft revised policy.

The consultation period will end at 5pm on 30th June 2023. The Department will not accept any comments received after this deadline.

The information gathered will be considered by the Department and will help inform the revised regional strategic planning policy on renewable and low carbon energy in its final form.

No material weight should be applied to this public consultation draft revised policy document. However, when issued in its final form, the revised policy will supersede the existing provisions of the SPPS's Renewable Energy subject policy, published in September 2015 (pages 90 – 93 refer) and will take precedence over the provisions of extant Planning Policy Statement 18: 'Renewable Energy' (PPS 18) which continues to be retained under transitional arrangements of the SPPS, whilst councils bring forward their Plan Strategies.

Any relevant supplementary and best practice guidance, such as Best Practice Guidance to PPS 18, will continue to apply unless and until it is replaced by the Department.

## **Freedom of Information Act 2000 - Confidentiality of Responses**

The Department may publish a summary of responses following the closing date for receipt of comments. Your response, and all other responses to this publication, may be disclosed on request and/or made available on the DfI website (redacted). The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses as this will give you guidance on the legal position about any information given by you in response to this publication.

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- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

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## Contents

|                                       |    |
|---------------------------------------|----|
| Introduction .....                    | 1  |
| Renewable and Low Carbon Energy ..... | 4  |
| Regional Strategic Objectives .....   | 5  |
| Regional Strategic Policy.....        | 6  |
| Consultation Questions .....          | 13 |

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## Introduction

The aim of this review is to ensure that strategic planning policy on renewable and low carbon energy development remains fit for purpose and up to date to inform decision-making in relation to development proposals for this subject area. It is also intended to inform the Local Development Plan (LDP) process and enable plan-makers to bring forward appropriate local policy approaches, all within the framework of regional strategic planning policy and the wider contemporary context for energy and climate change. This includes Northern Ireland's Energy Strategy, published on 16 December 2021 (which references this review) and the Climate Change Act (Northern Ireland) 2022 which received royal assent on 6 June 2022. The Energy Strategy established a renewable electricity consumption target of 70% by 2030 that was then increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022.

Work is ongoing across government to develop Northern Ireland's first Climate Action Plan and there are a range of strategies under preparation that will support it, which may have implications for the planning system. These include the draft Green Growth Strategy for Northern Ireland, the draft Environment Strategy for Northern Ireland, the draft Northern Ireland Peatland Strategy 2021-2040, and the draft Nature Recovery Strategy for Northern Ireland.

## Renewable energy targets

The planning system has already made a positive contribution to meeting and exceeding previous renewable energy strategy targets with 51% of electricity consumed being generated from indigenous renewable sources to date.<sup>1</sup>

Since the reform of the planning system and the transfer of planning powers to local government on 1 April 2015, to the end of September 2022, 837 renewable energy planning applications were approved, including:

- 32 wind farms

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<sup>1</sup> <https://www.economy-ni.gov.uk/sites/default/files/publications/economy/Issue-26-Electricity-Consumption-and-Renewable-Generation-in-Northern-Ireland-January-2022-to-December-2022.pdf>

- 583 single wind turbines
- 32 hydroelectric plants
- 93 applications for solar panels
- 76 biomass/anaerobic digesters
- 21 other (includes, Landfill Gases, Waste Incineration and Heat Pumps)

The planning system also provides for some small-scale renewables to be developed without the requirement to submit a planning application – specific types and scale of development set out in legislation<sup>2</sup> benefit from permitted development rights. The Department has recently concluded a consultation on amendments to permitted development rights for the installation of domestic microgeneration equipment which involves proposed changes to the nature and scale of permitted development rights for the installation, alteration, or replacement of heat pumps (air source and ground or water) to align with modern standards and requirements.

Going forward, the planning system will continue to play its part to support the achievement of the new, more ambitious, target in the Climate Change Act (Northern Ireland) 2022, which requires that *“The Department for the Economy must ensure that at least 80% of electricity consumption is from renewable sources by 2030”*. In doing so it is important that there continues to be a balance between facilitating renewable and low carbon energy development and other important interests of acknowledged importance, such as the assessment of potential environmental and amenity impacts of development and the protection of important habitats and landscapes.

As well as recognising that regional strategic planning policy must remain up-to-date and fit-for-purpose, the Department is also aware of the need to improve the process for plan-making and the determination of planning applications, including for renewable and low carbon energy development. Therefore, separately, but related, the Department is taking forward a Planning Improvement Programme, aimed at creating an efficient, effective, and equitable planning system trusted to deliver high quality, sustainable, inclusive and healthy places.

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<sup>2</sup> The Planning (General Permitted Development) Order (Northern Ireland) 2015 refers.

Whilst this policy review will result in revisions to the Strategic Planning Policy Statement (SPPS), changes to extant planning legislation (including permitted development rights) or regional planning guidance on renewable and low carbon energy are outside the scope of this exercise. It is also important to note that this review of regional strategic planning policy will not involve any amendment to existing statutory environmental requirements with which renewable and low carbon energy developments must comply.

The Department would welcome comments on the following section (paragraphs 1.1 – 1.30) which is proposed to replace the current subject policy on renewable energy in the SPPS (pages 90-93).



## Renewable and Low Carbon Energy

- 1.1. Northern Ireland has significant renewable energy resources and a vibrant renewable and low carbon energy industry that continues to make an important contribution towards furthering sustainable development and as a significant provider of jobs and investment across the region.
- 1.2. Northern Ireland's Energy Strategy 'Path to Net Zero Energy' recognises that Northern Ireland must take advantage of our natural resources to generate clean energy. It sets out a target to "*Meet at least 70% of electricity consumption from a diverse mix of renewable sources by 2030*". It recognises that to achieve this objective "*A renewable electricity consumption target of at least 70% likely means that we will need to double our renewable generating capacity in order to meet new demands from heating our homes and powering our vehicles*". Energy accounts for almost 60% of Northern Ireland's greenhouse gas (GHG) emissions. The Energy Strategy sets out a pathway for energy to 2030 that will mobilise the skills, technologies and behaviours needed to take us towards our vision of net zero carbon and affordable energy by 2050.
- 1.3. Whilst the Energy Strategy established a renewable electricity consumption target of 70% by 2030 this was then increased to 80% by 2030 by the Climate Change (Northern Ireland) Act 2022. The Act places a duty on departments to ensure that the net emissions account for the year 2050 is at least 100% lower than the baseline and to ensure that the net emissions account for carbon dioxide for the year 2050 is at least 100% lower than the baseline for carbon dioxide.
- 1.4. As supported by the Energy Strategy and the Regional Development Strategy 2035 (RDS) renewable and low carbon energy development here reduces our dependence on imported fossil fuels and brings diversity and security of supply to our energy infrastructure.
- 1.5. Whilst the technology in this policy area continues to emerge and advance, the main sources of renewable and low carbon energy are wind, sun (solar photovoltaic / thermal energy), moving water (hydropower), heat extracted from

the air, ground, and water (including geothermal energy), biomass (wood, biodegradable waste, and energy crops such as for use in an Anaerobic Digester). In addition to developments which generate renewable energy from these sources there are also current and emerging technologies that can help maximise the transition to net zero carbon emissions, such as battery energy storage systems (BESS).

- 1.6. The aim of the SPPS is to maximise sustainable renewable and low carbon energy from a wide range of technologies, at various scales, in appropriate locations within the built and natural environment, without compromising other environmental assets of acknowledged importance. Full account should be taken of the target to generate 80% of electricity consumption from renewable sources by 2030, as well as prevailing environmental legislation and relevant strategies which will support Northern Ireland's Climate Action Plan.

## **Regional Strategic Objectives**

- 1.7. The regional strategic objectives for renewable and low carbon energy are to:
  - ensure that sustainable renewable and low carbon energy development is facilitated at appropriate locations to maximise renewable energy that contributes to the transition to a low carbon economy;
  - secure an appropriate mix of energy provision as indicated in the Energy Strategy and supporting documents, which maximises benefits to our economy and communities;
  - ensure that the environmental, landscape, visual, safety and amenity impacts associated with or arising from renewable and low carbon energy development are adequately addressed;
  - ensure adequate protection of the region's built, natural and cultural heritage features;
  - facilitate the integration of renewable and low carbon energy technology into the design, siting and layout of new development and promote greater application of the principles of Passive Solar Design; and

- enable energy from offshore renewable and low carbon energy development proposals to be appropriately connected to onshore networks.

## **Regional Strategic Policy**

- 1.8. In the context of the aim and objectives above, planning authorities must positively facilitate Northern Ireland's full potential for renewable and low carbon energy development (electricity and heat). Councils must set out policies and proposals in their LDPs to maximise the plan area's contribution to achieving the renewable energy targets. The preparation of local policy criteria to support a diverse range of technologies at different scales will further assist in the appropriate deployment of such development. This should include the factors to be taken into account in decision-making such as locational criteria, technology specific criteria, the integration of micro-generation and passive solar design, and opportunities for heat networks, where appropriate.
- 1.9. Having undertaken an assessment of their area's full potential, councils must bring forward spatial policies in their LDP which identify the most appropriate areas for renewable energy development, including wind farms. A presumption in favour of such development will apply in identified areas. Local policies should contain the detailed locational criteria to be considered at the planning application stage.
- 1.10. Whilst councils will have identified areas most appropriate for renewable and low carbon energy development this does not mean that remaining areas cannot facilitate any such development. Outside of identified areas (and until areas are identified) some landscapes may be able to accommodate renewable and low carbon energy development more easily than others.
- 1.11. It is recognised that there are landscapes across Northern Ireland where their intrinsic value should be protected against inappropriate renewable and low carbon energy development. A cautious approach for renewable and low carbon energy development proposals will apply within designated landscapes which are of significant value, such as Areas of Outstanding Natural Beauty, World

Heritage Sites and their wider settings, including the Giant's Causeway and Causeway Coast World Heritage Site. Visually dominant development proposals should be avoided in such sensitive landscapes as it may be difficult to accommodate developments and their associated infrastructure, without detriment to the region's cultural and natural heritage assets.

1.12. All renewable and low carbon energy development and associated buildings and supporting infrastructure<sup>3</sup> will be permitted where the proposal will not result in an unacceptable adverse impact (alone or in combination with other developments) on the following planning considerations, which cannot otherwise be mitigated:

- public safety, human health, or residential amenity (communities and individuals);
- visual amenity and landscape character, including cumulative impact;
- biodiversity, nature conservation, archaeological or built heritage interests;
- local natural resources, such as air quality, water quality or quantity;
- the capacity of and effects on the transportation network; and,
- impacts on tourism, recreation, and public access to the countryside.

1.13. For all proposals, the factors to be considered on a case-by-case basis will depend on the type and scale of the development and its local context. Proposals will also be assessed in accordance with normal planning criteria, including such considerations as: access arrangements; road safety; design; integration; odour; noise; shadow flicker; glint and glare; separation distance; cumulative impact; communications interference; and the inter-relationship between these considerations. All proposals should take account of the local environment and, as appropriate, design any access, fences, gates and planting accordingly. Ancillary infrastructure and associated works such as service roads,

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<sup>3</sup> Planning applications should include matters such as the power generation / capacity associated with the proposal, e.g. megawatts (MW/MWh).

earthing cabling, ground remodelling etc. also require careful consideration in the determination of any renewable and low carbon energy development proposals<sup>4</sup>.

- 1.14. In plan-making and decision-taking, planning authorities must take full account of the above-mentioned aim and targets, the regional strategic objectives and policy provisions, local circumstances, and the wider environmental, economic, and social benefits of renewable and low carbon energy development to local communities and to everyone in Northern Ireland.
- 1.15. Climate change is also having an adverse impact on nature and biodiversity. Within their project, developers should protect and, where feasible, seek to enhance biodiversity which could contribute to strengthening existing nature networks and restoring degraded habitats.
- 1.16. For wind farm development<sup>5</sup> a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply. This will also apply to any wind turbine development with a rotor diameter of 50m or greater.
- 1.17. Planning authorities should encourage and support the use of previously developed land (of low ecological value) for solar farms in countryside locations. Solar farms which are well planned and well screened can have an acceptable visual impact if located sensitively in the local landscape. Poorly designed schemes which will have a negative impact on the landscape should not be supported. Favourable consideration should be given to large scale rooftop solar power where there are no unacceptable impacts, including glint and glare.
- 1.18. Well designed and appropriately located anaerobic digestion (AD) plants can make a positive contribution to optimising the potential for renewable and low carbon energy and should be located as close to the waste source as possible. Farm AD plants should be designed and sited to integrate and cluster with the

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<sup>4</sup> This is to ensure that all aspects of the proposed development are properly considered through the planning application process including appropriate identification and consideration of any likely significant effects assessed for the 'whole project' for the purposes of Environmental Impact Assessment (EIA).

<sup>5</sup> Defined as development comprising more than 2 turbines.

existing group of farm buildings and be of a size and scale appropriate to the location in which it is proposed. Proposals must be carefully considered to ensure that any potential adverse impacts related to the size and scale of the development are compatible to the location in which it is proposed. As well as existing statutory environmental requirements and the normal planning considerations, impacts on the transportation network will be important.

- 1.19. Whilst advancements and changes in technology may mean schemes are not like for like, life extension and re-powering of existing development has the potential to continue to maintain or enhance installed renewable energy generation, where appropriate. Therefore, a presumption in favour of proposals to re-power, expand and extend the life of existing solar and wind farms applies unless the impacts identified (including cumulative impacts) are unacceptable and cannot be mitigated. Approvals for renewable and low carbon energy development proposals may be time-limited. However, areas identified as appropriate for wind farms are expected to be suitable for use in perpetuity.
- 1.20. Co-location of renewable and low carbon technologies and supporting infrastructure has potential benefits and should be facilitated, where appropriate.
- 1.21. In plan-making and decision-taking planning authorities should encourage the use of micro-generation energy and the retrofitting of renewable and low carbon energy technologies.
- 1.22. The ability of the landscape to accommodate development depends on careful siting, the skill of the designer and the inherent characteristics of the landscape such as landform, ridges, hills, valleys and vegetation. The siting and cumulative landscape and visual impact of all renewable and low carbon energy developments (including approved development) is of great importance and must be carefully considered. The cumulative impact will increase, for example, as the number of wind turbines and/or solar farms in an area increases and local amenity deserves particular attention. Landscape and visual impact assessments will assist in the consideration of cumulative impact. Considerations will include the impact on the character and quality of the landscape, its sensitivity, and the level to which the proposed development will

become a significant or dominant characteristic of the landscape. For large scale developments, developers should seek to avoid valued designated landscapes and areas close to key vantage points from roads, viewpoints, and settlements. The relevant aspects of the supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' and other relevant practice notes should be taken into account in assessing all wind turbine proposals.

- 1.23. ETSU-R-97 remains the UK standard methodology for the assessment of noise from wind energy development and it, along with 'A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise' prepared by the Institute of Acoustics, should be taken into account by decision-takers, including any future update to this standard. Potential noise impacts, including amplitude modulation, from wind turbines on surrounding properties must be carefully considered. Applicants should seek to minimise and mitigate against any potential impacts from wind energy proposals which are likely to result in shadow flicker on nearby properties.
- 1.24. Planning authorities must support emerging technologies which will assist with maximising renewable energy potential such as green hydrogen production facilities, and battery energy storage systems that help with maximising efforts to decarbonise energy use by gaining full benefit from renewable sources. Planning applications for BESS development must be accompanied by details of the type, number, capacity and chemical composition of batteries to enable full assessment by planning authorities in line with their statutory responsibilities. Although such technologies may be included in planning applications, in addition to a renewable energy proposal, the development must be properly described as it will involve factors to be considered in its own right.
- 1.25. In assessing any potential safety aspects of the proposed development, including for energy storage proposals, it is important for decision-takers to consult with all relevant and appropriate statutory and advisory bodies such as: the Northern Ireland Fire and Rescue Service; the Health and Safety Executive for Northern Ireland and the Northern Ireland Environment Agency (NIEA), or appropriate authorities.

- 1.26. For all development, applicants, operators, planning authorities and statutory consultees will be bound by environmental legislation requirements such as The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 as amended and The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. Proposals for renewable and low carbon energy must, therefore, be rigorously assessed for their environmental impacts (covering installation, operation and decommissioning stages, as appropriate) and comply with relevant environmental legislation and policy. Active peatland, for example, is of particular importance to Northern Ireland for its biodiversity, water and carbon storage qualities. Degraded peatlands can also have natural heritage and carbon storage value and their protection and restoration potential can, therefore, be a material consideration in the determination of planning applications on a case by case basis<sup>6</sup>.
- 1.27. Some proposals for renewable and low carbon energy development may require a connection to the National Grid. The grant of planning permission does not guarantee grid connection. Connection to the grid falls within the remit of Northern Ireland Electricity (NIE) and therefore liaison with NIE at an early stage of development is paramount in relation to the viability of such a scheme. Where possible and appropriate, new power lines should be laid underground to reduce the visual impact, however it is accepted that consideration must take account of costs which may otherwise render a project unviable.
- 1.28. Applicants will be required to provide details on future decommissioning, including proposals for site restoration. Planning authorities must consider and make use of appropriate conditions (or a legal agreement, where appropriate) to ensure the decommissioning of developments and site restoration when they reach the end of their design life, taking into account any proposed after use of the site.

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<sup>6</sup> The Department for Agriculture, Environment, and Rural Affairs (DAERA) has developed a draft Northern Ireland Peatland Strategy **2021-2040** which will provide a framework for conserving intact semi-natural peatlands and restoring degraded semi-natural peatlands.



- 1.29. Development proposals in the marine environment are managed under a separate consenting regime within the framework of the UK Marine Policy Statement, as amended<sup>7</sup>. It is important for both terrestrial and marine planning authorities to work together, particularly regarding the assessment of offshore renewable energy proposals where it is necessary to provide a terrestrial connection point and associated supporting infrastructure on land. Great care should be taken to consider the appropriate location for such onshore development. Developers should seek to avoid designated landscapes and utilise industrial or previously developed land, where feasible.
- 1.30. For all renewable and low carbon development, developers should, as early as possible, proactively engage with the local community in the vicinity of their proposal with information on the development and technology being proposed. In preparing the planning application, and taking account of any views received, the developer should consider how to avoid or minimise any adverse impacts through the choice of location, siting, scale and design being proposed. Any voluntary community benefits offered by the developer will not be material considerations in decision-taking.

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<sup>7</sup> Added a guidance note on how references to EU law in the UK Marine Policy Statement should be interpreted from 1 January 2021 following the UK's withdrawal from the EU.

## **Consultation Questions**

- Q1:** Do you agree, that overall, the revised policy will help to ensure that the planning system can play its part in supporting wider efforts of government in addressing climate change and decarbonising the energy sector? If not, please explain how the draft policy can be improved.
- Q2:** Do you agree that the new provisions for a spatial approach through LDPs will assist in providing certainty and clarity to planning authorities, communities and developers alike by providing a presumption in favour of development in areas identified in LDPs? If not, please explain how the draft policy can be improved.
- Q3:** Do you agree with the draft revised policy approach to provide a presumption in favour of re-powering, extending and expanding solar and wind farm developments, where appropriate? If not, please explain how the draft policy can be improved.
- Q4:** Do you consider that the draft revised policy provides an appropriate regional strategic planning policy framework for plan-making and decision-taking for all forms of renewable and low carbon energy development? If not, please explain how the draft policy can be improved.

**Where possible, your comments should include supporting evidence. Please note that all comments should relate to planning policy matters only.**

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 4 April 2023 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present**

Councillor Mallaghan, Chair

Councillors Bell, Black, Brown, Clarke\* (7.13 pm), Colvin, Corry, Cuthbertson, Glasgow, Martin\*, McFlynn, McKinney, D McPeake, S McPeake, Quinn\*, Robinson

**Officers in Attendance**

Dr Boomer, Service Director of Planning (SD: PI)  
Mr Bowman, Head of Strategic Planning (HSP)  
Ms Doyle, Head of Local Planning (HLP)  
Ms Donnelly, Council Solicitor  
Mr Marrion, Senior Planning Officer (SPO)  
Mr McClean, Senior Planning Officer (SPO)  
Ms McCullagh, Senior Planning Officer (SPO)\*\*  
Ms McKinless, Senior Planning Officer (SPO)  
Miss Thompson, Committee and Member Services Officer

**Others in Attendance**

Councillor Molloy\*\*\*

LA09/2021/0719/F  
LA09/2022/1561/O

Councillor B McGuigan  
Mr Cassidy\*\*\*

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 7.00 pm

**P035/23 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

**P036/23 Apologies**

None.

**P037/23 Declarations of Interest**

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

Councillor S McPeake declared an interest in agenda item 6.13 – LA09/2022/0097/O.

The Chair, Councillor Mallaghan declared an interest in agenda item 5.5 – LA09/2022/0314/F.

### **P038/23      Chair's Business**

The Service Director of Planning (SD: PI) referred to planning application LA09/2017/1349/F for animal isolation and farm machinery store located SW of 37 Rocktown Lane, Knockloughrim which was agreed to be approved at the September planning meeting. The SD: PI stated that the approval was subject to a condition which would require visibility splays to be provided however he advised that the approval was not issued because upon further examination it was concluded that there was an existing lane, the sheds did not represent intensification of the use of the lane and therefore the condition did not need to be applied. The SD: PI stated that Roads Service have been advised and are in agreement with the planning department and he asked for committee approval to grant planning permission without the condition.

Proposed by Councillor McKinney  
Seconded by Councillor Bell and

**Resolved**      That planning application LA09/2017/1349/F be approved without condition in relation to visibility splays.

The SD: PI referred to addendum and PAC decision in relation to unauthorised power plant at Granville. The SD: PI stated that an Enforcement Notice had been served because the appellant was unwilling to make an application and to ensure that the development did not become immune, particularly as there was a great deal of local objection. At the appeal it was argued it was permitted development under industrial permitted development rights, however the planning department argued that these did not apply as the use dealt with waste to generate heat. The Commissioner agreed with the Planning Department. As part of the appeal the appellant also appealed on the grounds planning permission should be granted, following investigation the Council concluded it did not wish to give reasons for refusal as a result the Planning Appeals Commission granted approval. The SD: PI advised that this was a satisfactory outcome as it had protected the Council from complaint, had brought the development under planning control, whilst also allowing anyone who opposed the development to have their say.

The SD: PI referred to 12% increase in planning fees last week, he stated that there had only been one 1% increase in fees over the last seven years and that the increase is needed for the sustainability of the planning department and also to help balance out a possible reduction in plans being submitted and loss of revenue in the coming year due to interest rate rises etc.

The SD: PI stated that this was the last planning committee meeting of the electoral term and it was worth reflecting on it, he advised that Covid had obviously took its toll during the term in respect of meeting targets and also referred to the difficulties in progressing the Area Plan. The SD: PI highlighted the introduction of the new computer system and that this will help to give control as to how to manage and develop the service going forward and that there is opportunity to survey customers on how the service can be further tailored. The SD: PI also referred to restructuring

process within the department which he felt will help to see the planning service through the next term. The SD: PI felt that the closing term has been successful considering some of the issues which have had to be dealt with.

Councillor S McPeake referred to report being brought to P&R Committee this week in relation to Scheme of Delegation for planning and asked if this related to the same issues discussed and agreed on some months back.

The SD: PI advised that this did relate to the same thing. The SD: PI stated that the Scheme of Delegation was agreed on following workshops etc close to a year ago and that this was then sent to the Department for their agreement and was now returning to the P&R Committee for approval.

The Chair, Councillor Mallaghan referred to the area plan for Fermanagh and Omagh which is now through and asked what the timeframe was for the Mid Ulster plan.

The SD: PI stated that he has found the approach of the Department in relation to the area plan to be to be exceptionally unhelpful and unreasonable thus far. The SD: PI advised that officers are working on the comments sent back by the Department in relation to the Mid Ulster area plan and that there will be opportunity to discuss and plan a way forward at the recommencement of meetings in June.

## **Matters for Decision**

### **P039/23 Planning Applications for Determination**

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

**LA09/2018/0703/F                      6 semi-detached houses at sites 20, 22, 24, 26, 28 and 30 Killyliss Manor, Eglish, Dungannon for PKJ Construction Ltd**

Members considered previously circulated report on planning application LA09/2018/0703/F which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2018/0703/F be approved subject to conditions as per the officer's report.

**LA09/2019/1065/F                      12 semi-detached two storey houses and associated site works at sites 21, 23, 25, 27, 29, 31, 32, 33, 34, 35, 36 & 38 Killyliss Manor, Eglish, Dungannon for MSJ Contracts Ltd**

Members considered previously circulated report on planning application LA09/2019/1065/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/1065/F be approved subject to conditions as per the officer's report.

**LA09/2020/0966/F**                      **Housing development of 26 two storey dwellings, site road and associated site works at lands 20m W of 180 Battery Road, Moortown, for Loughview Developments**

Members considered previously circulated report on planning application LA09/2020/0966/F which had a recommendation for approval.

The Head of Local Planning (HLP) advised that amended plans had been received in relation to the application and that this was re-advertised. The HLP advised that neighbours or objectors were not notified of the changes therefore the application should be withdrawn from tonight's schedule to allow the notification to take place.

**Resolved** That planning application LA09/2020/0966/F be withdrawn from tonight's agenda and be brought back when notification of neighbours and objectors has taken place.

**LA09/2022/0230/O**                      **Site for dwelling and garage at lands approx. 30m SE of 99 Mullaghboy Road, Bellaghy, for Mr Hugh Glackin**

Agreed that application be deferred for an office meeting.

*Councillor Mallaghan withdrew from the Chair to the public gallery for the next item. Councillor Brown took the Chair.*

**LA09/2022/0314/F**                      **Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas (approved LA09/2017/1704/F); utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built) at 250M NE of 260 Drum Road, Cookstown for Martin McDonald**

The Service Director of Planning (SD: PI) referred to email received from Council Health and Safety Officer which raised concern in relation to the sharing of the laneway with a quarry and stated he would like to further investigate the status of the quarry and the related concerns and therefore suggested that the application be deferred.

Proposed by Councillor Brown  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2022/0314/F be deferred for further consideration.

*Councillor Mallaghan returned to Chair the meeting.*

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.4 - LA09/2022/0230/O - Site for dwelling and garage at lands approx. 30m SE of 99 Mullaghboy Road, Bellaghy.

Agenda Item 5.5 - LA09/2022/0314/F - Retention of 2 additional fun farm buildings with the reconfiguration of parking and turning areas (approved LA09/2017/1704/F); utilisation of the existing access lane, with improvements to the existing access, to serve the business (lane approved under LA09/2017/1704/F not to be built) at 250M NE of 260 Drum Road, Cookstown.

Agenda Item 5.6 - LA09/2022/0385/F - Retention of garage and container units at entrance to quarry site off the Lurgylea Road, (SW of The Church of the Immaculate Conception) 100m NE of 141 Cappagh Road, Galbally, Dungannon.

Agenda Item 5.8 - LA09/2022/1408/O - Infill dwelling and domestic garage at 70m NE of 107 Drummerrerr Lane, Coalisland.

Agenda Item 5.10 - LA09/2022/1563/O - Dwelling and domestic garage on infill site at lands 68m S of 90 Cookstown Road, Dungannon.

Agenda Item 5.13 - LA09/2022/1697/O - Dwelling and garage at 60m NE of 11 Creagh Hill, Castledawson.

Agenda Item 5.16 - LA09/2022/1761/F - Infill/gap sites for 2 dwellings and domestic garages at 90m NW of 28 Mawillian Road, Moneymore.

Agenda Item 5.18 - LA09/2023/0105/O - Site for dwelling and domestic garage at 60m E of 32 Drummuck Road, Maghera.

Proposed by Councillor Black  
Seconded by Councillor McFlynn and

**Resolved** That the planning applications listed above be deferred for an office meeting.

|                         |   |
|-------------------------|---|
| <b>LA09/2022/0385/F</b> | <b>Retention of garage and container units at entrance to quarry site off the Lurgylea Road, (SW of The Church of the Immaculate Conception) 100m NE of 141 Cappagh Road, Galbally, Dungannon for Mr Terry Donnelly</b> |
|-------------------------|---|

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1145/F**                      **Office building with associated access, vehicle and cycle parking, drainage infrastructure, hard and soft landscaping and bin storage and external plant within fenced enclosure at lands at Tobermore Road, opposite 15-17 Cherry Hill and approx. 50m S of 58 Largantogher Park, Largantogher, Maghera for BSG Civil Engineering Ltd**

Members considered previously circulated report on planning application LA09/2022/1145/F which had a recommendation for approval.

The SD: PI referred to addendum and late objection received and whilst the objection raises concerns he does not see these as being in opposition to this proposal.

Councillor S McPeake stated that the lands were previously approved for housing and that the proposal is not contradicting that as it will be sited on development land. Councillor S McPeake proposed the officer recommendation.

Councillor Corry seconded Councillor S McPeake's proposal.

**Resolved**     That planning application LA09/2022/1145/F be approved subject to conditions as per the officer's report.

**LA09/2022/1408/O**                      **Infill dwelling and domestic garage at 70m NE of 107 Drummerr Lane, Coalisland for Mr John McCabe**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1473/O**                      **Dwelling and garage at 60m NW of 55 Annaghmore Road, Castledawson for Alvin McMullan Esq**

Members considered previously circulated report on planning application LA09/2022/1473/O which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor Black and

**Resolved**     That planning application LA09/2022/1473/O be approved subject to conditions as per the officer's report.

**LA09/2022/1563/O**                      **Dwelling and domestic garage on infill site at lands 68m S of 90 Cookstown Road, Dungannon for Mr Darryl Rafferty**

Agreed that application be deferred for an office meeting earlier in meeting.



**LA09/2022/1568/O**                      **Site for dwelling and garage at lands approx. 140m SE of 84 Lisaclare Road, Stewartstown for Mr Edward Coyle**

Members considered previously circulated report on planning application LA09/2022/1568/O which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2022/1568/O be approved subject to conditions as per the officer's report.

**LA09/2022/1692/O**                      **Dwelling and garage at lands 50m W of 160B Washingbay Road, Coalisland, for Mr Colin McCuskey**

Members considered previously circulated report on planning application LA09/2022/1692/O which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2022/1692/O be approved subject to conditions as per the officer's report.

**LA09/2022/1697/O**                      **Dwelling and garage at 60m NE of 11 Creagh Hill, Castledawson for Mrs Anne McGrogan**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1699/F**                      **New access at 23 Ballymacombs Road, Portglenone, for Mr James Donnelly and Sons**

Members considered previously circulated report on planning application LA09/2022/1699/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Corry and

**Resolved**     That planning application LA09/2022/1699/F be approved subject to conditions as per the officer's report.

**LA09/2022/1702/F**      **Temporary mobile classroom and school meals accommodation, hard play area, LPG gas compound, substation, retaining walls, underground drainage system and all associated ground work required for the operation of IC Dungannon during the construction and redevelopment of the College. Temporary permission is required until the new college becomes operational at Integrated College Dungannon, 21 Gortmerron Link Road, Dungannon for Board of Governors of Integrated College**

Members considered previously circulated report on planning application LA09/2022/1702/F which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor McFlynn and

**Resolved**      That planning application LA09/2022/1702/F be approved subject to conditions as per the officer's report.

**LA09/2022/1761/F**      **Infill/gap sites for 2 dwellings and domestic garages at 90m NW of 28 Mawillian Road, Moneymore for Mr Paddy Campbell**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0036/O**      **Two storey dwelling and garage at 40m E of 98 Mountjoy Road, Coalisland for Mr David and Marissa Canavan**

Members considered previously circulated report on planning application LA09/2023/0036/O which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved**      That planning application LA09/2023/0036/O be approved subject to conditions as per the officer's report.

**LA09/2023/0105/O**      **Site for dwelling and domestic garage at 60m E of 32 Drummuck Road, Maghera for Grainne and Tommy Quigley**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2019/1008/F**      **Retention of dwelling in substitution of M/2012/0006/F at 7 Tobermesson Road, Dungannon, for Conor Curran**

Members considered previously circulated report on planning application LA09/2019/1008/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2019/1008/F be approved subject to conditions as per the officer's report.

**LA09/2020/1107/F**                      **Change of use to proposed car sales yard at approx. 25m NW of 60A Ballyronan Road, Magherafelt for Mr Joe Bateson**

Members considered previously circulated report on planning application LA09/2020/1107/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2020/1107/F be approved subject to conditions as per the officer's report.

**LA09/2020/1590/F**                      **Farm building to incorporate stables, farm office, central heating plant room, agricultural storage and farm machinery garage, creation of farm laneway and alterations to public road access at 50m SE of 21 Tandragee Road, Pomeroy, Dungannon for Mr Kyle Smyth**

Members considered previously circulated report on planning application LA09/2020/1590/F which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor Cuthbertson and

**Resolved** That planning application LA09/2020/1590/F be approved subject to conditions as per the officer's report.

**LA09/2021/0129/O**                      **Site for dwelling and double domestic garage at approx. 40m NE of 2 Ballynagilly Road, Cookstown, for Mr James Harkness**

The Head of Local Planning (HLP) presented a report on planning application LA09/2021/0129/O advising that it was recommended for refusal.

Councillor Glasgow stated that the problem is that the site is too far away to cluster with the farm and asked if siting closer to the Lough Fea Road would bring the site nearer the farm.

The HLP advised that vegetation along that part of the road is too strong to allow for visual linkage but that even if the vegetation was not there the site is too far removed from the farm. The HLP advised that the application was initially submitted as a cluster but does not meet the cluster policy and that if sited where proposed could extend a ribbon of development. The HLP advised that the applicant did not want to

use the farm business up until the last minute and that this has now been investigated.

Councillor Glasgow stated he would not be overly concerned at extending the ribbon development as the proposal would be located close to the end of a road and would therefore be a natural end to development. The Councillor stated that if the applicant wants to retire from the farm business they would not want to be living in the middle of a working farm but would still wish to live close to it.

Councillor McKinney asked if there was any way an exception could be made.

The Service Director of Planning (SD: PI) advised that policy states that a dwelling should visually read with the existing buildings on the farm and where possible should utilise the existing laneway. The SD: PI advised that there could always be a reason for an exception but that no reason has been given and that this application has already been deferred.

The Chair, Councillor Mallaghan proposed the officer recommendation.

Councillor Bell asked if there had been any discussion with the applicant in relation to siting the proposal on the other side of the road so it would be closer to the farm.

The HLP advised that she had explored other options with the applicant but that the site under consideration is the site they want and no where else.

Councillor S McPeake seconded Councillor Mallaghan's proposal.

**Resolved** That planning application LA09/2021/0129/O be refused on grounds stated in the officer's report.

**LA09/2021/0719/F                      Farm dwelling and garage at approx. 25m E of 25  
Creagh Hill Road, Toomebridge for Mr Brendan  
Mulholland**

The Head of Local Planning (HLP) presented a report on planning application LA09/2021/0719/F advising that it was recommended for refusal. Members were also advised of a letter received from Paul Birt Estate Agent which advises they are instructed by Mr Mulholland to acquire 10 acres of agricultural land in the Newbridge/Creagh area to replace land lost by him to the A6 vesting programme and that to date, they have had no success in securing this land.

The Chair advised the committee that a request to speak on the application had been received and invited Councillor B McGuigan to address the committee.

Councillor B McGuigan advised that the applicant has a working farm and claims single farm payment and that the only issue is in relation to siting. Councillor McGuigan stated that the applicant lost land through vesting for the new A6 and only received approximately £10k compensation for the loss. The Councillor stated that policy CTY10 allows for a site away from the main holding if there are plans to expand the holding. In this case it was advised that the applicant has plans to expand the farm and has engaged an estate agent to seek additional lands to

replace the lands lost, these lands are likely to cost £15k an acre and the sale of this proposed site will help to offset this cost. Councillor McGuigan stated that this site on the edge of the holding could be easily sold off without affecting any farming activities, it was advised that the site is on the edge of a cluster and would be rounding off. The Councillor stated he did not accept that the proposal would significantly alter the existing character of the area and that the vicinity of the site is already built up. Councillor McGuigan stated that the proposal will be sited approximately two metres below road level and would not be unduly prominent on the landscape and felt that to further aid integration a condition could be applied to require the existing vegetation to be retained and new hedgerows to be planted behind the visibility splays. Councillor McGuigan stated he believed the proposed development is not at odds with PPS21 and asked that an exception be made on this application.

The Service Director of Planning (SD: PI) stated that when the policy refers to plans to expand a farm business it would mean if further sheds were to be built which could cause health and safety issues and not because it would make it easier to sell off a site to buy more land. The SD: PI referred to argument put forward in that it was felt the proposal would not affect rural character and that he would have some sympathy in that regard but that the problem is where does this end.

Councillor S McPeake stated he attended the site visit and whilst maybe not be best integrated site there is some degree of integration. The Councillor stated that on the day of the visit there was a lot of sympathy for the proposal and that it was felt the site would not change the character of the area and would not be prominent. Councillor S McPeake stated that the Committee have been flexible in the past in relation to similar situation regarding the result of A6 works. The Councillor stated that he was surprised at the recommendation to refuse as he felt the discussions on the day of the visit were minded to accommodate the application. Councillor S McPeake stated he would be sympathetic to approving the application.

The Chair, Councillor Mallaghan stated that one of the things talked about at the site meeting was that if the applicant decided they wanted to put the proposal in the middle of the field then it could most likely be approved as the principle of development had been met. Councillor Mallaghan stated that at the site meeting it was felt that the proposed site would have a better outcome in terms of integration whilst having a visual link to the farm and that was why it was felt an exception could be made.

Councillor McFlynn stated she had also been at the site meeting and concurred with the remarks of Councillor S McPeake in relation to the sympathy for the proposal. The Councillor stated that if the proposal was moved closer to the farm a new laneway would be required which would further eat into the use of the agricultural ground. Councillor McFlynn felt that the proposal could round off development in the area and that an exception could be made considering the dilemma of the applicant.

The SD: PI asked why the proposal could not be located in the corner of the field closest to the farm and the road and therefore the proposal would link with the farm group. The SD: PI stated that if a reasonable answer is given to that it then allows the opportunity to consider an exception. The SD: PI referred to the reason to buy more land but advised that this is not a planning consideration.

The Chair, Councillor Mallaghan stated that if you wanted to have a site on the farm but wanted a reasonable distance between a dwelling and farm activities then you would not decide to put it in the corner closest to where that activity would take place.

The HLP referred to policy CTY10 which states a dwelling on a farm could be considered when there are verifiable plans to expand at the existing building group. The HLP advised that the argument being put forward tonight is in relation to buying more land in the locality.

Councillor B McGuigan asked if the alternative site being referred to closer to the farm would be on farm land or gardens.

The Chair, Councillor Mallaghan advised that the SD: PI was referring to the corner of the field marked in blue on the map.

Councillor Cuthbertson stated he would have more sympathy if someone was seeking approval for a dwelling to allow them to live on the farm but because it was a site for sale he felt there was nothing to stop a further site being requested next year and that this application should not be approved.

Councillor S McPeake stated he did not think there would be a similar situation in the near future as the application is for a farm dwelling and that this can only be applied for once every ten years.

The SD: PI stated that a farm dwelling can only be applied for once every ten years and that the previous dwelling had been applied for over ten years ago. The SD: PI referred to the reasoning for an exception and that the reason put forward to buy more land is not unique and could apply to anyone else.

Councillor McKinney stated that personal circumstances in this case is clouding the understanding of policy.

Councillor S McPeake stated that the proposed site is a natural cut out of the boundaries which are already there and that at the site meeting it was felt it made sense to have the proposal at the site where it would best fit.

Councillor Brown stated that he understood the argument but that the other suggested site would be closer to the farm group and would meet policy. Councillor Brown asked if the applicant has considered another site.

The HLP advised that there has been no consideration of any other site thus far.

Councillor D McPeake concurred with Councillor S McPeake's comments in relation to the lay of land and boundaries and that the map shown highlights the land lost through the realignment of the Deerpark Road.

The Chair, Councillor Mallaghan stated that the image being shown to the meeting was useful in that it highlights there could be ribbon development at the proposed site or at the other suggested site.

The SD: PI stated he did have some sympathy but urged Members to be cautious to move to the tests in relation to integration before justifying moving away from the farm group.

Councillor Brown proposed that the application be deferred for two months in order for the applicant to consider the site closer to the farm cluster.

Councillor S McPeake seconded Councillor Brown's proposal.

The SD: PI advised that the application is being deferred for two reasons – to explain the test in relation to expanding a farm and the need to put an agricultural case and also to allow time to consider alternative sites.

**Resolved** That planning application LA09/2021/0719/F be deferred for two months.

**LA09/2021/1182/F                      Retention of agricultural building including offices, storage spaces and area for sale of goods produced on the farm (amended description) at approx. 70m NE of 70 Drumgrannon Road, Dungannon for George Troughton**

Mr Marrion (SPO) presented a report on planning application LA09/2021/1182/F advising that it was recommended for approval.

The Chair, Councillor Mallaghan asked if the Council Solicitor was happy with the process as she had previously asked for the application to be deferred to consider the managing of the application.

The Council Solicitor confirmed she was content with the process.

Proposed by Councillor Cuthbertson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2021/1182/F be approved subject to conditions as per the officer's report.

**LA09/2021/1260/O                      Dwelling and garage at approx. 80m E of 24 Garrison Road, Magherafelt for Donna and Danny O'Shea**

Members considered previously circulated report on planning application LA09/2021/1260/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/1260/O be approved subject to conditions as per the officer's report.

**LA09/2021/1284/F                      Dwelling at rear of 123 Creagh Road, Newbridge,  
Magherafelt for Emma Gribbin**

Members considered previously circulated report on planning application LA09/2021/1284/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2021/1284/F be approved subject to conditions as per the officer's report.

**LA09/2021/1384/O                      Site for 2 dwellings and garages at vacant lands  
adjacent to and W of 191 Battery Road, Moortown for  
Mr Maurice Devlin**

Members considered previously circulated report on planning application LA09/2021/1384/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2021/1384/O be approved subject to conditions as per the officer's report.

**LA09/2021/1385/F                      Amendment to previously approved vehicular access  
at 250m N of 2 Gortinure Road, Maghera for Mr  
Rafferty**

Members considered previously circulated report on planning application LA09/2021/1385/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2021/1385/F be approved subject to conditions as per the officer's report.

**LA09/2021/1773/F                      Retention of coach yard and ramp for washing own  
coaches as an extension to established business at  
lands immediately to the rear and NW of 30B Killyneill  
Road, Dungannon for Mr Stephen Davison**

Members considered previously circulated report on planning application LA09/2021/1773/F which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Robinson and

**Resolved**     That planning application LA09/2021/1773/F be approved subject to conditions as per the officer's report.



**LA09/2021/1808/O                      Site of dwelling house and domestic garage on a farm at rear of 39 Gortahurk Road, Desertmartin for Eoighan McGuigan**

Members considered previously circulated report on planning application LA09/2021/1808/O which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2021/1808/O be approved subject to conditions as per the officer's report.

**LA09/2022/0097/O                      Site for a dwelling and domestic garage at site 50m S of 105 Culnady Road, Maghera for Mr Thomas Patterson**

Members considered previously circulated report on planning application LA09/2022/0097/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved**     That planning application LA09/2022/0097/O be approved subject to conditions as per the officer's report.

**LA09/2022/0556/O                      Domestic dwelling and garage adjacent to 37 Moss Road, Ballymaguigan, Magherafelt for Ciara McGrath**

The Head of Local Planning (HLP) presented a report on planning application LA09/2022/0556/O advising that it was recommended for refusal.

Proposed by Councillor Mallaghan  
Seconded by Councillor S McPeake and

**Resolved**     That planning application LA09/2022/0556/O be refused on grounds stated in the officer's report.

**LA09/2022/1062/O                      Dwelling and garage within a cluster at 95m S of 4 Drumgarrell Road, Cookstown, for Mr Ryan O'Neill**

Application withdrawn.

**LA09/2022/1077/F                      2 storey dwelling and domestic garage at 30m SW of 55 Springhill Road, Ballindrum, Moneymore for Mr Mark Henry**

Members considered previously circulated report on planning application LA09/2022/1077/F which had a recommendation for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1077/F be approved subject to conditions as per the officer's report.

**LA09/2022/1226/O**      **Site for dwelling and domestic garage at 100m S of 25a Cloane Road at the junction of Cloane Road and Cloane Lane, Draperstown, for Mr Mark Quinn**

Application withdrawn.

**LA09/2022/1230/O**      **Site for dwelling and domestic garage at 155m S of 25a Cloane Road, Draperstown, for Mr Mark Quinn**

Application withdrawn.

**LA09/2022/1294/O**      **Site for dwelling and domestic garage on lands approx. 35m N of 12 Drumard Road, Kilrea, for Mr Colm Bradley**

Members considered previously circulated report on planning application LA09/2022/1294/O which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/1294/O be approved subject to conditions as per the officer's report.

**LA09/2022/1561/O**      **Site for dwelling and domestic garage at approx. 30m S of 26 Grillagh Hill, Maghera for Mr Malachy Scullin**

Ms McKinless (SPO) presented a report on planning application LA09/2022/1561/O advising that it was recommended for refusal.

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

The Service Director of Planning (SD: PI) asked that if the proposal was sited at the top of the field this would take it out of the flood plain and closer to a cluster and that the agent may want to discuss this with the applicant.

Mr Cassidy advised that he has not discussed this option with the applicant but he was unsure if there would be access from the Gortinure Road. Mr Cassidy stated he would like the opportunity to explore the option and discuss with the applicant.

Proposed by Councillor Bell  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2022/1561/O be deferred for two months for applicant to consider alternative siting options.

### **Matters for Information**

#### **P040/23 Minutes of Planning Committee held on 7 March 2023**

Members noted minutes of Planning Committee held on 7 March 2023.

*Live broadcast ended at 8.14 pm.*

### **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Brown  
Seconded by Councillor McFlynn and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P041/23 to P045/23.

#### **Matters for Decision**

P041/23 Receive Report on Request for a TPO  
P042/23 Receive Enforcement Report

#### **Matters for Information**

P043/23 Confidential Minutes of Planning Committee held on 7 March 2023  
P044/23 Enforcement Cases Opened  
P045/23 Enforcement Cases Closed

#### **P046/23 Duration of Meeting**

The meeting was called for 7 pm and concluded at 8.56 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting.
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute.
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item.
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.
- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any

proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.

## **ADDENDUM TO PLANNING COMMITTEE AGENDA**

**FOR PLANNING COMMITTEE MEETING ON: 4 April 2023**

**Additional information has been received on the following items since the agenda was issued.**

**Chairs Business –**

- PAC Decision for Granville industrial Estate**

| <b>ITEM</b> | <b>INFORMATION RECEIVED</b>                                       | <b>ACTION REQUIRED</b> |
|-------------|---|------------------------|
| 5.5         | Late objection from Rosemary McGurk                               | Members to note        |
| 5.5         | Email from Agent Carol Gourley and associated ownership documents | Members to note        |
| 5.7         | Late objection from Noel and Jennifer Young                       | Members to note        |
|             |   |                        |
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|                          |                                 |
|--------------------------|---------------------------------|
| <b>Report on</b>         | Planning Service Plan 2023-2024 |
| <b>Date of Meeting</b>   | 12 <sup>th</sup> June 2023      |
| <b>Reporting Officer</b> | Chris Boomer                    |
| <b>Contact Officer</b>   | Chris Boomer                    |

|   |     |   |
|---|-----|---|
| <b>Is this report restricted for confidential business?</b>         | Yes |   |
| If 'Yes', confirm below the exempt information category relied upon | No  | x |

|            |   |
|------------|---|
| <b>1.0</b> | <b>Purpose of Report</b>  |
| 1.1        | The purpose of this report is to provide members with a copy of the Planning Departments Service Plan for the period 2019-2020.   |
| <b>2.0</b> | <b>Background</b>   |
| 2.1        | The attached Plan shows how the service provided by the Planning Department will contribute to the Council's corporate objectives.  |
| <b>3.0</b> | <b>Main Report</b>  |
| 3.1        | There are a number of actions and outcomes within the Plan which the Planning Department will report on over the course of the period 2023-2024.  |
| 3.2        | Also included are a number of risks for the Planning Department and details of mitigation in place to control these in the most effective way. A key risk continues to relate to staff retention and the ability to maintain a full complement of staff needed to deliver an effective service. |
| <b>4.0</b> | <b>Other Considerations</b>   |
| <b>4.1</b> | <b>Financial, Human Resources &amp; Risk Implications</b>   |
|            | Financial:<br>None identified   |
|            | Human:<br>None identified   |
|            | Risk Management:<br>None identified   |

|            |  |
|------------|--|
|            |  |
| <b>4.2</b> | <b>Screening &amp; Impact Assessments</b>  |
|            | Equality & Good Relations Implications:<br>None identified   |
|            | Rural Needs Implications:<br>None identified   |
| <b>5.0</b> | <b>Recommendation(s)</b>   |
| 5.1        | Members are requested to note the contents of this report and agree the attached Planning Department Service Plan 2023-2024. |
| <b>6.0</b> | <b>Documents Attached &amp; References</b>   |
|            | - Planning Department Service Plan 2023-2024.  |





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

# ***Planning Department***

**DEPARTMENTAL SERVICE  
PLAN - 2023 / 2024**

## CONTENT

| SECTION    | TITLE  | PAGE NUMBER |
|------------|--|-------------|
|            | <b>Foreword</b>  |             |
| <b>1.0</b> | <b>OVERALL PURPOSE &amp; SCOPE OF THE DEPARTMENT</b>             |             |
| 1.1        | Purpose and scope of the department                              |             |
| 1.2        | Responsibilities   |             |
| 1.3        | Customers & Stakeholders   |             |
| 1.4        | Performance Overview in 2022/23                                  |             |
| <b>2.0</b> | <b>IMPROVING OUR SERVICES AND MANAGING PERFORMANCE - 2023/24</b> |             |
| 2.1        | Budget - 2023/24   |             |
| 2.2        | Staffing Complement Department – 2023/24                         |             |
| 2.3        | Service Plan – 2023/ 24  |             |
| 2.4        | Service Improvement  |             |
| 2.5        | Risk Management of Department                                    |             |
| <b>3.0</b> | <b>OUR STATUTORY CONSIDERATIONS</b>                              |             |
| 3.1        | Equality Duty  |             |
| 3.2        | Rural Needs Duty   |             |

## **1.0 OVERALL PURPOSE AND SCOPE OF THE DEPARTMENT**

### **1.1 Purpose and Scope of the Department**

The purpose of Planning Services is to secure the sustainable development of Mid Ulster in a manner that provides for the social and economic well-being of the District, whilst enhancing Mid Ulster's environment for the enjoyment of the present and future generations. The Service Director leads Planning Department with responsibility for delivering functions designed to:

- Lead Sustainable development through the creation of the Local Development Plan
- Manage Development in accordance with that Development Plan when making decisions on planning applications:
- Enforce planning controls taking appropriate, proportional and measured action where necessary to remedy breaches.
- Preserving and Enhancing Areas of historic, architectural or environmental importance and protecting trees of special amenity value.

### **1.2 Responsibilities**

The Planning Department is led by the Service Director who takes overall operational responsibility for formulating preparing planning policy for the Local Development Plan and for enabling make sound planning decisions on development management and enforcement decisions. The Service Director also takes responsibility for making planning decisions as delegated to him by the Council as well as instructing solicitors. The Service director also takes responsibility for ensuring the planning Department is fit for purpose ensuring the right people are undertaking the right jobs with adequate tools and training to meet business needs within the resources available. The functions of the Department have been grouped in relation to: -

- *Strategic Planning*

This function is led by the Head of Strategic Planning who is responsible for the Local Development Plan for Mid Ulster District. The section is also responsible for preparing supplementary planning advice, working and liaising with stakeholders on Planning Policy matters. The section also undertakes the Sustainability Appraisal/Strategic Environmental Assessment and deals with other environmental matters such as tree preservation and conservation.

In addition, the Head of Strategic Planning is also responsible for major applications teams which deal with larger public, employment, or infrastructural developments as well as housing developments (over 50 units) which are due to be determined by Mid Ulster

Council. This team also provides Mid Ulster Council's input into regionally significant applications. This is in order to synergise the development plan process with major investment opportunities.

- *Local Planning*

This function led by the Head of Local Planning, who is responsible for processing local applications, which make up 99% of all submissions. It comprises, two area based teams. One is located at the Magherafelt Councils offices on the Ballyronan Road, Magherafelt, and the other at the Dungannon Council Offices at Circular Road Dungannon. The respective teams deal with applications in the following Electoral Areas:-

1. Cookstown, Magherafelt, Carntogher and Mayola
2. Dungannon, Clogher and Torrent

In addition to researching and reporting on applications to the Committee on local planning applications, the teams also handle submissions for listed building and conservation area consents, non-material changes, Certificates of Lawful development and other consents under the Planning Act. They are also the front line for providing planning advice on a range of planning matters to all of our customers.

In addition, the Head of Local Planning is also responsible for Enforcement team – investigating alleged breaches in planning control, serving notices and providing witness for prosecutions.

- *Business and Technical Support*

The business support team is led by the business support Manager who reports directly to the Service Director. This team is responsible for administration of planning applications, managing files, receiving fees and financial accounting. The team also oversees correspondence tracking, dealing with most Environmental Information Requests under the EIR/FOI regulations. The team is also responsible for the administration of the Property Certificate system.

### 1.3 Customers & Stakeholders

| Customers & Stakeholders                                   |
|--|
| • Applicants   |
| • agent / architects                                       |
| • objectors  |
| • complainants in relation to breaches of planning control |
| • Planning Committee                                       |
| • Council officers and elected representatives             |
| • Statutory Consultees                                     |
| • Local Development Plan Consultation Bodies               |
| • Mid Ulster residents, businesses and interested parties  |

#### 1.4 Performance Overview in 2022/23 (Retrospective Review)

| 2022/2023 Performance Response/Overview<br>(What we achieved- Measured Activities)  | End of Year Progress<br>Status: Activity was -<br>Completed<br>/Commenced/ Other |
|---|--|
| <ul style="list-style-type: none"> <li><b>To make quality, timely decisions on major planning applications</b><br/>Over the year 20 major applications were received and fourteen decisions were made with an average processing time of 68 weeks with 28.8% determined in 30 weeks, the target being 50%.</li> </ul>   | On Going<br>Normal Business  |
| <ul style="list-style-type: none"> <li><b>To make quality timely decisions on local applications</b><br/>Over the year 1914 major applications were received and 1248 decisions made with an average processing time of 21.6 weeks with 29.4 % made within 15 weeks, the target being 50%</li> </ul>  | On Going<br>Normal Business  |
| <ul style="list-style-type: none"> <li><b>To efficiently enforce against breaches in planning control and protect our environs and amenities</b><br/>171 Enforcement cases were opened over the year with 124 being brought to concluded. 61.9% were concluded in 39 weeks the target being 70%.</li> </ul>   | On<br>Going/Normal<br>Business   |
| <ul style="list-style-type: none"> <li><b>To progress the Local Development Plan towards adoption</b><br/>The local Development Plan has been submitted to the Department. After seven months the Department responded with questions which we provided a lengthy response. After a further four months the Department responded with further issues. The team is currently working with barristers to prepare our final response.</li> </ul> | On<br>Going/Normal<br>Business   |
| <ul style="list-style-type: none"> <li><b>To install a new computer system and Planning Portal for Mid Ulster</b><br/>The New computer system is operational and providing improved access and online for our customers.</li> </ul>   | Complete   |
| <ul style="list-style-type: none"> <li><b>To introduce a Mid Ulster Property Certificate system</b><br/>The New Property Certificate system is up and running and providing a successful service to solicitors</li> </ul>   | Complete   |
| <ul style="list-style-type: none"> <li><b>Conduct a Service Review of staffing</b><br/>The first stage of the Service Review has been successfully implemented with 4 trainee planners posted to fill vacancies.</li> </ul>   | On Going   |

## 2.0 IMPROVING OUR SERVICES AND MANAGING PERFORMANCE - 2023/24

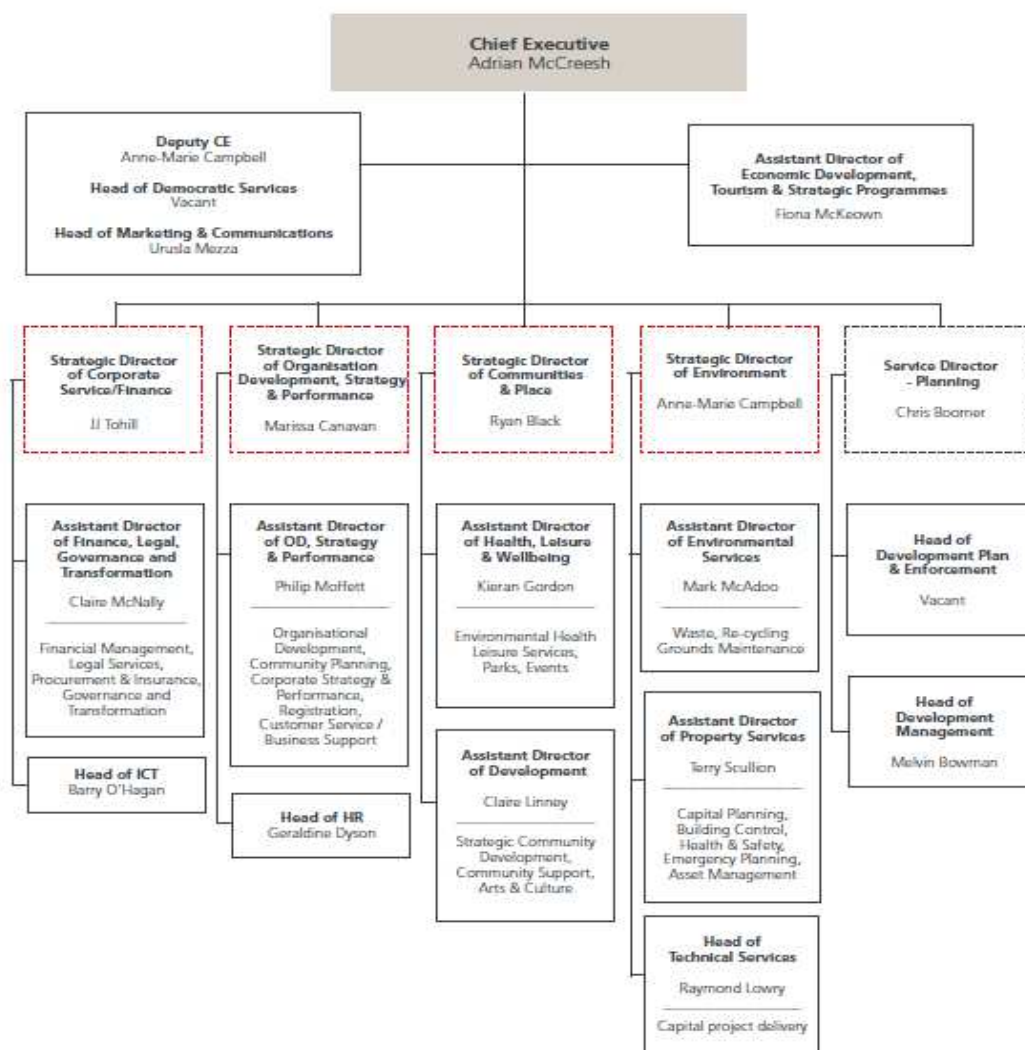
The following table provides an estimate of resources, financial and people, which the Department has access to throughout 2023-24 to deliver its actions, activities and core business. The actual budget is still to be finalised. Accounts for last year show suggest Planning Services cost around £14,000 more than initial budgeting, which is remarkable given the financial situation.

### 2.1 Budget 2023/24

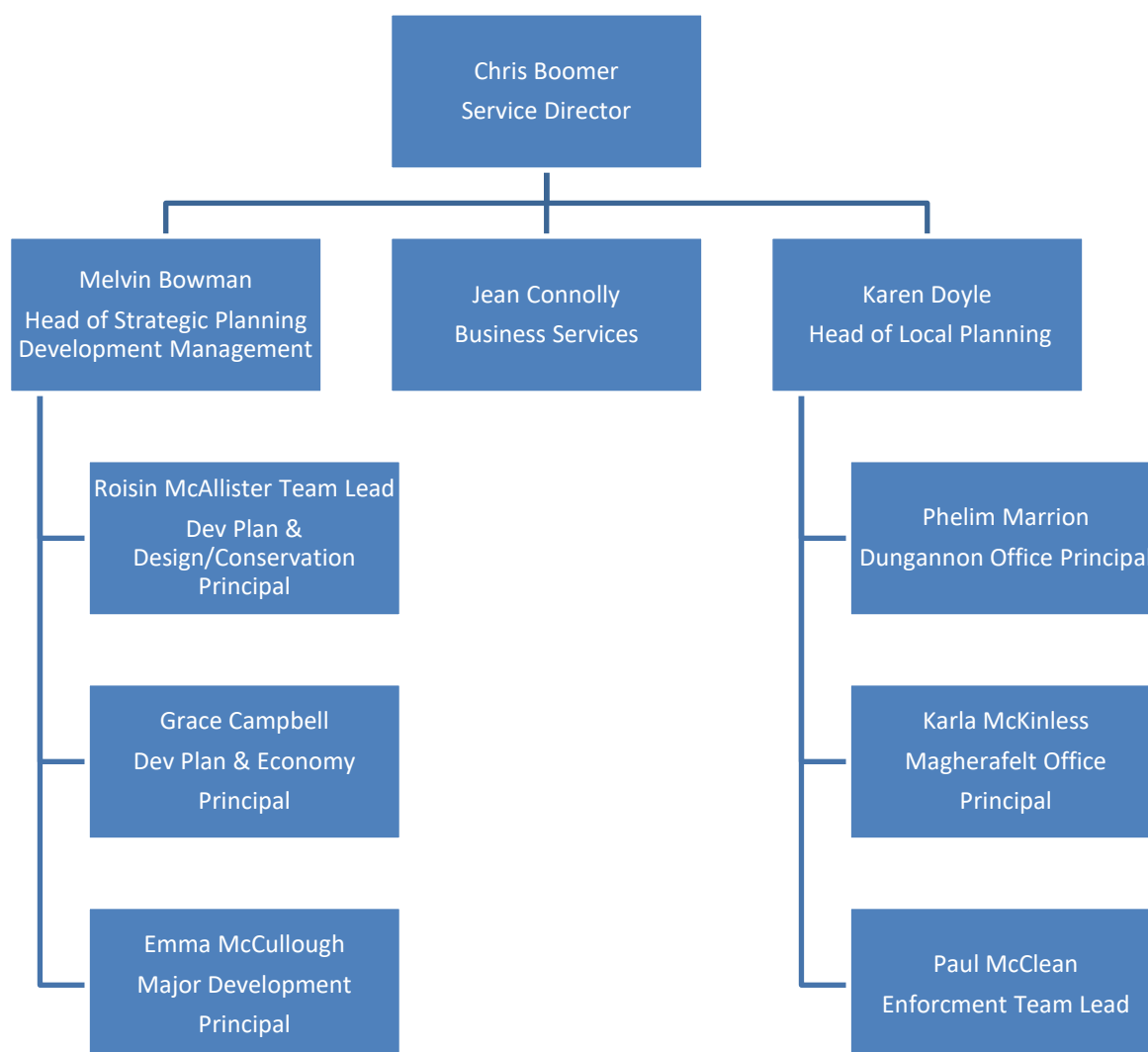
| Budget Headings                       | £,000 |
|---------------------------------------|-------|
| Service Director and Business Support | 1000  |
| Strategic Planning                    | 300   |
| Local Planning                        | 900   |
| Total Expenditure                     | 2200  |
|                                       |       |
| Application fees                      | 1700  |
| Property Certificate income           | 100   |
| Total Income                          | 1800  |
|                                       |       |
| Net Budget for 2023-24                | 500   |

*Note: The budget across Departments has not yet been finalised and therefore the figures are estimates*

## 2.2 Departmental Services - Council Structure - 2022/23



## Planning Department Management Structure 2023-24



| Staffing         | No. of Staff               |
|------------------|----------------------------|
| Service Director | 1                          |
| Head of Service  | 2                          |
| Managers         | 7                          |
| Officers         | 27                         |
| Remaining Team   | 10                         |
| <b>Total</b>     | <b>47 (inc. part time)</b> |



### **3 Service Work Plan - 2023/24**

This plan confirms the core activities and actions, which form the Departmental Service Work Plan for 2023-24.

This is a high-level capture of the Department and the Service activities/measures as well as some improvement undertakings which the services will focus on throughout 2023-2024.

The Plan links to the Council's:

1. 2020-2024 Corporate Plan priorities,
2. Annual Corporate Performance Improvement (PIP plan)
3. Corporate Improvement Project Plans (CIP's)
4. Statutory Indicators,
5. Corporate Health Indicators and
6. Mid Ulster Sustainable Community Plan themes & outcomes (aligned to the Programme for Government):

Mid Ulster District Council's Improvement Objectives for 2023 to 2025 are:

1. Mid Ulster District Council will seek to reduce the environmental impacts of our own activities and will contribute to the improvement of the wider environment through local action
2. We will ensure a more connected Mid Ulster where new technologies and ways of working, empower citizens to get the best services that matter to them
3. To create cleaner neighbourhoods, where everyone takes responsibility for their waste and environment
4. We will contribute to the on-going regeneration of our district by delivering a capital investment programme, enhancing facilities and opportunities for local people

This plan confirms the core activities and actions, which will form the Planning Department Service Work Plan for 2023-24. The targets for processing major and local applications and enforcement are set out in statute. COVID 19 placed a risk at our ability to meet statutory targets and restrictions over the past two years has left a backlog of casework. In addition, we diverted staff resources to putting in a new computer. Thus, we are starting the year with a backlog of cases.

For the coming year it is aimed that we will clear the backlog and return to our past high-performance levels. We have already had a recruitment drive to fill vacancies which have occurred over the last couple of years by investing in the future and bringing in trainee planners. This has been done as part of our structural review which commenced last year and should conclude this business year. It will bring the service in line with other Departments and leaving the service fit for the coming years.

Key to addressing the back log will be the utilisation of newly installed computer system which has proven to be a success and over the year we will be looking at ways to maximise its usage and better tailor it to meeting our customer's needs, such as bringing forward an online system for submitting and paying for property certificates. This is part of our desire to become more customer focused. We will carry out a customer survey to help us identify what our customers think and inform a future service improvement plan for local planning. We will also continue working with the Department and our neighbouring authorities to explore how better performance can be achieved for the major applications.

The Local Development Plan Strategy has been submitted to the Department and the Council are no longer in control of what happens next. The Department may choose to allow the development plan to proceed to public examination, direct the Council to reconsider certain policies or amend them itself. Given the plan has been with the Department for a year we will soon be liaising with members to seek a view on how best to break this deadlock. What is clear is that we are no longer inside our timetable and early in the year a new time-table will need to be agreed.

.

| Service Name:  |  |   |  |   |  |
|--|--|---|--|---|--|
| Link to Community Plan Theme:  |  | Align to Corporate Plan Theme   |  |   |  |
| <i>CMP 1.1 Economic Growth - We prosper in a stronger &amp; more competitive economy</i>           |  | <i>Leadership: 1.2 We will continue progress towards the adoption of our Local Development Plan 2030 &amp; delivery against the plan objectives</i> |  |   |  |
| Service Objective (What do we want to achieve?):   | What are the key 'Business as Usual' activities we will deliver (actions):   | By When (Date?)   | Service Name /Lead Officers(s)                   | What difference will it make? (Outcomes/outputs)  | How Will we Know? (Measures)   |
| To make quality, timely decisions on major planning applications                                   | Providing pre-application advice, and validating, consulting, processing and recommending on planning application  | Ongoing   | Melvin Bowman<br>Emma McCullough                 | Facilitate investment in those decisions most important the economy and provide homes                 | To Determine 50% of Major applications within 30 weeks                             |
| To make quality timely decisions on local applications   | Validating, consulting, processing and recommending on planning application  | On going  | Karen Doyle<br>Karla McKinless<br>Phelim Marrion | Facilitate development investment in improving the economy and providing homes                        | To be determining 50% of local planning applications within 15 weeks.              |
| To efficiently enforce against breaches in planning control and protect our environs and amenities | Inspecting negotiating and where necessary ordering and prosecuting those who cause harm to our environment and others by refusing to abide by planning controls | On going  | Karen Doyle<br>Paul McClean                      | It will improve the lives of our citizens by regulating or removing harmful unauthorised development. | To conclude 70% enforcement investigations within 39 week of receipt of complaint. |

| Service Name:  |  |   |  |   |   |
|--|--|---|--|---|---|
| Link to Community Plan Theme:  |  | Align to Corporate Plan Theme   |  |   |   |
| <i>CMP 1.1 Economic Growth - We prosper in a stronger &amp; more competitive economy</i> |  | <i>Leadership: 1.2 We will continue progress towards the adoption of our Local Development Plan 2030 &amp; delivery against the plan objectives</i> |  |   |   |
| Service Objective (What do we want to achieve?):   | What are the key 'Business as Usual' activities we will deliver (actions):   | By When (Date?)   | Service Name /Lead Officers(s)                         | What difference will it make? (Outcomes/outputs)                                | How Will we Know? (Measures)                                |
| To progress the Local Development Plan towards adoption                                  | To revise the plan timetable in accordance with the outcome of consideration of the submitted plan strategy to the Department and any set dates for public examination | 31 /12/23   | Melvin Bowman<br>Roisin McAllister and<br>Grace Herron | To provide a sustainable framework for the future development of the Mid Ulster | By progressing the Plan in line with the revised timetable. |

## 2.4 Service Improvements for 2023 to 2024

| What Service Development/Improvement will we undertake in 2023/2024? (Actions):   | By When (Date?) | Service Name/ Lead Officers(s)  | What difference will it make? (Outcomes/outputs)                              | How Will we Know? (Measures)                   |
|---|-----------------|---------------------------------|---|--|
| To work with the Department and other councils to improve the legislative and operational basis by implementing an action plan to improve how major planning applications are processed           |                 | Melvin Bowman                   | It will aid with economic development by focussing on major development       | Faster processing times for major applications |
| To conduct a customer survey to gauge customer satisfaction with development management services in Mid Ulster produce an action plan to see what improvement can be made to operational practice | Dec 2023        | Roisin McAllister               | Greater Customer focus  | By responses provided                          |
| To development an action plan to improve development management services taking into account customer views   | March 2024      | Karen Doyle                     | Improved service  | Better processing times.                       |
| To improve the property certificate service by providing a full on-line submission system including fee payment   | Sept 2023       | Jean Connolly/Karla McKinless   | It will offer the best service in Northern Ireland                            | By seeking the views of the law society        |
| To complete and implement the Service Review of staffing  | March 2024      | Chris Boomer in liaison with HR | To ensure we have the right people in the right grade with the right training | To complete the review by the autumn           |

## **2.5 RISK MANAGEMENT OF DEPARTMENT/SERVICES**

The purpose of risk management is to manage the barriers which prevents the Council from achieving its objectives. This section of the service plan includes space for the Department to input their key risks (in summary form), which have been identified during the business planning process. The Council uses risk management to maximize opportunities and minimize risks. This improves its ability to deliver priorities and improve outcomes. This is why the Council deems it important to link business planning and risk management. Risk Management aims to:

- Help the Council achieve its overall aims and objectives
- Manage the significant risks the Council faces to an acceptable level
- Assist with the decision making process
- Implement the most effective measures to avoid, reduce and control those risks
- Balance risk with opportunity
- Manage risk and internal controls in the most effective way.

This table illustrates the risks identified to deliver the Department's/Services business as outlined in service plan for 2023-24. )

| Risk Ref Number | Description of Risk  | Risk Rating | Mitigation Activity   |
|-----------------|--|-------------|---|
| 1.              | <i>That legislation, statutory consultees and current practice is creating undue delays in the planning system</i> | 9           | <i>To work with the Department, consultees and other Councils to bring forward a regional action plan and to identify local reasons for delay and devise an action plan to improve performance.</i> |
| 2.              | <i>That the Department of Infrastructure causes further delay in progressing the Local Development Plan</i>        | 8           | <i>Consult members on the options for enabling the plan to be progressed and action accordingly</i>   |
| 3               | Failure to retain and attract staff with the right experience and training   | 7           | Compete the staff review  |
| 4.              | Failure to adequately manage our IT resource   | 7           | Train additional staff to administer and service the system   |

| Rating  | Descriptor                               |
|---------|--|
| 16 - 25 | Extreme Risk (immediate action required) |
| 10 - 15 | High Risk (urgent action required)       |
| 7 - 9   | Moderate Risk (action required)          |
| 1 – 6   | Low Risk (keep under review)             |

### **3.0 OUR STATUTORY CONSIDERATIONS**

In carrying out our responsibilities, the Service is cognisant of the statutory duties placed upon the council in the delivery of its services. Whilst the Service operates, under various obligations it is however mindful of the changing context in which it operates and endeavours to mainstream the equality and rural needs duties in the design and delivery of our functions.

#### **3.1 EQUALITY DUTY**

The council and by consequence our Service is committed to contributing towards its part in working towards fulfilling obligations under Section 75 of the Northern Ireland Act 1998 to ensure adequate time, staff and resources to fulfil our duties.

The Service will also work towards adherence to the council's Equality Scheme ensuring equality duties, together with promoting positive attitudes towards persons with a disability and the participation of people with a disability in public life when carrying out our functions. This is particularly relevant in relation to the Local Development Plan where an EQIA has been prepared to accompany the plan

#### **3.2 RURAL NEEDS DUTY**

The Service will be mindful of the rural needs of its customers when carrying out its functions and subsequent responsibilities, particularly in developing any new policies, plans or strategies throughout the year. In line with the Rural Needs Act (NI) 2016 we will give due regard to rurality in terms of needs in carrying out the activities within our Service. It is intended that our new Local Development Plan will provide a stronger focus on the needs of our rural communities in terms of facilitating sustainable housing and employment.