



05 November 2019

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt at Mid Ulster District Council, Ballyronan Road, MAGHERAFELT, BT45 6EN on Tuesday, 05 November 2019 at 19:00 to transact the business noted below.

Yours faithfully

Anthony Tohill  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

### Development Management Decisions

4. Receive Planning Applications 5 - 140

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2018/0462/F	Agricultural shed 95m W of 65 Drumgrannon Road, Moy, for Seamus Conroy.	APPROVE
4.2.	LA09/2018/1537/F	Alterations & extension to existing dwelling to include an increase in ridge height at 18 Tamlaghduff Road, Bellaghy, for Dympna McPeake.	APPROVE
4.3.	LA09/2018/1648/F	Retention of open-sided storage building at Blackrock Road, Toomebridge, for Creagh Concrete Products Ltd.	APPROVE
4.4.	LA09/2019/0252/O	Farm dwelling and garage 200m	REFUSE

		NE of 51 Gulladuff Road, Magherafelt, for James McPeake.	
4.5.	LA09/2019/0468/F	2 storey side annex extension to provide granny flat; provision of 2 dormer windows and new retaining wall to rear garden at 40 Coolshinney Road, Magherafelt, for Claire McWilliams.	APPROVE
4.6.	LA09/2019/0710/O	Off site replacement dwelling and domestic garage/store 70m SW of 11 Motalee Road, Magherafelt, for Mrs Gillian Montgomery.	REFUSE
4.7.	LA09/2019/0750/F	6 dwellings within existing Millbrook Housing Development at site 10m E of 1 Millbrook Close, Washingbay Road, Coalisland, for N & R Devine.	REFUSE
4.8.	LA09/2019/0760/O	Site for dwelling and domestic garage/store 65m NE of 11 Creagh Hill, Castledawson, for Anne McGroggan.	REFUSE
4.9.	LA09/2019/0787/O	Site for dwelling and garage 40m W of 44 Moyagoney Road, Portglenone, for Mr Paul Madden.	REFUSE
4.10.	LA09/2019/0792/F	Dwelling and garage (redesign for dwelling under construction) at 250m N of 36 Tullybroom Road, Clogher, for Des Sheils.	REFUSE
4.11.	LA09/2019/0895/F	Conversion and re-use of existing outbuildings for residential use, with extension and internal alterations directly adjacent to 100a Claggan Lane, Cookstown, for Mrs Arnold Loughrin.	APPROVE
4.12.	LA09/2019/1019/A	Sign to gable wall of house at 9 Springdale, Dungannon, for Sinead Hagan.	REFUSE
4.13.	LA09/2019/1069/F	Dwelling and domestic garage approx. 100m NW of 88 Washingbay Road, Coalisland, for Mr Ciaran Lynch.	REFUSE
4.14.	LA09/2019/1088/F	Extension of curtilage and erection of domestic store, mixed martial arts studio and all associated site works at lands immediately between 218 and 220 Ballynakilly Road, Dungannon, for Moussa Jaafar.	APPROVE
4.15.	LA09/2019/1169/O	Dwelling and garage at lands	APPROVE

		between 33a & 33b Grange Road, Moy, for Mr Andrew Smith.	
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5. Receive Deferred Applications

141 - 244

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2016/0634/O	Replacement of existing filling station, shop and car wash with construction of mixed use units and associated car parking and landscaping at 132 Drum road, Cookstown, for Seamus Molloy.	REFUSE
5.2.	LA09/2017/1368/F	Off site replacement dwelling (amended proposal) 45m NE of 19 Ardagh Road, Coagh, for Mr Tony Anderson.	APPROVE
5.3.	LA09/2017/1705/F	Retention of and completion to reinstatement of previous building for agricultural purposes at 200m SW of 107 Lisacclare Road (on the Aughagranna Road), Stewartstown, for James Canavan.	APPROVE
5.4.	LA09/2018/0666/O	Farm dwelling and garage approx. 40m SE of 32A Mayogall Road, Gulladuff, for Mr Damon Brown.	APPROVE
5.5.	LA09/2018/0799/O	Demolition of garage and provision of new detached dwelling adjacent to 23 Beechland Road, Magherafelt, for Ashley Booth.	APPROVE
5.6.	LA09/2018/1179/F	Erection of garage to replace existing storm damaged garage at 39 Rocktown Road, Bellaghy, for N Ireland Wedding Cars.	APPROVE
5.7.	LA09/2019/0289/F	Change of use from part ground floor bookmakers to 2No. 1 bedroom apartments and ground level stores to 1No. 2 bedroom apartment at 11 The Diamond, Pomeroy, for Patrick Keogh.	APPROVE
5.8.	LA09/2019/0385/O	Dwelling and garage 20m N of 34 Waterfoot Road, Ballymaguigan, Magherafelt, for Paul Johnson.	APPROVE

6. Receive Report on Consultation from DfI Regarding

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:Listing of Telephone Kiosk at Dergenagh Road

Matters for Information

7 Minutes of Planning Committee held on 1 October 2019 253 - 276

**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

8. Receive Enforcement Report

Matters for Information

9. Confidential Minutes of Planning Committee held on 1 October 2019

10. Enforcement Case Live List

11. Enforcement Cases Opened

12. Enforcement Cases Closed





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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0462/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed agricultural shed, for feeding and rearing calves	<b>Location:</b> 95m West of 65 Drumgrannon Road Moy
<b>Referral Route:</b> Objections Received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Seamus Conroy 90 Drumgannon Road Moy Dungannon	<b>Agent Name and Address:</b> AP Mackle 127 Benburb Road Moy Dungannon BT71 7QA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Statutory	Rivers Agency	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	DAERA - Omagh	Substantive Response Received
Non Statutory	Shared Environmental Services	Substantive Response Received

Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NIEA	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Shared Environmental Services	Substantive Response Received

**Representations:**

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

**Summary of Issues**

There were 7 objections received with regards to the proposed agricultural shed, for feeding and rearing calfs.

These objections are summarised below;

65 Drumgannon road - Out character, loss of privacy, noise, air and light pollution and traffic congestion.

65 Drumgannon road (2) - size of the building over dominant.

91 Drumgannon road - Traffic issues, Noise.

65A Drumgrannon road - Traffic issues, road safety.

61 Drumgannon road - Traffic issues

Drumgannon road - Agricultural use in a residential area.

20 Majors Lane - Not in keeping with the area, traffic issues, noise.

**Characteristics of the Site and Area**

The site comprises a small portion of a larger agricultural field located 95 metres to the West of number 65 Drumgrannon Road, The Moy. The site forms part of a larger agricultural holding which includes 5 fields between the Drumgrannon Road and the main Dungannon Road. It is at a relatively high level in comparison to the main dungannon road and also rises slightly from the Drumgrannon Road. The access follows the line of trees along the field boundary to the south, there is also a low cropped native species hedgerow along the roadside boundary to the east, however the remaining north and western boundaries remain undefined on the ground.

The site lies approx 0.5 KM to the North East of the settlement limits of the Moy. Whilst the Drumgrannon road from which the site gains access is within the open countryside it is a small narrow road which has seen significant pressure from development in recent times.

**Description of Proposal**

Proposed agricultural shed, for feeding and rearing calfs

## Planning Assessment of Policy and Other Material Considerations

### Area Plan

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

### Other Policy Considerations

#### Strategic Planning Policy Statement (SPPS)

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

- Policy CTY 1 Development in the Countryside
- Policy CTY 12 Agricultural and Forestry Development.
- Policy CTY 13 Integration and Design of Buildings in the Countryside
- Policy CTY 14 Rural Character

#### Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

### 3rd Party Objections

There were 7 objections received with regards to the proposed agricultural shed, for feeding and rearing calves.

These objections are summarised below;

1-65 Drumgannon road - Out character, loss of privacy, noise, air and light pollution and traffic congestion.

2-65 Drumgannon road (2) - size of the building over dominant.

3-91 Drumgannon road - Traffic issues, Noise.

4-65A Drumgannon road - Traffic issues, road safety.

5-61 Drumgannon road - Traffic issues

6-Drumgannon road - Agricultural use in a residential area.

7-20 Majors Lane - Not in keeping with the area, traffic issues, noise.

The main issue arising in all of the objections was over the increased traffic flow on what is a minor road and the road safety issues that this proposal would arise. However, a farm shed in the open countryside is not uncommon practice and in many cases found along small narrow rural roads. In this case DFI roads are the competent authority. They were consulted with amended drawings on 28.05.2019 and responded with no objections subject to conditions.

A second concern was over the impact on residential amenity, with regards to loss of privacy, as well as noise, air and light pollution. In this case the nearest dwelling is approx. 75m away, there is a small potential for loss of amenity to this dwelling from the proposed. However, due to the separation distance and considering the occasional use of the building, I am satisfied that the need for the building when balanced with the impact caused is not overly detrimental on the amenity of the residential dwelling. Environmental Health would be the competent authority in this regard, they were consulted on 16.04.2018 and responded with no objections subject to informatives.

A third main concern was that the proposal was not in keeping with the character of the area, and the size of the building would be over dominant. It is my opinion that a livestock shed of 450m<sup>2</sup> with a ridge height of 7.6 metres is not uncommon of many agricultural sheds found in rural areas. EHD, NIEA and SES have all been consulted and have not raised any concerns. I do not consider the building to be over dominant or out of keeping with the character of the area.

Finally, one objector raised the issue of 'an agricultural use in a residential area'. In this case the site is found within the open countryside outside the settlement limits of the Moy and therefore it

is not a residential area. Agricultural fields and farm grazing land surround the site on three sides.

#### Key Policy Consideration

#### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). In paragraph 2.3 of the SPPS it states “The basic question is not whether owners and occupiers of neighbouring properties would experience financial loss from a particular development, but whether the proposal would unacceptably affect the amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured”. The proposed agricultural shed will be located 75m from the nearest third party dwelling at number 65 Drumgrannon Road. It will be used for the feeding and rearing of calves and it is my opinion that due to the separation distance from the nearest dwelling it will not have a significant impact on the amenity of number 65.

The SPPS gives provision for Agriculture and Forestry Development subject to a number policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 12 of PPS 21.

#### PPS 21 – Sustainable Development in the Countryside

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

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

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

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

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for more than 6 years and that the farm business claims subsidies. There is sufficient information to show that the farm is both established and currently active.

This proposal for 1 no. agricultural building, to provide housing for feeding and rearing of calves. While the applicant currently has a principal farm holding on a separate part of the farm, they have also provided a justification for this siting. The farm holding including 3 buildings including a stables, a general agri store and a tool shed are all located on the west of the main Dungannon Moy Road, whilst all 5 of the applicants fields are located on the East of the Road. To house the animals on the existing farm would mean either; walking them across the busy road on a regular basis; or transporting them via trailer, which would be impracticable and inefficient. There would also be significant road safety issues with this as the farm holding is located next to an accident blackspot.

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

The surrounding area is rural in character. This shed is typical of agricultural buildings which are found in this rural area. Given the nature of this building, to house calves, it is considered appropriate to the location. The materials and finishes are typical of this type of building and are acceptable in the rural area.

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

The shed is set back approx. 60m from the public road, accessed via a laneway which follows the existing hedge line. The site benefits from mature boundary of vegetation to the south which will screen views of the shed from the public road and with appropriate planting to the North, the visual impact will be minimal. In my view, given the design, size and scale of the building and existing vegetation this proposal will integrate into the landscape.

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

This proposal is for the shelter of livestock. NIEA were consulted to see if nitrate and ammonia emissions would damage the natural environment in this area or further afield. NIEA required the submission of an Air Quality Impact assessment (AQIA). Upon viewing NIEA were content that the planning application as described was in line with DAERA's operational protocol.

Shared Environmental Services (SES) were also consulted on this proposal, and having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

The following mitigation should be included through conditions:

1. The maximum number and type of cattle housed within the proposed facility shall not exceed 3 beef cows and 30 calves at any time. APHIS records to be made available to the Planning Authority on request.

Reason: To protect the site selection features and conservation objectives of Lough Neagh and Lough Beg Ramsar and Peatlands Park SAC.

2. All of the manure generated from the proposed facility must be spread on the applicants land as detailed within the AQIA.

Reason: To protect the site selection features and conservation objectives of all European designated sites.

Under the current proposal there will be no significant detrimental impact to the natural environment or habitats.

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

There have been 7 objections received from neighbouring residents.

Environmental Health was consulted and their response was; No Environmental Health objections in principle to the proposed. However, it is requested that the attached informative is added to any planning permission granted.

The Clean Neighbourhood and Environment Act (Northern Ireland) 2011

The applicant is advised to ensure that all plant, equipment and activities used in connection with the development is so operated and maintained as to prevent the transmission of noise and odour to nearby premises.

It is my opinion that with the closest dwelling not associated with the farm is approx. 75m away, there is a small potential for loss of amenity to this dwelling from the proposed. However, due to the separation distance and considering the occasional use of the building, I am satisfied that the need for the building when balanced with the impact caused is not overly detrimental on the amenity of the residential dwelling.

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

-There are no suitable existing buildings;

No suitable buildings are available on the holding. As previously discussed, the farm holding including 3 buildings including a stables, a general agri store and a tool shed are all located on

the west of the main Dungannon Moy Road, whilst all 5 of the applicants fields are located on the East of the Road. In addition all of the buildings were currently being used.

-The design and materials are sympathetic to the locality;  
The shed is of a simple design and buildings of this style are characteristic of the rural area.

-It is sited beside existing farm buildings.  
The need for siting away from the existing farm holding has been discussed above.

Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.  
As detailed in my assessment above, these points have been covered.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The shed is agricultural in nature and will not cause a detrimental change to the rural character of this area. This shed also benefits from screening and is set back off the public road.

#### Other Considerations

This site is not subject to flooding and there are no land contamination issues with the site.

DfI Roads recommend sight splays of 2.4m by 45m in both directions, to be conditioned prior to the commencement of development.

Having weighted up the above policy and material considerations including an in-depth look at all the concerns raised by the objectors I am of the opinion that this application should be recommended for approval subject to conditions.

#### Neighbour Notification Checked

**Yes**

#### 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 commencement of the development hereby permitted, visibility splays of 2.4m x 45m shall be provided in accordance with the approved drawing No.1A bearing date stamp 24 sep 2019, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained 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 width of the vehicular access to be (6.0m) for the first (20.0m), including (10.0m) radii and shall be provided in accordance with Drawing No. 01A , bearing the date stamp 24/05/19, prior to the commencement of any other works or other development hereby permitted.

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

4.The maximum number and type of cattle housed within the proposed facility shall not exceed 3 beef cows and 30 calves at any time. APHIS records to be made available to the Planning Authority at Mid Ulster Council on request.

Reason: To protect the site selection features and conservation objectives of Lough Neagh and Lough Beg Ramsar and Peatlands Park SAC.

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

Reason: To protect the site selection features and conservation objectives of all European designated sites.

6.A suitable buffer of 10 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and any watercourses present within the application site.

Reason; To protect neighbouring residential amenity.

7.The building hereby permitted shall not be used until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow planted on the inside.

REASON: To ensure the proposal is in keeping with the character of the rural area.

### **Informatives**

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

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

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

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

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.



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

4.The Clean Neighbourhood and Environment Act (Northern Ireland) 2011

The applicant is advised to ensure that all plant, equipment and activities used in connection with the development is so operated and maintained as to prevent the transmission of noise and odour to nearby premises.

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

The applicant also should refer and adhere to the precepts contained in the following Standing Advice documents: Pollution Prevention Guidance, Sustainable Drainage Systems, Discharges to the Water Environment, Agricultural Developments and Livestock Installations and Ammonia.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th April 2018
<b>Date First Advertised</b>	19th April 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Derek McMullan 20 The Major's Lane, Dungannon, Tyrone, Northern Ireland, BT71 7FG Derek McMullan 20, The Major's Lane, Dungannon, Tyrone, Northern Ireland, BT71 7FG Stephen McCammon 61 Drumgrannon Road, Dungannon, Tyrone, Northern Ireland, BT71 7DY The Owner/Occupier, 65 Drumgrannon Road Dungannon Tyrone Mackle _ Dr Salto-Tellez 65 Drumgrannon Road, Dungannon, Tyrone, Northern Ireland, BT71 7DY Mary Anne Mackle 65 Drumgrannon Road,Moy,Dungannon, BT71 7DY Philip McCammon 65a, Drumgrannon Road, Dungannon, Tyrone, Northern Ireland, BT71 7DY Jim Lewis 91, Drumgrannon Road, Dungannon, Tyrone, Northern Ireland, BT71 7DY Jonathan Ferguson Drumgrannon Road,Moy,Dungannon,BT71 7DY	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0462/F Proposal: Proposed agricultural shed, for feeding and rearing calfs Address: 95m West of 65 Drumgrannon Road, Moy, Decision: Decision Date:  Ref ID: M/2014/0053/PREAPP Proposal: Small Dwelling Address: Majors Lane, Dungannon, Decision: ELR Decision Date:	

Ref ID: M/2008/0997/F

Proposal: 39.5km of pipeline to transfer drinking water from Ballydougan Service Reservoir, near Bleary, Co Down to Carland Service Reservoir, near Newmills, Co Tyrone via a water pumping station at Moy.

Address: Pipeline from Ballydougan Service Reservoir to Carland Service Reservoir via Moy PS

Decision:

Decision Date: 07.12.2009

### **Summary of Consultee Responses**

DFI Roads, Rivers, NIEA, SES and Env Health were consulted and no concerns were raised subject to the above conditions and informatives.

### **Drawing Numbers and Title**

Drawing No. 01A

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



**Development Management Officer Report**  
**Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1537/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed alterations and extension to existing dwelling to include an increase in ridge height to provide bedroom and bath room on the first floor and new dining room on the ground floor	<b>Location:</b> 18 Tamlaghduff Road Bellaghy
<b>Referral Route:</b> Decision in conflict with HED advice.	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Dympna Mc Peake 18 Tamlaghduff Road Bellaghy	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	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

Proposal complies with Policy EXT1 of Addendum to PPS7 – Residential Extensions and Alterations. Does not comply with the advice received from HED consultation response.

### Characteristics of the Site and Area

The site is located within the Open Countryside and there are no further designations on the site, as designated by the Magherafelt Area Plan 2015. The site is located approximately 1.15km from the settlement of Bellaghy. There is a listed cottage located to the rear of the host property. Currently onsite is a single storey dwelling and detached garage. The site fronts onto a public footpath along the main Tamlaghduff Road, Bellaghy. There is some private amenity space located to the rear of the property. The

rear boundaries of the site are defined by a concrete wall. Car parking is currently available within the curtilage of the property.

### **Description of Proposal**

The applicant seeks full planning permission for proposed alterations & extension to existing dwelling to include an increase in ridge height to provide bedrooms & bathroom on first floor and new dining room on the ground floor.

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

#### **Planning History**

H/2011/0049/F - Proposed alterations and extension to existing dwelling including an increase in ridge height to provide bedrooms and a bathroom on the first floor and alterations to ground floor to provide level access shower facilities for residential purposes (Permission Granted 23.03.2011).

#### **Development Plan and Key Policy Consideration**

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan 2015
- Addendum to PPS7 – Residential Extensions and Alterations
- PPS 3: Access, Movement and Parking
- PPS6: Planning, Archaeology and the Built Heritage
- 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. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

The application is seeking planning consent for an extension to an existing dwelling and as such the proposal must be assessed in accordance with the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations.

Policy EXT1 of the Addendum to PPS7 – Residential Extensions and Alterations states that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

**Criterion (a)** deals with scale, massing, design and external materials. The proposed extension to the rear of the property and can be considered subordinate to the existing dwelling. The proposed extension is single storey and with a proposed flat roof therefore considered subordinate to the existing dwelling. The scale and massing of the proposed extension are considered appropriate. The proposed roof extension is proposed to provide additional bedrooms on the first floor – the current roof is proposed to be stripped and replaced with flat and non-profiled tiles or slates – materials that are appropriate for the setting of this dwelling and in keeping with the rural character of the

area. The proposed external materials are to match the existing dwelling, therefore are appropriate.

**Criterion (b)** deals with the privacy of the neighbouring residents in terms of overshadowing, loss of light and dominance the proposal will have no adverse effect on the properties on either side of the host property due to the subordinate nature of the proposal and the existing boundary definition. I am satisfied that the proposal will have no impact on the residential amenity by way of dominance, overshadowing and loss of privacy.

**Criterion (c)** the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. No trees or landscape features will be lost or damaged.

**Criterion (d)** sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles. A small amount of rear residential amenity space will be taken by the proposal, however I am satisfied sufficient space will be retained for recreational and domestic purposes. There will be no impact on car parking.

The proposed extension complies with the criteria of policy EXT1 of Addendum to PPS7 – Residential Extensions and Alterations.

### **Other Material Considerations**

DfC Historic Environment Division were consulted due to the close proximity of the listed cottage to the rear of the property at no.20 Tamlaghduff Road. HED state that the proposal does not comply with Policy BH11 of PPS6 - Planning, Archaeology and the Built Heritage. The proposal had originally been a much larger scheme however was reduced to comply with Policy BH11 of PPS6. Although HED still feel that the proposal does not comply with policy I feel that the reduced scheme does comply with Policy BH11.

Policy BH11 of PPS6 states that The Department will not normally permit development, which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:

(a) The detailed design respects the listed building in terms of scale, height, massing and alignment.

(b) The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building.

(c) The nature of the use proposed respects the character of the setting of the building.

Although the ridge height is proposed to be risen, it will not further obstruct any view of the listed building from the main Tamlaghduff Road as seen in the photograph 1 below. The applicant seeks to raise the roof height by 1.7m and the right hand side elevation of the dwelling is to remain at ground floor level as can be seen from photograph 2 below, therefore I am content that the proposal is acceptable in terms of height, scale and design and I am content that the proposal does not have an adverse effect on the quality of the listed building.



**Photograph 1** A picture of the front elevation of the dwelling as seen from the main Tamlaghduff Road.



**Photograph 2** The view of the listed building in conjunction with the right hand side elevation which is to remain as a single storey.

The applicant has proposed to change the external materials of the dwelling to smooth render painted or roughcast render. The proposed roof is to be flat and non-profiled tiles or slates which will be blue/black or grey. These materials are considered sympathetic to the setting of the listed building.

The use of the building is to remain as a dwelling therefore the proposal complies with criteria (c) of policy BH11 of PPS6.



I am content that this proposal complies with policy BH11 of PPS6 and does not have a detrimental impact on the character of the quality of the listed building or the quality of the setting of the listed building. The proposed development does not further obstruct view of the listed building from the main Tamlaghduf

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval.

**Conditions**

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

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

**Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	19th November 2018
<b>Date First Advertised</b>	6th December 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 16 Tamlaghtduff Road Bellaghy Londonderry The Owner/Occupier, 20 Tamlaghtduff Road Bellaghy Londonderry The Owner/Occupier, 22b Tamlaghtduff Road Bellaghy	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1537/F Proposal: Proposed alterations and extension to existing dwelling to include an increase in ridge height to provide bedroom and bath room on the first floor and new dining room on the ground floor Address: 18 Tamlaghduff Road, Bellaghy, Decision: Decision Date:  Ref ID: H/1997/0100 Proposal: ALTERATIONS & ADDITIONS TO DWELLING Address: 18 TAMLAGHDUFF ROAD BELLAGHY Decision: Decision Date:  Ref ID: H/2011/0049/F Proposal: Proposed alterations and extension to existing dwelling including an increase in ridge height to provide bedrooms and a bathroom on the first floor and alterations to ground floor to provide level access shower facilities for residential purposes Address: No 18 Tamlaghduff Road, Bellaghy, Decision: Decision Date: 25.03.2011	

Ref ID: H/1977/0259

Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW

Address: 18 CAVAN, TAMLAGHTDUFF, BELLAGHY

Decision:

Decision Date:

Ref ID: H/1978/0513

Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW

Address: TAMLAGHDUFF ROAD, BELLAGHY

Decision:

Decision Date:

Ref ID: H/2013/0094/LBC

Proposal: Proposed single storey extension to the rear of existing Grade B2 listed dwelling

Address: 20 Tamlaghtduff Road, Bellaghy ,Magherafelt, BT45 8JQ,

Decision: CG

Decision Date: 29.08.2013

Ref ID: H/2013/0470/LBC

Proposal: Repairs to property

Address: 20 Tamlaghtduff Road, Bellaghy, BT45 8JQ,

Decision: CG

Decision Date: 19.08.2014

Ref ID: H/2013/0093/F

Proposal: Proposed single storey extension to the rear of existing Grade B2 listed dwelling

Address: 20 Tamlaghtduff Road, Bellaghy, Magherafelt,

Decision: PG

Decision Date: 29.08.2013

Ref ID: H/2004/0938/F

Proposal: Proposed Studio (Private Use Only)

Address: Site to the rear of 20 Tamlaghtduff Road, Bellaghy

Decision:

Decision Date: 22.09.2005

Ref ID: LA09/2018/0497/F

Proposal: Proposed 2 storey extension and alteration works to existing dwelling

Address: 16 Tamlaghtduff Road, Bellaghy, Magherafelt,

Decision: PG

Decision Date: 23.08.2018

Ref ID: H/2012/0205/F

Proposal: Extension and alterations to existing garage

Address: 16 Tamlaghtduff Road, Bellaghy, Magherafelt, BT45 8JQ,

Decision: PG

Decision Date: 03.08.2012

Ref ID: H/2005/0746/RM

Proposal: Dwelling house & garage

Address: 160M NW of 16B Tamlaghtduff Road, Bellaghy

Decision:

Decision Date: 20.11.2005

Ref ID: H/2004/0728/O

Proposal: Site of dwelling and garage.

Address: 180m NW of 16B Tamlaghtduff Road, Bellaghy

Decision:

Decision Date: 10.04.2006

Ref ID: H/2004/0726/O

Proposal: Site of Dwelling and Garage.

Address: 160m North West of No 16B Tamlaghtduff Road, Bellaghy.

Decision:

Decision Date: 25.04.2005

Ref ID: H/1994/0223

Proposal: SITE OF REPLACEMENT DWELLING AND GARAGE

Address: 22A TAMLAGHTDUFF ROAD BELLAGHY

Decision:

Decision Date:

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No. 04  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 03  
Type: Proposed Floor Plans  
Status: Submitted

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

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

Drawing No. 05  
Type: Existing Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:

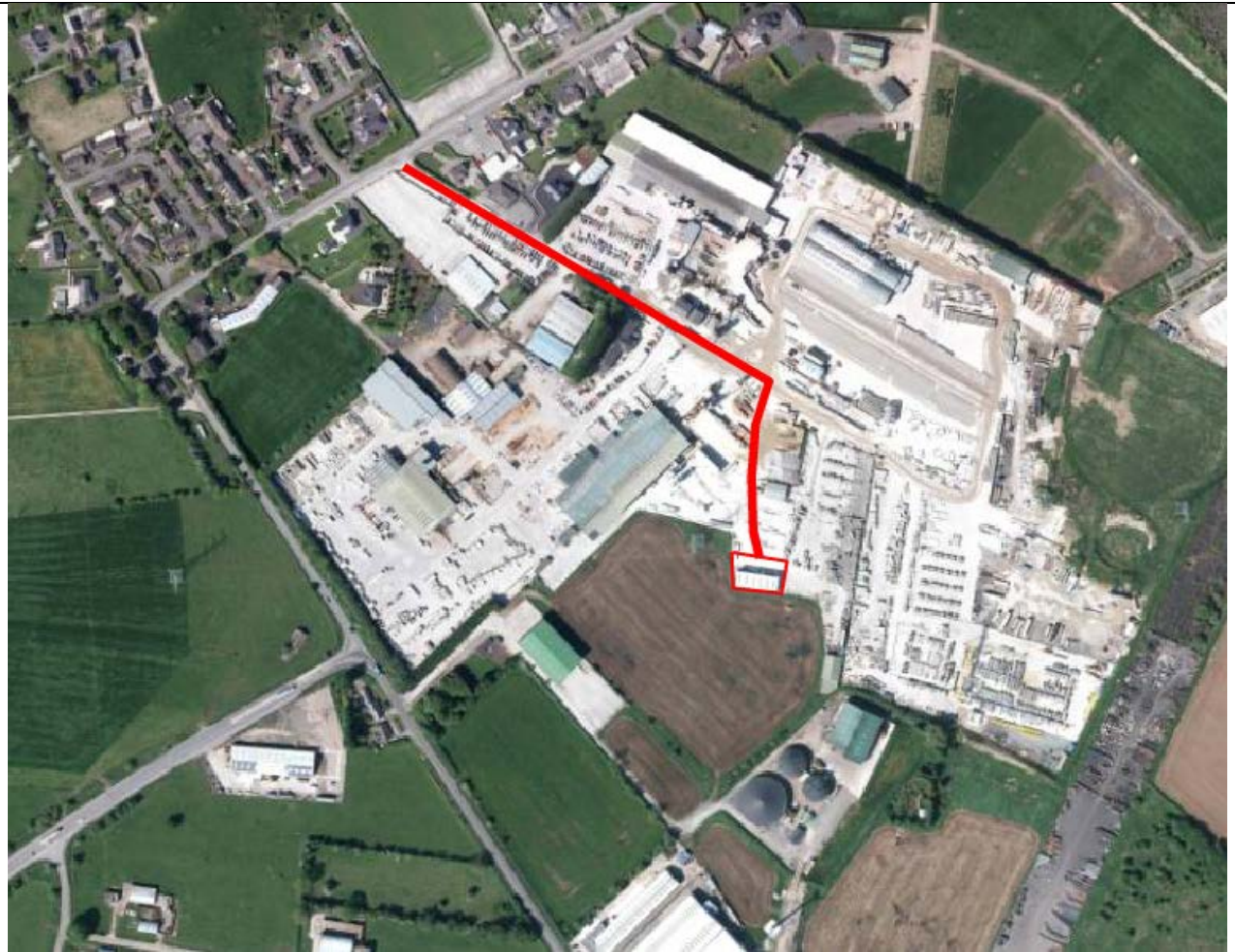
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1648/F	<b>Target Date:</b> 01/04/2019
<b>Proposal:</b> Retention of open-sided storage building	<b>Location:</b> Creagh Concrete Products Ltd Blackrock Road Toomebridge
<b>Referral Route:</b> An objection has been received to the application.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Creagh Concrete Products Ltd Blackrock Road Toomebridge BT42 3SL	<b>Agent Name and Address:</b> Gemma Jobling JPE Planning 1 Inverary Valley Larne BT40 3BJ
<b>Executive Summary:</b> This application is for retention of an aggregate store associated with a larger industrial site, an objection has been received that questions the ownership of the land, processing of the application in relation to the submission of land ownership certificates and advertising of the development.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Rivers Agency	Advice

### Representations:

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

### Summary of Issues

The land is not owned by the applicant, land registry records show who owns the land, the application has been accompanied by the wrong certificate under Section 42 of the Planning Act (NI) 2011.

### Characteristics of the Site and Area

The application site is part of the larger Creagh Concrete Products manufacturing site at the Creagh. The site contains a mono-pitched roof building which is 6.9m to the front and 5.3m to the rear. The roof is finished with a profiled metal finish, it is open to the north and has concrete

panels to the side and partially to rear. The upper part of the rear elevation is open with netting at the top. The building is located close to the site boundary which is post and wire fencing with an agricultural field beyond. Access to the building is through the existing concrete works where there are a number of large buildings, cranes and open storage areas.

### **Description of Proposal**

The proposal is for the retention of the open sided building, it is 33.7m long and 11.9m deep, it has a monopitched roof which is 6.9m to the front and 5.3m to the rear. The building is open to the front and has concrete panel walls to the sides and up to 3.3m at the rear. The remainder of the rear walling is black netting. The building is used to store aggregates.

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

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

Planning Policy Statement 21: Sustainable Development in the Countryside

### **Relevant Histories**

LA09/2018/0826/F - Erection of new gantry crane for loading / unloading of pre cast concrete products and retention of extension to concrete yard for storage of pre cast concrete products.- Ongoing

LA09/2016/1446/F - Proposed development of a 500 Kw Centralised Anaerobic Digestion (CAD) plant, Combined Heat and Power (CHP) plant, access (part of link road) and ancillary site works - Lands approx. 365 m south east of no. 20 Blackpark Road and to the rear of Creagh Concrete, Toomebridge – Withdrawn 13.03.2017

LA09/2016/1090/F - New Access into Creagh Concrete Products Ltd site from Creagh Industrial park ( off Hillhead Road ) including the construction of a 24m length extension of the Creagh Industrial park road leading to an internal roadway within the Creagh Concrete Products site - Withdrawn 05.10.2018

LA09/2016/0692/F Erection of new building for washing/ drying of precast concrete products (retrospective). Erection of new gantry crane for loading /unloading of precast concrete products. extension of existing production factory TF5 to facilitate to production of larger precast concrete – Granted 05.10.2017



LA09/2015/1239/F - Removal and alteration of Conditions 2, 3 and 6 of previous approval H/2007/0546/F relating to noise and operating hours – Granted 07/09/2017

H/2013/0296/F - Reinstatement and extension of previously approved storage area, lorry and trailer park to facilitate reorganisation of precast products and increased variety of stock products, colour and size with no increase in existing site production area. Relocation of existing external block and brick production area (5200m<sup>2</sup>) to proposed new area (4320m<sup>2</sup>) with original being reused for product display, product finishing, product and plant storage, vehicle storage and recyclable material waste and storage. Retention of existing product display, product finishing, product and plant storage, vehicle storage and recyclable material waste storage. (Amended Noise report received) – Granted 05.10.2017

H/2010/0159/F - Erection of a 250kw wind turbine with a tower height of 40m | Creagh Concrete Factory, Blackpark Road, Toomebridge (approx 40m West of main office building) - Withdrawn 05.08.2010

H/2007/0546/F - Removal of existing metal single skin, and roof cladding on existing concrete products factory, and replacement with new insulated metal cladding. Extension of existing concrete products factory to encompass storage yard. Demolition of existing single skin corrugated tin factory and replacement with new factory building - Granted 12.05.2008

H/2007/0077/F - Demolition of existing uninsulated staff canteen & garage building & construction of new staff canteen & offices building, with staff toilets, locker room & showers – Granted 09/05/2007

H/2006/0703/F - Lean-to extension, along approx 1/2 length of existing building, for the curing of Concrete Products produced in the existing building - Withdrawn 26.05.2008

H/2006/0279/O - Easterly extension to existing precast concrete works to facilitate the reconfiguration of existing plant and building units, and to provide new manufacturing facility and additional hardstanding areas to permit vehicle turning areas and storage. Provision of a new access is proposed via Creagh Buisness Park, Estate Road, egressing at Creagh Roundabout, Hillhead Road – Appeal Upheld 13.06.2008

H/2005/1118/F - Retrospective change of use from agricultural field to a proposed extension of storage yard and lorry park (trailers) – Granted 05.2008

H/2005/0739/F - 1 No. Building for storage of items necessary for existing factory production. 1 No. Building for the tying and cutting of reinforcement bars used in factory products – Granted 07/09/2006

H/2000/0178/F - Extension of Offices – Granted 12/05/2000

H/1998/0307 - mixing plant and workshop for the production of concrete products and associated office and canteen – Granted (historical)

H/1998/0071 - site of industrial park to include new roads layout - S.E of junction of Hillhead Road and Blackpark Road the Creagh Magherafelt - Withdrawn 05.06.1998

H/1996/0227 - precast concrete casting factory – Granted (historical)

**Relevant Enforcement History on Site**

LA09/2018/0078/CA - Unauthorised building - this case is on hold pending the outcome of the current planning application.

**Representations**

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. Copies of letters were hand delivered on 5 April 2019, at the time of the site inspection, to Conor Morgan Cars; John H Place (Steels); 36c Black Park Road and Moyola/Toome Credit Union.

Due to an administrative error, the address for this site was initially input as Blackrock Road. Following the discovery of this error the application was re-advertised and the neighbours notified

One objection to the proposal has been received which relates to the ownership of the land and the address that was used for advertising purposes.

Section 42(1) of the Planning Act (NI) 2011- The Act - states that the Council must not entertain an application unless it is accompanied by a one of the Certificates (a) – (d), these relate to statements of land ownership. Section 42 (6) sets out the circumstances where it is an offence in relation to the completion of these certificates. The application has been accompanied by Certificate D of Section 42, it is stated on the certificate 'Without prejudice to its opinions that the applicant is in actual possession of all the lands to which the application relates, the applicant cannot at this time certify clear title to the entire extent of the application albeit that no other part has identified any established rights over the same land.' The applicant advertised this in the Mid Ulster Mail on 13 December 2018, however the advertisement did not specify that it was under Section 42 of the Planning Act. The applicant advertised an amended notification in the Mid Ulster Mail on 14<sup>th</sup> March 2019. I am content that the application has been accompanied by one of the required certificates and as such this is a valid planning application. The advertisement clearly specifies that anyone who has an interest in the land is entitled to make a representation to the Council. The objection has been submitted on behalf of the Estate of Cassie Diamond and is accompanied by land registry maps and extracts that were searched on 27 July 2019 and identify the owner of folio 18850 in the County of Londonderry as last registered in the name of Cassie Diamond of Annahorish, Castledawson and it was registered on 8<sup>th</sup> May 1962. Part 5 of the folio includes the application site. The matter of whether or not there is an offence committed in the completion of the certificate pursuant to Section 42 is not, in my opinion, a matter for the Planning Committee to decide upon. Members will be aware that planning permission does not grant title and an informative can be added to any decision to reinforce that point.

Article 3 (2) (b) of the Planning (General Development Procedure) Order (NI) 2015 – GDPO – sets out what an application for planning permission shall contain the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land'. Royal Mail Post Code search identifies the postal address for Creagh Concrete Ltd, as Creagh Concrete Ltd, 38

Blackpark Road Toomebridge Antrim BT41 3SL. Creagh Concrete Ltd occupy a large site at Blackpark Road, however I am content that a postal address has been used and if residents or interested parties had sight of the advertisement in the local papers, they would know where the site is and could make further inquiries to satisfy themselves of the exact location. I am of the opinion that the application meets with the requirements of the GDPO and has been advertised correctly.

### **Magherafelt Area Plan 2015**

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015, it is close to Creagh (a designated small settlement), Creagh Business Park and Zoned Industrial Lands (COU10) and a Transportation Scheme for a new Road Link between A6 and Aughrim Road (COU8). I do not consider the proposal impacts on the identified road line and I do not consider there any policies within the plan that deal with industrial development in the countryside.

### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The Strategic Planning Policy Statement for Northern Ireland sets out the Departments Regional Planning Policies and provides guidance for the Councils to take into account in their Local Development Frameworks. Until the Council has adopted its own LDP, current regional policy as set out in the suite of Published Planning Policy Statement provides the planning policies for consideration unless the SPPS provides a different policy direction or offers clarification, then the policy in the SPPS is given determining weight. I do not consider the SPPS has changed any policies in relation to the expansion of an existing business in the countryside.

### **Planning Policy Statement 21 Sustainable Development in the Countryside**

Policy CTY 1 of PPS21 allows a number of types of development in the countryside, where it relates to business development if the policies contained within PPS4 are met then the proposal will meet with CTY1.

Policy PED2 of PPS4 allows economic development in the countryside where it meets with other specified criteria in policies PED3 – PED6 and the general criteria in PED9 is relevant to the consideration of all economic development proposals.

I consider PED3 – Expansion of an Existing Industrial Development in the Countryside

This proposal is for the retention of a building associated with a well established business 'Creagh Concrete Ltd' and as such I consider this is the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

Policy PED 3 states the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

Aerial photographs of the site from 13 May 2005 indicate the area the building is on was within the existing industrial site and as such there is no increase in the site area because of this development. (Annex A) The proposal is for the retention of a building with a floorspace of approx.. 400sqm in area. Views of the building from the surrounding public road network are limited and the building is seen with the much larger buildings in the vicinity. I consider the building integrates into its surroundings.

In addition to Policy PED 3, this proposal is required to meet the requirements of Policy PED 9 - General Criteria for Economic Development, which for the following reasons I consider it does:

- this proposal is considered compatible with the surrounding land uses given the existing similar economic uses in the vicinity including those at Creagh Business Park to the northeast of the site.
- The building is located within the existing yard, there may be issues relating to noise and dust due to this building, however I do not think, given the existing development and uses around it, as well as the distance from existing and approved residential properties, that this building will unduly exacerbate any existing issues.
- It will not adversely affect features of the natural or built heritage as there are no features of built heritage on site or in the immediate vicinity.
- Whilst information in the DEARA Flood Maps indicate this is an area at risk from flooding, a Flood Risk Assessment has been provided that indicates the ground level of the building is above the 1:100 year fluvial flood plain. This report has been considered by Rivers Agency and they have advised they do not have any reason to disagree with the information. As the development is not in an area that floods, it is not at risk from flooding and will not cause displacement of flood water that would put other properties at risk.
- There will be no effluent and no concerns regarding emissions have been raised.
- This proposal does not involve the creation of a new access unto a public road or intensification of the existing site access.
- This building is for storage of aggregates and as such is unlikely to result in the need to provide an additional links to footways or alternative modes of transport
- The building does not include any new landscaping or infrastructure, it is of an appearance that is not out of place in this type of industrial environment, where there is little in the way of landscaping and as such, I do not consider it is necessary to request additional landscaping. It does not propose any outdoor storage and encloses an area that was previously outdoor storage

- The proposal does not involve any new fences, as the site is self-contained and well secured, it is generally designed to deter crime and promotes personal safety.

Taking account if all of the above, I consider this proposed development can be considered to meet PED3 of PPS4 and can be approved.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th December 2018
<b>Date First Advertised</b>	10th January 2019
<b>Date Last Advertised</b>	01 <sup>st</sup> October 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Homelands, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3TA The Owner/Occupier, 36c Blackpark Road Toomebridge The Owner/Occupier, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, John H Place (Steels), 44 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Moyola _ Toome Credit Union, 35 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Newbridge Youth Centre, 40 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL James L Russel & Son Solicitors & Notary Public, "Maine-Lea", 55 High Street, Ballymena, BT43 6DT	
<b>Date of Last Neighbour Notification</b>	20 <sup>th</sup> September 2019
<b>Date of EIA Determination</b>	<b>18 October 2019</b>
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/0054/RM Proposal: Two Storey House Address: 40m SE of 34 Blackpark Road, The Creagh, Toomebridge, Decision: PG Decision Date: 28.02.2017  Ref ID: LA09/2018/1648/F Proposal: Retention of open-sided storage building Address: Creagh Concrete Products Ltd, Blackrock Road, Toomebridge, Decision: Decision Date:	

Ref ID: H/2007/0546/F

Proposal: Removal of existing metal single skin, and roof cladding on existing concrete products factory, and replacement with new insulated metal cladding. Extension of existing concrete products factory to encompass storage yard. Demolition of existing single skin corrugated tin factory and replacement with new factory building

Address: Creagh Concrete, Blackpark Road, Toomebridge

Decision:

Decision Date: 13.05.2008

Ref ID: H/2006/0279/O

Proposal: Easterly extension to existing precast concrete works to facilitate the reconfiguration of existing plant and building units, and to provide new manufacturing facility and additional hardstanding areas to permit vehicle turning areas and storage. Provision of a new access is proposed via Creagh Buisness Park, Estate Road, egressing at Creagh Roundabout, Hillhead Road.

Address: Creagh concrete site, Blackpark Road, Toomebridge, with additional access onto Hillhead Road, via the Estate Road through Creagh Buisness Estate.

Decision:

Decision Date:

Ref ID: H/1998/0307

Proposal: MIXING PLANT AND WORKSHOP FOR THE PRODUCTION OF CONCRETE

PRODUCTS AND ASSOCIATED OFFICE AND CANTEEN

Address: ADJACENT TO CREAGH CONCRETE PRODUCTS 40 BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2003/0062/F

Proposal: Extension to existing offices to increase existing office/storage space, additional toilet facilities and to facilitate the introduction of a disabled lift with provision for ramped access to conform with DDA regulations.

Address: Blackpark Road, Toomebridge.

Decision:

Decision Date: 19.03.2003

Ref ID: H/1996/0227

Proposal: PRECAST CONCRETE CASTING FACTORY

Address: CREAGH CONCRETE PRODUCTS BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2005/0739/F

Proposal: 1 No. Building for storage of items necessary for existing factory production. 1  
No. Building for the tying and cutting of reinforcement bars used in factory products.  
Address: Creagh Concrete Products, Blackpark Road, Toomebridge, Co.Antrim.  
Decision:  
Decision Date: 25.09.2006

Ref ID: H/1993/0533  
Proposal: EXTENSION TO WORKSHOP  
Address: 44 BLACKPARK ROAD TOOMEBRIDGE  
Decision:  
Decision Date:

Ref ID: H/1978/0076  
Proposal: OFFICES AND WEIGHBRIDGE  
Address: CREAGH INDUSTRIAL ESTATE, TOOMEBRIDGE  
Decision:  
Decision Date:

Ref ID: H/1990/0181  
Proposal: ALTS AND ADDS TO OFFICES  
Address: BLACKPARK ROAD TOOMEBRIDGE  
Decision:  
Decision Date:

Ref ID: H/2007/0077/F  
Proposal: Demolition of existing uninsulated staff canteen & garage building &  
construction of new staff canteen & offices building, with staff toilets, locker room &  
showers  
Address: Creagh Concrete Products Ltd, 34 Blackpark Road, Toomebridge  
Decision:  
Decision Date: 11.05.2007

Ref ID: H/2006/0703/F  
Proposal: Lean-to extension, along approx 1/2 length of existing building, for the curing of  
Concrete Products produced in the existing building  
Address: Bradstone Factory Building, Creagh Concrete Products Ltd, 34 Blackpark  
Road, Toomebridge, Co. Antrim, BT41 3SL  
Decision:  
Decision Date: 26.05.2008

Ref ID: LA09/2016/0692/F  
Proposal: Erection of new building for washing/ drying of precast concrete products  
(retrospective). Erection of new gantry crane for loading /unloading of precast concrete  
products. extension of existing production factory TF5 to facilitate to production of larger  
precast concrete units



Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge,  
Decision: PG  
Decision Date: 06.10.2017

Ref ID: LA09/2015/1239/F  
Proposal: Removal and alteration of Conditions 2, 3 and 6 of previous approval  
H/2007/0546/F relating to noise and operating hours  
Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge,  
Decision: PG  
Decision Date: 07.09.2017

Ref ID: LA09/2016/0519/O  
Proposal: Two Storey House  
Address: 40m SE of No 34 Blackpark Road, The Creagh, Toomebridge,  
Decision: PG  
Decision Date: 13.01.2017

Ref ID: H/2014/0071/F  
Proposal: Proposed extension to existing industrial premises for the storage of steel  
Address: 44 Blackpark Road, Toomebridge,  
Decision: PG  
Decision Date: 01.07.2014

### **Summary of Consultee Responses**

Rivers Agency -

### **Drawing Numbers and Title**

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

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

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

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

Date of Notification to Department:  
Response of Department:

ANNEX A – Aerial Photograph of site dated 13 May 2005



Aerial Photograph 23 May 2018





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0252/O	<b>Target Date:</b> 12/06/19
<b>Proposal:</b> Farm dwelling and garage	<b>Location:</b> 200m NE of 51 Gulladuff Road Magherafelt
<b>Referral Route:</b> Refusal – contrary to planning policy.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr James McPeake 20 Carnaman Road Knockloughrim Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DAERA - Coleraine	Advice
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

Not sited with farm buildings.

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

The site is located approx. 200m NE of 51 Gulladuff Road, Magherafelt within the countryside as identified within the Magherafelt Area Plan 2015. The red line of the site includes an agricultural field with another field outlined in blue, indicating ownership. The boundaries of the site are defined by existing hedging. The lands are generally quite flat throughout and views of the site will be somewhat limited from public viewpoints given it is setback slightly from the roadside. The surrounding area is predominantly rural with scattered dwellings and their associated outbuildings. Gulladuff settlement limit is located approx. 310m east of the site.

## **Description of Proposal**

Outline planning permission is sought for a proposed farm dwelling and garage.

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

### Planning History

There is not considered to be any relevant planning history associated with the site itself.

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include 45 and 51 Gulladuff Road. At the time of writing, no third party representations have been received.

### Planning Assessment of Policy and Other Material Considerations

- Magherafelt Area Plan 2015
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 – Draft Plan Strategy

The Magherafelt Area Plan 2015 identify the site as being in the rural countryside, located West of Gulladuff. The site has no other zonings or designations.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 - Dwellings in the Countryside, part (e) – Dwelling on a Farm, are applicable to this application. This proposal is in keeping with both of these policies. As such, the development is in conformity with the Draft Plan Strategy although it holds little determining weight following on from the early consultation stage.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

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 the business ID has been in existence for more than 6 years and claims are currently being made on the lands. From this information I am content the farm holding has been active and established for at least 6 years.

With respect 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 this application. There are two sites which are located within the farm which have been previously approved under replacement dwellings (Ref: LA09/2016/0792/F and LA09/2015/0837/RM), however following land registry checks I can confirm that these lands are still within the applicant's ownership and have not been sold off.

With respect to (c), there are no farm buildings in or around the site which any potential dwelling could be visually linked too. From the farm maps provided, it is considered there are other fields which would be more suitable in terms of visual linkage with existing buildings at the applicant's home address as noted on the P1 form - 20 Carnaman Road. There are a number of fields around this address which appear to be within the applicant's ownership and would be suitable in terms of allowing the new building to be visually linked or sited to cluster with an established group of buildings on the farm holding.

The agent had been asked to provide justification for why a dwelling could not be sited at the farm holding at 20 Carnaman Road and he stated that the lands and buildings here were within the ownership of the applicant's brother. A land registry check was carried out on some of the lands to determine who was in ownership of the previous approvals and both the applicants name and his brothers were stated on the folio. In this instance, it is considered that the proposal does not meet with the third policy criterion of CTY 10 and therefore is recommended for refusal.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. The site has existing hedging and vegetation which runs along its boundaries which would help aid with integration and given that it is set back from the roadside, views from public viewpoints will be lessened. As this is an outline application, details surrounding the design and finishes of the dwelling have not been submitted however I find no reason why a suitably sized dwelling could not be designed to integrate successfully into this site. Criterion (g) of CTY 13 relates back to the need for any proposed dwelling on a farm to be sited to visually link or cluster with an established group of buildings on a farm. This issue has been address previously and therefore the proposal fails on this requirement of CTY 13 also.

The applicant has noted that they intend to create a new access onto Gulladuff Road which is a protected route. The clarification of Policy AMP 3 deals with accesses onto protected routes and sets out a number of exceptions which may be allowed - one of these being a farm dwelling were

<p>an access cannot reasonably be obtained from an adjacent minor road. DfL Roads have been consulted and have no objection subject to condition.</p>	
<p><b>Neighbour Notification Checked</b></p>	<p>Yes</p>
<p><b>Summary of Recommendation:</b></p> <p>Refusal is recommended.</p>	
<p><b>Conditions/Reasons for Refusal:</b></p> <p>Refusal Reasons</p> <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 and could not be located within a settlement.</li> <li>2. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling does not cluster with an established group of buildings at the farm.</li> <li>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 and therefore would not visually integrate into the surrounding landscape.</li> </ol>	
<p><b>Signature(s)</b></p> <p><b>Date:</b></p>	

ANNEX	
<b>Date Valid</b>	27th February 2019
<b>Date First Advertised</b>	14th March 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 51 Gulladuff Road, Maghera, Londonderry, BT46 5EN 45 Gulladuff Road, Maghera, Londonderry, BT46 5EN	
<b>Date of Last Neighbour Notification</b>	October 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0252/O Proposal: Farm dwelling and garage Address: 200m NE of 51 Gulladuff Road, Magherafelt, Decision: Decision Date:  Ref ID: H/2004/0843/O Proposal: Site of dwelling house and garage. Address: Opposite 51 Gulladuff Road Maghera Co. Londonderry. Decision: Decision Date: 31.10.2005  Ref ID: H/2010/0140/F Proposal: Change of use from dwelling to self-catering unit, refurbishment and associated ground works. Address: 52 Gulladuff Road, Maghera Decision: Decision Date: 17.06.2010  Ref ID: H/2009/0624/F Proposal: Proposed two storey dwelling and detached double garage Address: 100m South West of no.52 Gulladuff Road, Maghera(amended P1 form) Decision: Decision Date: 12.02.2010	



Ref ID: H/2011/0437/F

Proposal: Replacement Dwelling and Garage

Address: 350m North East of 46 Gulladuff Road, Maghera,

Decision:

Decision Date: 14.10.2011

### **Summary of Consultee Responses**

No issues.

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0468/F	<b>Target Date:</b>
<b>Proposal:</b> (Amended Plans) Proposed 2 storey side annex extension to provide granny flat and provision of 2no dormer windows to the existing dwelling and new retaining wall to rear garden	<b>Location:</b> 40 Coolshinney Road, Magherafelt
<b>Referral Route:</b> Approval – objections received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Claire Mc Williams 40 Coolshinney Road Magherafelt	<b>Agent Name and Address:</b> Paul Mc Mahon 26 Bracken Vale Omagh BT78 5RS
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### Representations:

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

### Summary of Issues

The main points raised within the objections include:

- Inaccurate description
- Privacy
- Dominance
- Loss of light
- Ancillary use of the granny flat

### Characteristics of the Site and Area

The site is located at 40 Coolshinney Road, Magherafelt. On site is a dwelling which is 1.5 storey and has a mixture of red brick and dash finish. There is a modest sized garden to the front and side of the property and parking is available within the site curtilage on the existing driveway. There is existing hedging along the eastern and southern boundaries, with the northern boundary being defined by timber fencing. The immediate area surrounding the site is predominantly residential, with agricultural fields and rural uses opposite the site and beyond. Within Magherafelt settlement limit there is a mix of uses including commercial, industrial and recreational.

## **Description of Proposal**

Full planning permission is sought for a proposed two storey side annex extension to provide granny flat and provision of two no. dormer windows to the existing dwelling and new retaining wall to rear garden.

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

### Planning History

There is a not considered to be any relevant planning history associated with the site.

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 38 and 42 Coolshinney Road and 11 and 13 Coolshinney Close. At the time of writing, there were a number of representations which have been received from the neighbouring property (No.38), all of the points which were raised in the objections will be discussed in detail later in the report.

### Assessment of Policy/Other material considerations

- Magherafelt Area Plan 2015
- Strategic Planning Policy Statement (SPPS)
- Addendum to PPS 7 – Residential Extensions and Alterations
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 – Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. At present, the proposal is in line with the policies held within this document, more specifically Policy HOU3 – Residential extensions, however it must be noted that Draft Plan Strategy holds no determining weight as it is only at early consultation stage.

The proposal is located within Magherafelt settlement limit and has no other designations or zonings.

The application is seeking planning consent for a proposed two storey side annex extension to provide granny flat and provision of two no. dormer windows to the existing dwelling and new retaining wall to rear garden and therefore must be assessed in accordance with the Addendum to Planning Policy Statement 7 –

It is considered that Policy EXT1 of this statement is relevant to this proposal. Policy permits development where a range of criteria have been met.

The proposal is for a proposed two storey side annex extension to provide granny flat and provision of two no. dormer windows to the existing dwelling and new retaining wall to rear garden. It is considered the proposal would appear subordinate to the existing dwelling given the size of the proposed footprint of the extension which projects slightly from the side of the dwelling but largely to the rear. The ridge height of the proposed extension would also appear subordinate to the existing dwelling. The existing attached garage is to be removed to allow for this extension. There is also two new dormer

windows proposed to be located on the existing front projection which are considered acceptable in this locality. The materials of the extension include render which is considered acceptable in this location. It is also considered that there is little impact on the character or appearance of the surrounding area.

It is considered there is adequate distance and boundaries between the application site and surrounding properties to avoid issues such as privacy or overlooking. The nearest property to the proposed extension is No. 38 (the objectors' property) which is approx. 6m distance at the closest points. There are no new windows proposed on the elevation which faces onto this property other than the downstairs bathroom window which had to be moved from the rear elevation to allow for this extension. This window is noted to have obscure glazing. Furthermore it is considered that there is sufficient amenity space remaining for the dwelling and shall thus not have a detrimental impact on the residential amenity of this or of neighbouring dwellings. Sufficient space remains around the property to allow for parking and the manoeuvring of vehicles.

The Addendum to PPS 7 also notes what is considered acceptable in terms of extensions and alterations to provide for ancillary uses. I am satisfied that the proposed accommodation will remain ancillary to the main residential property and is sub ordinate to the dwelling. The ancillary accommodation is attached to the existing property and internally accessible from it. The proposal is considered acceptable in terms of scale and design, should not cause overlooking or any significant overshadowing or have adverse impact on the adjoining properties.

#### Representations

There were a number of objections received in relation to the proposal which were all from the same address (No. 38 Coolshinney Road).

The main points raised within the objections include:

- Inaccurate description
- Privacy
- Dominance
- Loss of light
- Ancillary use of the granny flat

The agent has provided an amended description which deals with the first point raised. There has been a number of amendments made to lessen the impact which the proposal will have on the objectors' property, including the removal of the windows on the side elevation of the proposed extension which faces onto their property and repositioning of the proposed extension to project mainly from the rear of the property. I consider these changes were necessary to lessen the impact which the proposal would have on the objectors' property. It is noted that the agent has took on board suggestions made by the planning area manager and implemented them on the latest plans submitted to ourselves. We feel that the latest plans deal with issues relating to privacy, dominance and loss of light. There is an internal link between the main property and the proposed granny flat and there will be an occupancy condition for the granny flat attached to any forthcoming approval.

The application was due to go to October committee but was subsequently removed from the schedule to allow any further comments to be submitted following an email from

an objector which was received. No further objections were received at the time of writing.	
<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>  The proposal is considered to be in line with the relevant planning policies and thus approval is recommended.	
<b>Conditions/Reasons for Refusal:</b>  Conditions  1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.  2. The extension hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling known as 40 Coolshinney Road, Magherafelt.  Reason: To prevent the creation of additional dwelling units.  3. 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.  Informatives  1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.  2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.	
<b>Signature(s)</b>  <b>Date:</b>	

ANNEX	
<b>Date Valid</b>	8th April 2019
<b>Date First Advertised</b>	25th April 2019
<b>Date Last Advertised</b>	23rd May 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Coolshinney Park, Magherafelt, Londonderry, BT45 5JG The Owner/Occupier, 13 Coolshinney Park, Magherafelt, Londonderry, BT45 5JG The Owner/Occupier, 38 Coolshinney Road, Magherafelt, Londonderry, BT45 5JF Margaret McCaughey 38, Coolshinney Road, Magherafelt, Londonderry, Northern Ireland, BT45 5JF The Owner/Occupier, 42 Coolshinney Road, Magherafelt, Londonderry, BT45 5JF Margaret McCaughey  Margaret McCaughey	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0468/F Proposal: Proposed 2 storey side annex extension to provide granny flat Address: 40 Coolshinney Road, Magherafelt, Decision: Decision Date:  Ref ID: H/1984/0038 Proposal: ALTERATIONS AND ADDITIONS TO DWELLING Address: 40 COOLSHINNEY ROAD, MAGHERAFELT Decision: Decision Date:	

<b>Summary of Consultee Responses</b>  None.
<b>Drawing Numbers and Title</b>
Drawing No. 03 Type: Proposed Plans Status: Submitted  Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted  Drawing No. 01 Type: Site Location Plan Status: Submitted  Drawing No. 04 Type: Existing Plans Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0710/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed "off site" replacement dwelling and domestic garage / store: "under policy CTY 3" (agent provided response)	<b>Location:</b> 70mts South West of No 11 Motalee Road Magherafelt
<b>Referral Route:</b>  Refusal – To Committee – Contrary to CTY 3 with two objections received.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mrs Gillian Montgomery 29 Thornhill Road Thornhill Glebe Pomeroy Dungannon BT70 3LP	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Refusal – To Committee – Contrary to CTY 3 with two objections received.

Summary of objections are as below:

- Noted that the applicant has not submitted any supporting information to support the off-site replacement.
- It was commented that on the submitted location plan that the note indicating “area of potential flooding with NI Water Flood Maps”, they have checked the flood maps and this area is only affected by surface water and not within a flood plain. In that the relevant planning policy on flood risk set out in PPS 15 would not prevent the development of that land as it is not within a flood plain nor would it prevent an on-site replacement.

- It was raised that the curtilage is not so restricted that it could not reasonably accommodate a modest sized dwelling, in which the site of the existing dwelling is on lower lying land and is well screened by existing vegetation and a modest replacement would not have an adverse impact on the visual amenity on the countryside. An on-site replacement would be clustered with existing buildings, while a dwelling on the proposed site would in dispersed development.
- Stated that there are no demonstrable landscape, heritage, access or amenity benefits to the proposed off-site replacement.
- An objection was sent in response to the agent's response to the initial objection, in which the objection stated that the agent has accepted that it "could accommodate a dwelling of modest proportions", from this it does not meet criterion.
- Made comment that that the agent stated that the amenity provision for a replacement dwelling would be cramped and inadequate. However, it is noted that there is plenty of room around the existing dwelling that could be utilised as amenity space, even if the replacement dwelling has a bigger footprint. In that the provision of amenity space to the front and side of a dwelling is not uncharacteristic of the area, in that the existing dwelling and the objectors dwelling both have such.
- The proposal is to replace a long established dwelling on a farm, a self-serving expression of concern about potential odour and noise from the farm affecting future residents is not a 'demonstrable amenity benefit' to justify an off-site replacement. In that approving a proposal on this basis would set a dangerous precedent for the replacement of other farm dwellings in location from existing building groups, which is contrary to the objectives of PPS 21.

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

The proposed site is located approximately 0.63km north west of the development limits of Magherafelt and from this the site is located within the open countryside as per defined in the Magherafelt Area Plan 2015. The red line covers the building to be replaced with a garden area to the front but the red line also covers a portion of a large agricultural field across the road. I note that there appears to be a farm yard with associated farm buildings to the rear of the building to be replaced. I note that on the side of the replacement building is bounded by mature trees and is access via an existing access onto the Motalee Road. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

#### **Representations**

There was one neighbour notifications sent out however there were two objections received in connection with this application.

### **Description of Proposal**

This is an outline application for a proposed "off site" replacement dwelling and domestic garage / store: "under policy CTY 3", the site is located at 70mts South West of No 11 Motalee Road, Magherafelt.

### **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

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

#### Strategic Planning Policy Statement (SPPS)

#### PPS 21 Sustainable Development in the Countryside

#### CTY 3 – Replacement Dwellings

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 are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Buildings designed and used for agricultural purposes, such as sheds or stores will not be eligible for replacement under this category. However favourable consideration will be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. From the submitted plans and per what was witnessed on site I am content that the building identified to be replaced exhibits the main characteristics of a dwelling a represents a valid replacement opportunity.

In addition the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. From the submitted plans it is clear that the intention is to replace the dwelling 'off-site' within the field across the road. Upon review of the plans and what was witnessed on site I am of the opinion that a modest sized dwelling could be accommodated within the existing curtilage without the need of having to go offsite at all and initially there was no case that the offsite would have any demonstrable landscape, heritage, access or amenity benefits.

The agent provided a statement to try and justify the need to go offsite; in such, the agent confirmed that the site could accommodate a dwelling of modest proportions however given the existing farm buildings that the rear and side amenity provision would be cramped and inadequate. The agent did note that ample amenity could be provided to the sides of the dwelling, the type and quantum of such amenity provision would be

uncharacteristic of the area. Went on to comment that to the north of the site is affected by flooding with to the south there is an approval for a farm dwelling. Agent stated that the dwelling being replaced insitu means the amenity space would be located adjacent to the working farm yard with an active cattle shed and slurry tank just some 8m from the house to the sheds, wherein they note that Environmental Health may not insist on an exclusion zone for dwellings sited around agricultural buildings, they would have concerns that the buildings would have a potentially adverse impact on the amenity of future residents by way of odour and noise. From this, the agent contends that the existing curtilage cannot reasonably accommodate a modest sized dwelling with an acceptable level of residential amenity. From which, the proposed siting is well screened with mature trees and is only 45m from the original house in which they are willing to restrict the ridge height to 7m and remove all permitted development rights. I first acknowledge the above comments and took all of this to the group meeting; it was noted that the red line appears to be very restrictive on the side of the replacement dwelling given the applicant owns adjacent land. In addition the lands identified to be affected by flooding is affected by surface water and not within a flood plain as it appeared. It was discussed at group that moving the dwelling within the existing curtilage closer to the road is the best option as it increases the separation distance between the farm buildings reducing any amenity concerns and utilising the existing access. This was put to the agent and was not accepted. It was also proposed siting the dwelling to the north west of the replacement dwelling just outside the red line would be an option but meaning a new application is needed, this was also refused by the agent. The agent went on to comment that the reason for locating the proposed off-site replacement is that all the lands within the blue line will be separated amongst 3 relatives. In that one will get the vast majority of the lands inclusive of farm buildings, therefore to allow this relative to both work and expand the farm to the Northern side, it is deemed more logical to locate the new dwelling on the opposite side of the road. In that to locate a new dwelling so close to the existing farm buildings when they are being worked by a different person brings upon issues of Health and Safety and lack of privacy. In addition, the farm dwelling approved to the south east is given to another relative with the applicant getting this site (if approved) in lieu of the existing original home dwelling that is to be replaced. I acknowledge these comments however whilst I note that it may be practical to do this when separating the lands however I am of the opinion that this does not outweigh the issues of this application and do not demonstrate any demonstrable landscape, heritage, access or amenity benefits. Therefore in terms of the policy I note that there is no access, landscape or heritage benefits given by the agent. I note that the agent has stated that there were amenity benefits however I am of the opinion these have not been seen as demonstrable. In which locating the dwelling closer to the road away from the farm buildings within the existing curtilage would have sufficient amenity and separation distance from the sheds. Wherein it has been agreed that there has been no demonstrable benefits to justify the offsite replacement and that it should be sited within the existing curtilage.

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. As this is an outline application the exact design and siting details have not been provided at this time however an indicative block plan was submitted but as stated the off-site replacement is seen as unacceptable and the dwelling should be located within the existing curtilage wherein a dwelling with a 6.5m ridge height above finished floor level would ensure that the dwelling does not

appear as a prominent feature. I note that in the supporting statement the agent has suggested that the off-site replacement will be limited to 7m wherein after group discussion it was agreed that even if this siting was accepted that the ridge height would need to also be 6.5m above finished level to ensure that it is not prominent. I note that within the existing curtilage would allow the site to use existing landscaping as to the off-site requiring three new boundaries but given the surrounding landscaping of the agricultural field that on balance a dwelling could integrate. From this as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to ensure integration, therefore a landscaping plan will be required in any 'Reserved Matters' application.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As stated above I am content that even though the off-site location is unacceptable that an appropriately designed dwelling would not be unduly prominent and would result in a suburban style build-up of development. Wherein it will not result in additional dwelling through infilling and that the ancillary works would not damage rural character.

### PPS 3: Access, Movement and Parking

In terms of the off-site location DFI Roads were consulted, who responded with no objections subject to conditions.

In response to the comments made by the objectors; I note that supporting information was subsequently submitted. In terms to the comments over the flooding, as above I have agreed with this and noted that this does not justify going off-site. In terms of comments made over the curtilage, I have agreed that a modest sized dwelling is able to be accommodated within the curtilage and that there are no demonstrable landscape, heritage, access or amenity benefits to the proposed off-site replacement. In terms to the comments made over the amenity provision, again I am content that adequate amenity provision is able to be accommodated within the existing curtilage.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

I have no flooding, ecological or residential amenity concerns.

As the off-site replacement is deemed unacceptable I must recommend refusal.

### Neighbour Notification Checked

**Yes**

### Summary of Recommendation:

Refusal – To Committee – Contrary to CTY 3 with two objections received.

### Refusal reasons:

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling

is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	23rd May 2019
<b>Date First Advertised</b>	6th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 6 Motalee Road Magherafelt Londonderry Dermot Monaghan MBA Planning,4 College House,Citylink Business Park,Belfast,BT12 4HQ Dermot Monaghan MBA Planning,4 College House,Citylink Business Park,Belfast,BT12 4HQ	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0710/O Proposal: Proposed "off site" replacement dwelling and domestic garage / store: "under policy CTY 3" Address: 70mts South West of No 11 Motalee Road, Magherafelt, Decision: Decision Date:  Ref ID: H/1996/0582 Proposal: EXTENSION TO DWELLING Address: 6 MOTALEE ROAD MAGHERAFELT Decision: Decision Date:  Ref ID: H/2003/0653/F Proposal: New domestic garage. Address: 6 Motalee Road, Magherafelt. Decision: Decision Date: 18.09.2003  Ref ID: H/1993/0066 Proposal: CONVERSION OF GARAGE TO PROVIDE RECREATION ROOM ALSO CAR PORT AND GARDEN STORE Address: 6 MOTALEE ROAD MAGHERAFELT	



Decision:  
Decision Date:

Ref ID: H/1998/0334  
Proposal: EXT TO DWELLING AND NEW GARAGE  
Address: 6 MOTALEE ROAD MAGHERAFELT  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
Response of Department:



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

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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0750/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed erection of 6 dwellings within existing Millbrook Housing Development comprising of 2 detached dwellings and 2 pairs of detached dwellings	<b>Location:</b> Site 10m East of 1 Millbrook Close 10m east of 10 Millbrook within existing Millbrook Housing Development on Washingbay Road Coalisland
<b>Referral Route:</b> Contrary to Policy and Objections received	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> N and R Devine 191 Moirlough Road Donemana	<b>Agent Name and Address:</b> C R 3 Architecture 3 Coolermoney Road Artigarvan BT82 0HE
<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	NI Water - Multi Units West - Planning Consultations	Advice
Statutory	Rivers Agency	Advice

#### Representations:

Letters of Support	None Received
Letters of Objection	1

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues</b>  None	
<b>Characteristics of the Site and Area</b>  <p>The red line of the site comprises an irregular shaped plot of land located along the main Washingbay Road, to the East of number 1 Millbrook Close. The land is currently bare soil which has been ploughed and levelled. There is a temporary chain link fence along the North, West and South boundaries. The old stream has been culverted and is no longer visible and there were three tall metal piles protruding from the centre of the site.</p> <p>The site lies within the settlement limit of Coalisland as depicted by the DAP 2010. The land is also zoned for housing however, it also lies within the floodplain. The area to the south of the site is characterised by a range of housing, and to the North the land is predominantly agricultural fields.</p>	
<b>Description of Proposal</b>  Proposed erection of 6 dwellings within existing Millbrook Housing Development comprising of 2 detached dwellings and 2 pairs of detached dwellings	
<b>Planning Assessment of Policy and Other Material Considerations</b>  Planning Act 2011  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.  Area Plan  Dungannon and South Tyrone Area Plan 2010 - No land zoning on this site, located within the development limits of The Moy.  The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.  Planning History  M/1997/0645 - Opposite 38 Washingbay Road, Coalisland. – Housing development – Granted	

M/2003/1083/F - Lands adjacent to Clonabay Housing Development, Washingbay Road, Coalisland - 3 No Houses as Phase 1 of Housing Development – Granted - 09.03.2005  
M/2005/0898/F - Lands opposite 38 Washingbay Road, Coalisland - Proposed development of 33 No dwellings/domestic garages, associated roads, site works and open space (10 No. semi detached, 1 block of 3 units and 4 blocks of 5 units) - Granted - 20.08.2007  
M/2006/1490/F - Lands adjacent to Clonabay Housing Development, Washingbay Road, Coalisland - Proposed development of 14 No dwellings, associated roads, site works and open space (1 No 4 blocks, 2 No 3 blocks and 2 No semi detached dwellings). Access and visibility splays to be constructed as per approval ref: M/2003/1083/F. - Granted - 26.10.2009

#### Representations

One objection has been received from the owners of number 45 Washingbay road, Coalisland. Their concerns raised were;

- Removal of a designated open space within the previously approved schemes
- Development within a designated flood plain
- Disruption of drainage services

#### Relevant Planning Policy

Regional Development Strategy for Northern Ireland 2035 (RDS)

PPS 3 - Access, Movement and Parking

PPS 7 - Quality Residential Environments

PPS 8 - Open Space And Out door recreation.

Addendum to PPS 7- Safeguarding the Character of Established Residential Areas

PPS 15 - Planning and Flood risk.

#### Design and Guidance

Creating Places- Achieving Quality in Residential Developments

Improving the Quality of Housing Layouts in Northern Ireland

DCAN 8 - Housing in Existing Urban Areas

#### Consideration

##### Rev PPS 15 - Planning and Flood Risk

DFI rivers were consulted and their response raised significant concerns. The site is subject to flooding and lies within the 1 in 100 year fluvial flood plain. They also raised concerns with regards to the infilling on the area. They also raised concerns over the seemingly culverting of a water course known as the Coalisland Mill Race without any permission.

It is clear from inspecting the DFI Rivers flood maps that nearly the entirety of the site lies within the flood plain and the proposal is therefore contrary to PPS 15 Policy FLD1.

FLD1 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 the policy.'

The applicant has not made any case to present the proposal as an exception;

The development is not on land protected by flood defences,

The proposal does not involve the replacement of dwellings,

The development is not for agricultural use, transport and utilities infrastructure, which for operational reasons has to be located within the flood plain.

It is not for water compatible development which for operational reasons has to be located within the flood plain.

It is not for the use of land for sport and outdoor recreation, amenity open space or for nature conservation purposes.

It is not for the extraction of mineral deposits and necessary ancillary development

The proposal is not of regional economic importance.

#### PPS8 - Open Space

The previous permissions on the site have accepted this site as an area of open space and have by way of condition requested the area be provided and maintained in its perpetuity, therefore PPS 8 - Open space is applicable.

Policy OS1 states 'development will not be permitted which will result in the loss of open space. Exception will only be permitted where it is demonstrated that it will have no detrimental impact on the amenity or character of the area, or, it is demonstrated that it will bring substantial community benefits to outweigh the loss of space.

Neither of these exceptions have been demonstrated therefore it is contrary to policy OS1.

#### Other Considerations

#### PPS7 - Quality in New Residential Developments

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

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

The principle of residential development has long been established on this site as the planning history above illustrates. However, on all the above approvals this particular area was designated as open space, this proposal does not respect this pattern. The layout and character is similar to that found in the wider residential area of this relatively newly built development, however, in removing the designated open space it is considered unacceptable.

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

There are no archaeological features or landscaped features on this site, or the immediate vicinity of this site.

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

The previous approvals all share the common theme that this area is the designated area of open space, the wider scheme consists of well over 60 houses and this area of open space was necessary in order for the proposal to meet the standards in Creating Places. The site is of this overall size and scale requires public open space and this proposal would result in a detrimental loss of previously approved open space.

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

There is no requirement to provide local neighbourhood facilities the development is within close walking distance to shops and services located within Coalisland.

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;

A footpath is provided and the location of this site within the village of Coalisland enables convenient access to public services and transport.

f) adequate and appropriate provision is made for parking;

There is adequate in-curtilage space for parking provided for each dwelling proposed.

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

The proposed materials and design is acceptable for this site and locality and is reflective of housing designs found within this area.

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

The orientation of the dwellings takes into consideration other existing dwellings in the immediate vicinity of the site. The dwellings will not overlook, contribute to loss of light, overshadow, or create noise or other disturbance between themselves or other properties. The layout of 6 dwellings on what has been designated as open on the previous approvals does create a conflict and will have an adverse effect on the amenities enjoyed by the existing residents.

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

No issues or concerns in this regard.

Policy LC 1 -

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

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

The density of this proposal is suitable in this established residential area. I do not think it is incongruent with the surrounding area.

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

The layout and design of residential development within the wider area is varied. I do not think this proposal is conflicting with the character of the existing residential area. The removal of the

open space will however, have a detrimental impact on the quality of the established residential area.

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

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

PPS 3 -

Access, Movement and Parking sets out the policies for vehicular and pedestrian access, transport assessment, protection of transport routes and parking.

DfI Roads were consulted and requested full technical drawings for assessment.

I recommend permission is refused.

Unacceptable loss of open space

Contrary to PPS15 FLD 1 and no exception has been made to develop land within a flood plain.

**Neighbour Notification Checked**

**Yes**

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 8 - Policy OS 1, and Planning Policy Statement 7 -- Policy QD1 in that the development would, if permitted, adversely affect the environmental quality of the area by reason of the loss of open space to the detriment of both the existing and future residential occupants.

2. The proposal is contrary to Planning Policy Statement 15 - Policy FLD1 in that the development would, if permitted, result in development within the floodplain without demonstrating that the proposal constitutes an exception to the policy.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	4th June 2019
<b>Date First Advertised</b>	20th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Millbrook Close Coalisland Tyrone The Owner/Occupier, 10 Millbrook Coalisland Tyrone The Owner/Occupier, 11 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 12 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 14 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 2 Millbrook Close,Coalisland,Tyrone, The Owner/Occupier, 20 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 21 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 22 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 23 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 24 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 25 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 26 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 27 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 28 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 29 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 3 Millbrook Close,Coalisland,Tyrone, The Owner/Occupier, 30 Millbrook,Coalisland,Tyrone,BT71 4TX The Owner/Occupier, 4 Millbrook Close,Coalisland,Tyrone, The Owner/Occupier, 45 Washingbay Road, Coalisland, Tyrone,BT71 4PU The Owner/Occupier,	

5 Millbrook Close, Coalisland, Tyrone, The Owner/Occupier, 6 Millbrook Close, Coalisland, Tyrone, The Owner/Occupier, 7 Millbrook Close, Coalisland, Tyrone, The Owner/Occupier, 9 Millbrook Coalisland Tyrone The Owner/Occupier, Registered Office, 1 Sandy's Place, Downshire Road, Newry, BT34 1ED	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2006/1490/F Proposal: Proposed development of 14 No dwellings, associated roads, site works and open space (1 No 4 blocks, 2 No 3 blocks and 2 No semi detached dwellings). Access and visibility splays to be constructed as per approval ref: M/2003/1083/F. Address: Lands adjacent to Clonabay Housing Development, Washingbay Road, Coalisland Decision Date: 26.10.2009  Ref ID: M/1994/6067 Proposal: Housing Development Washing Bay Road Address: Washing Bay Road Decision Date:  Ref ID: M/2005/0898/F Proposal: Proposed development of 33 No dwellings/domestic garages, associated roads, site works and open space (10 No. semi detached, 1 block of 3 units and 4 blocks of 5 units) Address: Lands opposite 38 Washingbay Road, Coalisland Decision Date: 20.08.2007  Ref ID: M/2003/1083/F Proposal: 23 No Houses as Phase 1 of Housing Development and associated works (Development to incorporate access via Clonabay) (RE-ADVERTISEMENT) Address: Lands adjacent to Clonabay Housing Development Washingbay Road Coalisland Decision Date: 09.03.2005  Ref ID: LA09/2019/0750/F Proposal: Proposed erection of 6 dwellings within existing Millbrook Housing Development comprising of 2 detached dwellings and 2 pairs of detached dwellings	

Address: Site 10m East of 1 Millbrook Close, 10m east of 10 Millbrook within existing Millbrook Housing Development on Washingbay Road, Coalisland,  
Decision:  
Decision Date:

Ref ID: M/1998/0503  
Proposal: Housing development (5 dwellings) and construction of estate road  
Address: LANDS OPPOSITE NO.38 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1993/0002  
Proposal: Site for Dwelling  
Address: ADJACENT TO 45 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1996/0675  
Proposal: Housing Development  
Address: 80M N.W. OF NO. 45 WASHINGBAY ROAD, COALISLAND  
Decision:  
Decision Date:

Ref ID: M/1997/0645  
Proposal: Site for Housing Development  
Address: OPPOSITE 38 WASHINGBAY ROAD COALISLAND  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

Rivers were consulted and highlighted that the proposal was contrary to policy as the proposal lies within the 1-100 year flood plain.  
DFI Roads were consulted and had identified as the proposal was for 6 dwellings, the internal road layout should be designed in accordance with Creating Places to facilitate adoption, this was not pursued in light of the pending recommendation for refusal.

### **Drawing Numbers and Title**

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

Drawing No. 02  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Block/Site Survey Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:

**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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0760/O	<b>Target Date:</b>
<b>Proposal:</b>  Proposed site for a dwelling and domestic garage/store under policy CTY 2A	<b>Location:</b> 65mts North East of No.11 Creagh Hill Castledawson
<b>Referral Route:</b> Refusal – contrary to CTY 2a, CTY 13 & CTY 14 of PPS21.	
<b>Recommendation: REFUSAL</b>	
<b>Applicant Name and Address:</b> Anne McGrogan 154 Creagh road Castledawson	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

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

### Characteristics of the Site and Area

The proposal site is located within the corner of a large agricultural field located on the road side of Creagh Hill. Located to the rear and east of the proposal site is further agricultural land while directly opposite is a row of 5 detached dwellings. The proposal site is located approx. 313metres from 'The Thatch Inn' and is not visually linked or read with this established business/restaurant.

### Description of Proposal

Proposed site for a dwelling and domestic garage/store under policy CTY 2a.

### Planning Assessment of Policy and Other Material Considerations

I have assessed this proposal under the following:

#### SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable development in the Countryside

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Consultees: - DfI were asked to comment and responded on 21.06.2019 with no objections subject to conditions

NI Water were asked to comment and responded on 18.06.2019 with no objections subject to advice.

Environmental Health were asked to comment and responded on 18.07.19 with no objections.

Neighbours: - Owners/Occupiers of Nos 4, 5, 6, 7, 9 \_ 11 Creagh Hill were notified of this proposal on 12.06.2019, no representations have been received to date.

In line with legislation this proposal was advertised in the local press on 20.06.2019, no representations have been received to date.

According to Planning Policy Statement 1 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. One of these such types of development is a dwelling sited within an existing cluster of buildings in accordance with policy CTY 2a.

Policy CTY 2a states planning permission will be granted for a dwelling at an existing cluster of development provided all of the following criteria are met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- the cluster appears as a visual entity in the local landscape;
- the cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads;
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;

- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity.

The proposal site is located within the corner of a large agricultural field on the roadside of Creagh Hill. The proposal site lies outside of a farm however has no development on the northern western or eastern sides, while on the southern side is Creagh Hill with a detached dwelling on the opposite side of the road, thus the proposal does not adhere to the first criteria of CTY2a. The existing development on the opposite side of the road is read together however the proposal site is as previously stated a large agricultural field that does not read with the existing line of residential development on the opposite side of the road. The proposal site is located approx. 313metres away from 'The Thatch Inn' which the agent has indicated as being the focal point, thus i would consider the proposal site being too far removed and visually connected with this to be considered as a focal point. The site is not located at a cross roads either and as such the proposal fails to comply with either the second or third criteria of CTY2a.

The proposal site is bounded on the western side by an agricultural laneway and sporadic vegetation and a concrete access serving dwellings 100metres in a lane, while it's undefined on the northern and eastern boundaries. The roadside boundary consists of a small grass verge and mature hedging therefore the proposal site does not meet the requirements of the fourth criteria of CTY2a.

As the proposal site would be breaking into a large agricultural field and with no existing development on either side it is my consideration the development could not be absorbed but would rather significantly alter the existing character and would visually intrude into the open countryside thus the fifth criteria cannot be met.

The proposal site would not adversely impact on residential amenity should an approval be considered acceptable.

Having considered all of the above the proposal does not adheres to all of the requirements of CTY2a of PPS21.

In addition to adherence to CTY 2a requirements the proposal also has to be assessed against the requirements of CTY 13 - Integration and Design Of Buildings in the Countryside. In line with this section of the policy planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable where:

- 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'
- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop;
- g) in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm.

The proposal site would not be considered a prominent one however it is my consideration that the site lacks long established natural boundaries suitable to provide a degree of enclosure for the building to integrate into the landscape but rather would rely primarily on the use of new landscaping for integration. As this is an outline application no design concept has been proposed at this stage however it should be noted that detached single stories are the most common at his particular locality. Having considered these points the proposal fails to meet the requirements of CTY 13.



Finally the proposal has been considered against the requirements of CTY 14 - Rural Character whereby its stated 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 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;
- d) it creates or adds to a ribbon of development; or
- e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character

In considering this criteria it is my view that given the site is not contained within the cluster but instead adds to it if permitted this would erode rural character and result in a suburban style build up thus it does not adhere to point b of CTY 14.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

Refusal Reasons

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 and the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

3. The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal will erode rural character, in that it will result in a suburban style build up of development when viewed with existing.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th June 2019
<b>Date First Advertised</b>	20th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Creagh Hill Castledawson Londonderry The Owner/Occupier, 4 Creagh Hill Castledawson Londonderry The Owner/Occupier, 5 Creagh Hill Castledawson Londonderry The Owner/Occupier, 5 Creagh Hill Castledawson Londonderry The Owner/Occupier, 6 Creagh Hill Castledawson Londonderry The Owner/Occupier, 7 Creagh Hill Castledawson Londonderry The Owner/Occupier, 9 Creagh Hill Castledawson Londonderry	
<b>Date of Last Neighbour Notification</b>	12th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0760/O Proposal: Proposed site for a dwelling and domestic garage/store under policy CTY 2A Address: 65mts North East of No.11 Creagh Hill, Castledawson, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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

Drawing No. 02  
Type: Site Location Plan  
Status: Approved

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0787/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	<b>Location:</b> 40m South West of 44 Moyagoney Road Portglenone
<b>Referral Route:</b> Proposal does not comply with criterion (a) of Policy CTY10 of PPS21.	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Mr Paul Madden 44 Moyagoney Road Portglenone	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	DAERA - Coleraine	

### Representations:

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

### Summary of Issues

Proposal does not comply with criterion (a) of Policy CTY10 of PPS21.

### Characteristics of the Site and Area

The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the site. The boundaries of the site are currently defined by mature hedging. The

site slopes upwards in an easterly direction. There are currently overhead lines located along the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site.

The surrounding area is largely characterised by residential and agricultural uses.

### **Description of Proposal**

The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)

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

#### **Planning History**

There is currently a live application on the site (application reference number LA09/2017/0844) for a stable on the site which is a deferred application.

#### **Neighbour Notification**

Two neighbours were notified of this planning application including nos. 42a and 44 Moyagoney Road, Portglenone.

No letters of objection / representation have been received at time of writing this report.

#### **Development Plan and Key Policy Consideration**

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.

Magherafelt Area Plan 2015: The site is located in the open countryside and there are no further designations on the site.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policies CTY1, CTY10, CTY13 and CTY14 are applicable.

Policy CTY1 of PPS21 states that planning permission will be granted for a dwelling on a farm in accordance with Policy CTY10.

Policy CTY10 states that planning permission will be granted for a dwelling house on a farm where all of the criteria below can be met. Policy CTY10 also states that for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will be assessed under the same criteria:

(a) The farm business is currently active and has been established for at least 6 years. This is normally assessed by the applicant providing a farm business ID number and consultation with DAERA. No ID number was provided in this case. Paragraph 5.43 of the Justification and Amplification of CTY10 states that an equine business is to be afforded the same benefits as an established and active farm, which is relevant to this application as the applicant keeps horses. Such businesses will include horse breeding and training and the operating of livery yards, trekking centres and riding schools. Applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. Such information should include:

- a statement of commercial rateable history for the business;
- copies of appropriate insurances;
- copies of 'Horse Passports' (if applicable); and
- any other information considered relevant to the particular case.

Paragraph 5.44 of CTY10 goes on to explain that those keeping horses and / or ponies for hobby purposes will not satisfy the requirements of this policy.

It is clear from the information submitted with this application that the applicant does not have an active and established equine business as none of the information required as per paragraph 5.44 was submitted. The application does not comply with criterion (a) of CTY10 as inadequate information was submitted.

(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. There have been no sell offs within the last 10 years of this application, therefore the application complies with criterion (b) of CTY10.

(c) The new building is visually linked with or sited to cluster with an established group of buildings on the farm where practicable. The associated agricultural buildings with this application are situated to the north west of the site and a dwelling on the proposed site would be visually linked with the farm buildings. The application complies with criterion (c) of CTY10.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I am of the opinion that as much of the existing landscaping should be retained as much as possible with additional landscaping to further aid integration, therefore a landscaping plan will be required in any '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 noted an appropriately designed dwelling will not appear prominent in the landscape wherein it will be able respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY 14.

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

Refusal

**Refusal Reasons**

1. Proposal does not comply with criteria (a) of Policy CTY10 'Dwellings on Farms' of PPS21 - Sustainable Development in the Countryside as inadequate information was provided.

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



ANNEX	
<b>Date Valid</b>	10th June 2019
<b>Date First Advertised</b>	27th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 42a ,Moyagoney Road,Portglenone,Londonderry,BT44 8JG The Owner/Occupier, 44 Moyagoney Road,Portglenone,Londonderry,BT44 8JG	
<b>Date of Last Neighbour Notification</b>	24th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/0844/F Proposal: Stable to house pony Address: 44 Moyagoney Road, Clady, Portglenone, Decision: DEF Decision Date:  Ref ID: LA09/2019/0787/O Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm) Address: 40m South West of 44 Moyagoney Road, Portglenone, Decision: Decision Date:  Ref ID: H/1992/0458 Proposal: BUNGALOW Address: NAVAL LANE PORTGLENONE Decision: Decision Date:  Ref ID: H/2002/0426/F Proposal: Bungalow & Detached Garage. Address: Adjacent to No.8 Naval Lane, Portglenone.	

Decision:  
Decision Date: 22.07.2002

Ref ID: H/1991/0398  
Proposal: SITE OF DWELLING  
Address: ADJ TO 8 NAVAL LANE PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/1997/4026  
Proposal: RENOVATIONS TO DWELLING (DISABLED)  
Address: 2 NAVAL LANE PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/1976/0188  
Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW  
Address: 2 NAVAL LANE, TYANEE, PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/1992/0617  
Proposal: SITE OF DWELLING  
Address: R/O 44 MOYAGNEY RD PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/1997/0007  
Proposal: TWO STOREY KITCHEN, UTILITY AREA WITH BEDROOM AND BATHROOM FACILITIES  
Address: 44 MOYAGONEY ROAD PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/1982/0026  
Proposal: ALTERATIONS AND ADDITIONS TO HOUSE  
Address: 44 MOYAGONEY ROAD, PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/1989/0393  
Proposal: DOUBLE GARAGE AND STORE AND UTILITY ROOM  
Address: 44 MOYAGONEY ROAD CLADY PORTGLENONE

Decision:  
Decision Date:

Ref ID: H/2010/0494/F  
Proposal: Proposed 1.5 Storey Infill Dwelling and Garage  
Address: Adjacent to 42 Moyagoney Road, Portglenone, Co.Antrim,  
Decision:  
Decision Date: 24.02.2011

Ref ID: H/1977/0157  
Proposal: BUNGALOW WITH GARAGE  
Address: TYANEE, PORTGLENONE  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
Response of Department:

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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0792/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed Dwelling and Garage redesign for dwelling currently under construction	<b>Location:</b> 250m North of 36 Tullybroom Road Clogher
<b>Referral Route:</b> Refusal is recommended.	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Des Shields Mourne View 23 Creeghduff Road Seaford BT30 8NJ	<b>Agent Name and Address:</b> Prestige Homes 1 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b> Redesign application has been submitted for a dwelling currently under construction. It cannot be confirmed that the previous approval was commenced in time and therefore that there is a live approval on the site.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

It cannot be confirmed that the previous planning approval was commenced on time to allow for this redesign application.

### Characteristics of the Site and Area

The application site is a 0.28 hectare parcel of land located on the Tullybroom Road approximately 0.7 miles northwest of Clogher and is outside the development limits of any settlement defined in the Dungannon and South Tyrone Area Plan 2010. Within the site outlined in red substantial ground works have been undertaken, including the laying of foundations which appears to correlate with the approved garage on site.

The site is defined by semi-mature trees and hedging to the northern, western and southern boundaries. The eastern (roadside) boundary is undefined save for some hedging to the northernmost 20m of this boundary. The site rises steeply from east to west.

The area is rural in character with a dispersed settlement pattern. There is little development pressure in the area, with development taking the form of single dwellings with associated outbuildings. There is an approval on site under M/2008/0536/F for a proposed dwelling.

**Description of Proposal**

Proposed Dwelling and Garage redesign for dwelling currently under construction

**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**

M/2004/1231/O - Site for Dwelling & Garage - 250m North of 36 Tullybroom Road, Clogher, Co Tyrone - PERMISSION GRANTED – 23.10.2004.

M/2008/0536/F – Proposed dwelling - 250m North of 36 Tullybroom Road, Clogher, Co Tyrone - PERMISSION GRANTED – 21.05.2010

**Representations**

Press advertisement has been carried out in line with the Council's statutory duty. No neighbours were identified to be notified, and to date no objections or representations 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.

**Local Development Plan 2030 - Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

**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 recommend approval subject to visibility splays of 2.0m x 65.0m being provided. These are currently marginally restricted by vegetation in a northerly direction. A condition can be placed on any approval to address the issue of clearing these sightlines and keeping them clear thereafter. It is not clear when the access point was put in place as the entire frontage of the site was removed prior to the granting of the previous application on the site under M/2008/0536/F.

**CTY 13 Design and Integration of PPS 21**

The changes to the design of the dwelling is one of the main consideration of this proposal. The height of the dwelling has been increased from 5.7m to 8.5m and the dwelling is now two storey with a side projection as opposed to the single storey dwelling previously approved. There is an increase in the overall length of the dwelling from 14.8m to 17.5m (including the single storey side projection) in length, with no change to the depth of the dwelling. The proposed dwelling is still rural in form, with the chimneys expressed from the ridgeline and the windows have a vertical emphasis with a strong relationship of solid to void. The proposed dwelling will have a greater visual impact than that originally approved, however there are no long term critical views of the site when travelling in either direction along the public road. The proposed dwelling will be sited further back on the site from the original, with a slightly higher finished floor level of 52.00 as opposed to 51.500.

**Other Material Considerations**

It is acknowledged that this dwelling was previously approved on the 26th April 2010 under M/2008/0536/F. Foundations are in place on the site which broadly correlate with the approved garage on site, however it has not been confirmed that these were put in place in time to secure the previous planning permission. Building Control do not have any record of any application relating to this site, nor has any inspection been carried out to date. Orthophotography taken 7th May 2017 shows the foundations on site, however orthophotography dated 5th June 2013 and 24th May 2012 (see Appendix A) do not show them on site at this time. The crucial date for commencement of development was 11th May 2012, the aerial photograph on 24<sup>th</sup> May 2012 I am not content that the previous planning permission was implemented in time nor that a valid fallback position exists that would allow the dwelling that was approved to be completed on the site in line with the original approval. Evidence to show the site had commenced on time has been requested from the agent however they are having difficulty contacting the previous developer to get this information. To date no evidence in relation to this has been provided. As the whole site frontage was cleared prior to the granting of M/2008/0536/F, it is not possible to maintain that this was work done to provide the vehicular access or visibility splays at the site. I am not satisfied that planning permission M/2008/0536/F was lawfully commenced by 11th May 2012 and it is my opinion that this planning permission has lapsed.

Whilst the change of house type proposed is considered acceptable at the site given the lack of long term critical views, the previous planning permission was not implemented in time and therefore there is no live planning approval on site. Furthermore the site is not considered acceptable under any current policy contained within PPS21. This change of house type therefore cannot be approved and I recommend refusal.

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

I recommend refusal as it cannot be confirmed that the previous approval was commenced on time and therefore that there is a live approval on the site to allow for a redesign application to be approved.

**Reasons for Refusal:**

1. Mid Ulster Council, having considered the information provided, is not satisfied that planning permission M/2008/0536/F was lawfully commenced by 11th May 2012 and

insufficient evidence has been submitted to show that the operations specified above were lawfully commenced. Planning permission M/2008/0536/F has lapsed.

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.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	10th June 2019
<b>Date First Advertised</b>	27th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: M/2004/1231/O Proposal: Site for Dwelling & Garage Address: 250m North of 36 Tullybroom Road, Clogher, Co Tyrone Decision: Decision Date: 23.10.2004  Ref ID: M/2008/0536/F Proposal: Proposed dwelling Address: 250m North of 36 Tullybroom Road, Clogher Decision: Decision Date: 21.05.2010  Ref ID: LA09/2019/0792/F Proposal: Proposed Dwelling and Garage redesign for dwelling currently under construction Address: 250m North of 36 Tullybroom Road, Clogher, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	

Drawing Numbers and Title
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Drawing No. 01 Type: Site Location Plan Status: Submitted
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Drawing No. 02 Type: Cross Sections Status: Submitted
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Notification to Department (if relevant)
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Date of Notification to Department: Response of Department:
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## Annex A

Aerial Photograph dated 24 May 2012



Aerial Photograph dated 5<sup>th</sup> June 2013



Aerial Photograph Dated 7<sup>th</sup> May 2017



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0895/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed conversion and re-use of existing traditional outbuildings for residential use with extension and internal alterations	<b>Location:</b> Directly adjacent to 100a Claggan Lane Cookstown
<b>Referral Route:</b>  Approval – To Committee - Exception to Policy.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr and Mrs Arnold Loughrin 100a Claggan Lane Cookstown BT80 9UR	<b>Agent Name and Address:</b> Rodney Henry 2 Liscoole Cookstown BT80 8RG
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Approval – To Committee - Exception to Policy.

### Characteristics of the Site and Area

The application site is located approximately 0.4km North West of the development limits of Cookstown, from which the site is located within the open countryside as per the Cookstown Area Plan 2010. Within the red line sits a detached barn/store which has been identified to be replaced along two small greenhouses, small yard and garden area. The site intends to use an existing access off the shared laneway off the Claggan Lane. I note that the site is bounded on all boundaries by a mix of mature trees and hedging. The immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

#### Representations

There were three neighbour notifications sent out however no representations were received in connection with this application.

## Description of Proposal

This is a full application for proposed conversion and re-use of existing traditional outbuildings for residential use with extension and internal alterations, the site is identified as directly adjacent to 100a Claggan Lane, Cookstown.

## 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.

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

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. As noted the intention is convert and re-use the existing barn therefore it is to be considered under CTY 4 of PPS 21.

CTY 4 states that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. Such proposals will be required to be of a high design quality and to meet all of the following criteria:

- (a) the building is of permanent construction;
- (b) the reuse or conversion would maintain or enhance the form, character and architectural features, design and setting of the existing building and not have an adverse effect on the character or appearance of the locality;
- (c) any new extensions are sympathetic to the scale, massing and architectural style and finishes of the existing building;
- (d) the reuse or conversion would not unduly affect the amenities of nearby residents or adversely affect the continued agricultural use of adjoining land or buildings;
- (e) the nature and scale of any proposed non-residential use is appropriate to a countryside location;

- (f) all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and
- (g) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

I first must note that the outbuilding identified to be converted appears to only have been constructed in the last 6/7 years and has been designed to look older than it actually is. From such, I note that it has been designed as a store and during group discussions it should not be eligible for conversion. However in terms of the criteria above, I note that the building is of permanent construction, in that to convert would not adversely alter the form, character, design and setting of the building. In that I am content that the proposed extension is sympathetic to the scale, massing and architectural style and finishes of the existing building. I note that to re-use/convert this building would not have any adverse impacts on neighbouring amenity nor will it affect surrounding lands continuing their use. I am content that all necessary services would be available at this location without impacting adversely on the environment or character of the area. Finally, as the intention is to use an existing access so will not prejudice road safety. I note that the agent provided a statement to try and argue that the building has local importance to aid in having this considered sufficient to be converted. This was discussed and it has been agreed during group that this is still not enough to allow for it be considered to fully comply under CTY 4.

It was discussed during group that the application may be considered under either CTY2a or CTY 8, taking CTY 2a first; I am content that it lies within a cluster of development that sits outside the farm and consists of four or more buildings, three of which are dwellings. I note that the cluster does appear as a visual entity in the landscape and has a suitable degree of enclosure in which is bounded on two sides with other development in which it is seen as rounding off. As noted it will not have an adverse impact on neighbouring amenity however it fails this policy as it is not associated with a focal point nor is it located at a cross-roads. With regards to CTY 8, it has been concluded that it does not appear to fully comply with CTY 8 as it has failed to demonstrate that there is a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. I note that there are two buildings to the south one in which is a dwelling with the only development north of the proposed dwelling being a greenhouse and given its temporary nature cannot be constituted to be part of built of frontage.

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 the intention is to convert with an extension to the building, I am content that the building will not appear as a prominent feature in the landscape. I note that all existing landscaping is to be retained in which I am content that the building is able to visually integrate into the landscape. With regards to the proposed design I note that the proposed extension reflects that of the existing building in which I am content that this is acceptable within this rural context. From all of this it has been agreed that the dwelling is able to comply under 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 noted the proposed application has been agreed as acceptable



and is not deemed to be unduly prominent in the landscape. I am content that the proposed works would not have an adverse impact on the rural character and would respect the pattern of development in the area. On a whole I am content that the proposed development complies with CTY 14.

After discussions with the Planning Manager it has been agreed that given the fact that given the above analysis along with the fact that this proposal would not adversely alter the rural character that this can be dealt as an exception to the policy and be taken as an approval, in which this should not be used as precedent.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were the only consultation sent out and responded to confirm that they did not offer an objection subject to the relevant conditions and informatives being applied.

I have no ecological, flooding or residential amenity concerns.

As the proposal has been taken as an exception under PPS 21 I therefore must recommend approval for this application.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval – To Committee - Exception to Policy.

Conditions:

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

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

2. The existing natural screenings of the site shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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



3. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

4. The vehicular access, including visibility splays of 2.4 x 33m and any forward sight distance, shall be provided in accordance with Drawing Number 01 bearing the date stamp 28th July 2019 prior to the commencement of any other development hereby permitted.

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

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

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

#### Informatives

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

2.This permission authorises only private domestic use of the premises and does not confer approval on the carrying out of trade or business there from.

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

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

5.Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey College, 49 Tullywiggan Road, Cookstown, Co. Tyrone BT80 8SG. A monetary deposit will be required to cover works on the public road.

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 approval does not give consent to discharge surface water into a DFI Roads drainage system.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	28th June 2019
<b>Date First Advertised</b>	11th July 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 100 Claggan Lane Cookstown Tyrone The Owner/Occupier, 110 Claggan Lane Cookstown Tyrone The Owner/Occupier, 98 Claggan Lane Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	4th July 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0895/F Proposal: Proposed conversion and re-use of existing traditional outbuildings for residential use with extension and internal alterations Address: Directly adjacent to 100a Claggan Lane, Cookstown, Decision: Decision Date:  Ref ID: LA09/2015/1060/F Proposal: Erection of single dwelling house and detached garage Address: Site 50m South of 102 Claggan Lane, Cookstown, Decision: PG Decision Date: 23.03.2016  Ref ID: I/2011/0331/O Proposal: Proposed site for a dwelling and garage on a farm Address: Adjacent and South of 102 Claggan Lane, Cookstown, Decision: Decision Date: 13.01.2012  Ref ID: I/2009/0273/F Proposal: Proposed replacement dwelling and garage including relocation of existing entrance access point onto private laneway Address: Lands 50m South east of 100 Claggan Lane, Cookstown, BT80 9UR Decision:	

Decision Date: 03.11.2009

Ref ID: I/2007/0407/RM

Proposal: Propose single storey dwelling and detached garage, with septic tank, and new entrance access associated.

Address: 50 metres South-East of 100 Claggan Lane, Cookstown

Decision:

Decision Date: 15.08.2007

Ref ID: I/2006/0835/RM

Proposal: Proposed replacement dwelling (1 1/2 storey) and garage.

Address: 104 Claggan Lane, Cookstown

Decision:

Decision Date: 15.03.2007

Ref ID: I/2004/0508/O

Proposal: proposed replacement dwelling & garage

Address: 50metres south east of 100 Claggan Lane, Cookstown

Decision:

Decision Date: 14.07.2004

Ref ID: I/2004/0300/O

Proposal: Proposed Replacement Dwelling & Garage

Address: 104 Claggan Lane, Cookstown

Decision:

Decision Date: 21.05.2004

Ref ID: I/2004/0204/F

Proposal: Proposed Extension to Dwelling & New Garage

Address: 102 Claggan Lane, Cookstown

Decision:

Decision Date: 19.04.2004

Ref ID: I/2000/0737/F

Proposal: Proposed deletion of condition No.6 on outline planning Approval No.

I/2000/0125/O

Address: 102 Claggan Lane Cookstown

Decision:

Decision Date: 29.01.2001

Ref ID: I/2000/0328/RM

Proposal: Erection of Replacement Dwelling and Garage

Address: 102 Claggan Lane, Cookstown

Decision:

Decision Date: 25.01.2001

Ref ID: I/2000/0125/O

Proposal: Replacement Dwelling and Garage

Address: 102 Claggan Lane, Cookstown

Decision:

Decision Date: 09.08.2000

Ref ID: I/1998/0111B

Proposal: Proposed Relacement Dwelling

Address: LOWER CLAGGAN COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1998/0111

Proposal: Replacement Dwelling

Address: LOWER CLAGGAN COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1997/0308

Proposal: Site for Dwelling

Address: LOWER CLAGGAN COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1991/0017B

Proposal: Replacement Dwelling

Address: ADJACENT TO 102 CLAGGAN LANE COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1991/0017

Proposal: Replacement Dwelling

Address: ADJACENT TO 102 CLAGGAN LANE COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1989/0441

Proposal: Replacement Dwelling

Address: 100 METRES SOUTH EAST OF 100 CLAGGAN LANE CLAGGAN  
COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1986/0364

Proposal: REPLACEMENT DWELLING

Address: LOWER CLAGGAN, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1980/0430

Proposal: EXTENSION AND IMPROVEMENTS TO FARMHOUSE

Address: 100 LOWER CLAGGAN, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1976/0369  
Proposal: 11KV O/H LINE, MV O/H SERVICES  
Address: CLAGGAN ROAD, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1976/0227  
Proposal: 11KV AND MV O/H LINES  
Address: CLAGGAN, COOKSTOWN  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 02  
Type: Proposed Plans  
Status: Approved

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

Drawing No. 03  
Type: Garage Plans  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:

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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1019/A	<b>Target Date:</b> 11/11/2019
<b>Proposal:</b> Proposed sign to gable wall of house	<b>Location:</b> 9 Springdale Dungannon
<b>Referral Route:</b> Refusal is recommended.	
<b>Recommendation:</b>	<b>REFUSAL</b>
<b>Applicant Name and Address:</b> Sinead Hagan 23 Castleview Heights Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> Consent to display an advertisement has been submitted for an illuminated sign attached to the gable wall of a dwelling within a residential area. The advertisement is of the type normally seen in commercial areas, and it is felt that the proposal does not respect amenity and prejudices road safety.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Recommend refuse
Statutory	DFI Roads - Enniskillen Office	

### Representations:

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

### Summary of Issues

The illuminated sign is out of place and incongruous on the gable of a dwelling in this residential area and does not respect amenity. It also prejudices public safety as the sign is located close to a pedestrian crossing and a busy road junction where its presence could distract drivers on the public road.



**Characteristics of the Site and Area**

The site is located within the development limits of Dungannon at No. 9 Springdale along the Newell Road. At present on site is an end terrace two storey dwelling, gable end to an area of open space. In the immediate vicinity is a light controlled pedestrian crossing, 2 accesses into Newell Stores, one which has a right hand turning lane and an access into the development of Springdale. The site lies within whiteland as identified by the Dungannon and South Tyrone Area Plan 2010. The surrounding area is mixed use, with residential use to the north, east and south, however Newell Stores and a number of other retail units lie to the southeast on the opposite side of the public road.

**Description of Proposal**

Application for Consent to Display an Advertisement for a proposed sign. The signage will measure 2m in height by 3m in length. The depth will be 120mm mounted 50mm from the face of the existing wall with a total projection of 200mm. The sign will be manufactured from 6 no. LED panels bolted together within a coloured metal frame. The sign will be illuminated internally and the illumination will be intermittent.

**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.

**Relevant Histories**

M/1989/0520 - Temporary Mobile Homes - ADJACENT TO 9 SPRINGDALE NEWELL ROAD DUNGANNON - PERMISSION GRANTED  
M/1990/4018 - NIHE Project - SPRINGDALE DUNGANNON - PERMITTED DEVELOPMENT

**Representations**

No neighbour notification nor press advertisement has taken place as there is no statutory requirement to do so, and the Council do not feel that it was necessary to carry them out.

**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 Dungannon which gives favourable consideration to proposals, subject to criteria outlined within the plan policy. The site is located on Newell Road, which has no specific designations or zonings.

**Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

**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. The SPPS states that the regional strategic objectives for the control of advertisements are to ensure that outdoor advertisements respect the amenity and do not prejudice public safety, including road safety; and help everyone involved in the display of outdoor advertisements contribute positively to the appearance of a well-cared for and attractive environment in our cities, towns, villages and countryside.

### **PPS 17 – Control of Outdoor Advertisements**

PPS 17 sets out the planning policy and guidance for the control of outdoor advertisements. Policy AD 1 Amenity and Public Safety states consent will be given for the display of an advertisement where:

- i. It respects amenity, when assessed in the context of the general characteristics of the locality; and
- ii. It does not prejudice public safety.

The guidance set out in Annex A for different categories of outdoor advertisement will also be taken into account in assessing the proposal.

The proposal is for a new sign, located on the gable wall of an existing dwelling. The signage will measure 2m in height by 3m in length. The depth will be 120mm mounted 50mm from the face of the existing wall with a total projection of 200mm. The sign will be manufactured from 6 no. LED panels bolted together within a coloured metal frame. The sign will be illuminated internally and the illumination will be intermittent.

I feel that the proposal will have a negative effect on the general characteristics of the area, and its position on the host building and its scale and size in relation to the building is not considered acceptable. The sign is located on the gable wall of a dwelling, and is commercial in nature. This commercial sign does not respect the amenity of the residential area, and appears out of place and incongruous. This is highlighted even more so by the fact Newell Stores lies on the opposite side of the public road, where various commercial signage is visible, relating to the premises on which it is displayed. I consider that the advertisement will have a negative impact in terms of size, scale and levels of illumination given its location on the gable wall of a terraced dwelling, with only residential properties in the immediate vicinity on this side of the public road.

The principle of advertising is to attract attention, this can create a safety issue when advertising distracts road users from operating a vehicle in a safe manner. The sign is at a busy junction with a right hand turning lane into the commercial premises on the opposite side of the road. DfI Roads have responded to their consultation and advise that they are concerned about the impact of the sign on road safety as new and more powerful digital technology for advertising has increased the potential for distraction. This proposal will compete with the existing pelican crossing point, for road users attention, which might reduce the clarity or effectiveness of the traffic control device, thereby prejudicing conditions of general safety.

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

I recommend refusal as the proposal does not respect the amenity of the residential area and has the potential to prejudice public safety.

**Reasons for Refusal:**

1. The proposed sign is contrary to Policy AD1 of PPS17 in that the size and nature of the proposed sign are such that it would, if permitted, be out of scale and character with its location in this residential area.
2. The proposal is contrary to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that it would, if permitted, prejudice the safety and convenience of road users, since the erection of this proposal in close proximity to a pelican crossing, would distract the attention of motorists from road traffic signals, thereby creating a traffic hazard.

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

ANNEX	
<b>Date Valid</b>	29th July 2019
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1019/A Proposal: Proposed sign to gable wall of house Address: 9 Springdale, Dungannon, Decision: Decision Date:  Ref ID: M/1990/4018 Proposal: NIHE Project Address: SPRINGDALE DUNGANNON Decision: Decision Date:  Ref ID: M/1989/0520 Proposal: Temporary Mobile Homes Address: ADJACENT TO 9 SPRINGDALE NEWELL ROAD DUNGANNON Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 03 Type: Proposed Elevations Status: Submitted
Drawing No. 04 Type: Proposed Elevations Status: Submitted
<b>Notification to Department (if relevant)</b> Date of Notification to Department: Response of Department:

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> 05/11/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1069/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage on a gap site	<b>Location:</b> Infill site Approx 100m North West of 88 Washingbay Road Coalisland
<b>Referral Route:</b> Application recommended for refusal	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Ciaran Lynch 88 Washingbay Road Coalisland	<b>Agent Name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	DETI - Geological Survey (NI)	Content
Statutory	Historic Environment Division (HED)	Content

#### Representations:

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

#### Characteristics of the Site and Area

The site is approximately 70m from the settlement boundary of Coalisland and is 107m from the settlement boundary of Annaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. To the north of the application site is rural countryside with sprawling agricultural fields, farm complexes and single detached dwellings. To the south of the site is Coalisland and to the east is Annaghmore, both of which are built up areas with a mix of commercial and residential uses. Across the road from the site is a row of six detached dwellings with a roadside frontage. There is also Campbell and Sons car sales immediately to the south east of the site.

The application site is a rectangular shaped plot and comprises a portion of an existing agricultural field. The field has a flat topography and is adjacent to the public road. There are two detached dwellings to the west of the site, and a field and another detached dwelling to the east. There are established trees on the western boundary and a 1m high hawthorn hedge along the southern roadside boundary. Along the eastern boundary is a post and wire fence and the northern boundary is undefined.

### **Description of Proposal**

This is a full application for a proposed dwelling and garage on a gap site. The proposed dwelling has a semi-circle shape and has a width of 26m. The dwelling has a depth of 14.1m at the longest point and a ridge height of 6.3m. The proposed finishes are black slate roof tiles and dry dash external walls. There is natural stone on the walls of the sun lounge and master bedroom at either ends of the dwelling.

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

#### **Planning History**

LA09/2018/0188/O - Proposed dwelling and domestic garage on an infill site - Infill site adjacent to and immediately South West of 87 Washingbay Road – Permission Granted 20<sup>th</sup> June 2018

LA09/2018/1364/RM - Dwelling and domestic garage - Site adjacent to and immediately SW of 87 Washingbay Road, Coalisland – Permission Granted 6<sup>th</sup> February 2019

This planning approval is for an infill dwelling across the road from the family farm holding at No. 88 Washingbay Road. This planning approval has the same applicant as this planning application.

This planning history is relevant as the applicant has a live planning approval for an infill dwelling across the road from the farm holding at No. 88 and owns the land to the right of this approval where there may be the potential for an adjacent infill site. They also own the farm holding at No. 88 and have not utilised the CTY10 for a farm dwelling. The applicant owns the field to the right of this application site.

#### **Consultees**

Geological Survey of Northern Ireland (GSNI) were consulted and confirmed the proposed site is not in the vicinity of any known abandoned mine workings.

NI Water were consulted and had no objections.



DFI Roads were consulted as a new access if proposed onto the public road. They responded seeking amendments to Drawing No 01 date stamped 12 AUG 2019. HED were consulted as the site is within the buffer zone of an archaeological site and monument and responded with no objections.

### **Representations**

The proposal was neighbour notified and advertised in the press and no representations have been received.

### **Planning 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.

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

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

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

**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.

### **PPS 21 Sustainable Development in the Countryside**

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. As this is an application for a dwelling on an infill site CTY8 – Ribbon Development is the relevant policy, which will apply. The introduction of PPS21 removed the green belt policy designation which in this locality had been defined to stop Coalisland merging with Annaghmore.

### **CTY 8 – Ribbon Development**

The application site has a roadside frontage along a public road. There is a dwelling abutting the western boundary of the site at No. 68 and another dwelling 50m west at No. 64. Immediately east and abutting the boundary of the site is an agricultural field, which is also owned by the applicant. 64m east of the site is another dwelling at No. 88. Members are advised the policy defines a gap site as 'within a substantial and continuously built up frontage' and substantial and built up frontage 'includes a line of 3 or more buildings along a road frontage'. However based on the pattern of development the identified gap site in my view represents an important visual break which still acts to protect merging Coalisland

and Annaghmore. Instead based on the nature of development in the area, particularly on the other side of the road, this site is big enough to accommodate 5 houses. According to the policy the test has not been met as it can only be large enough to accommodate two dwellings. Accordingly the drawings which suggest a large house on a large site do not persuade me that additional houses would not be sought. Indeed as presented the proposal would be harmful to rural character as it would intensify the existing urban sprawl and lend to merging the settlement limits which is in conflict with CTY 15 and the Dungannon and South Tyrone Area Plan. It would also be contrary to CTY 14 in that the character of the area would be lost due to the development leading to the creation of further infill opportunities and adding to ribbon development.

There are varying plot frontages along this public road with 83m at No. 52 and No. 60, 50m at No. 64 and No. 68, and 40m at No. 88. There is an agricultural field abutting the site along the eastern boundary and is owned by the applicant which has a frontage of 64m. A planning history check of the site shows there are no live permissions at this field. The application site has a roadside frontage of 66m, which is larger than other plots along the public road.

There is a single storey dwelling proposed on this site. Along this stretch of public road there is predominantly single storey dwellings so the scale and massing of the proposed dwelling would not be out of character in the surrounding area.

Overall, I consider this proposal would add to ribbon development.

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

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design.

The site has a roadside frontage onto the public road with a flat topography. The proposed dwelling will be situated in the middle of a large plot. There is currently a 1m hedgerow adjacent to the public road but this will need to be removed to provide visibility splays. There are no long distance critical views of the site in the north west direction from the public road due to the presence of established trees along the west boundary as shown in figure 1 below. Also in the southeast direction, there are critical views along the roadside due to the lack of vegetation along the east and south boundaries. However this site will sit on a highly trafficked public road between Annaghmore and Clonoe and there are a number of dwellings on both sides of the road in the immediate area. Taking the character of the surrounding area into account I do not consider this proposal will be a prominent feature in the landscape.



Figure 1 – Critical view from the west direction showing established trees, which will block any direct views of the site in this direction.

There are established trees along the west boundary and a 1m high hedgerow along the roadside boundary. I consider the site does not have a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The existing hedging along the road boundary will need to be removed to provide visibility splays. Hence, 3 new hedgerows will need to be planted at the site. In addition, I consider the site will need the use of new planting for integration. However, there are oak and silver birch trees proposed all around the proposed dwelling, which will in time, aid integration of the dwelling on the site.

The proposed access will be directly from the public road and I am content the access will integrate into the landscape. It is preferable that a new access runs alongside the boundaries of the site but this access will be for a short distance so I consider it is acceptable.

I have no concerns about the design of the proposed dwelling. The proposal is for a single storey dwelling with a ridge height of 6.4m. The predominant design in the surrounding area is single storey dwellings so this proposal would respect the pattern of settlement. There is a pitched roof and the chimneys project from the ridges of the roof, which is in accordance with 'Building on Tradition Design Guidance'. I am content the solid to void ratio is acceptable. The proposed materials on the dwelling are black slate roof tiles, dry dash external walls and natural stone on the sunroom and master bedroom.

There are no existing buildings on the site to provide a backdrop but there are established trees along the west boundary.

The case of dwelling on a farm is not applicable in this case.

#### **CTY 14 – Rural Character**

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. Again, I consider the proposed dwelling would appear not unduly

prominent in the landscape. There are no long distance critical views in the north west direction due to the presence of established trees, which will be retained. In the southeast direction there are critical views but a new hedgerow will be planted along this boundary to assist integration.

I am content the proposed dwelling will not result in a suburban style build-up of development, as there already is development on this stretch of the public road. There are a number of single detached dwellings on both sides of the road. The surrounding area has the character of a settlement so this proposed dwelling will not appear prominent in the landscape.

I consider this dwelling is ribbon development but will not affect the character of an already developed area.

As stated earlier in the assessment I consider the proposal will harm rural character as there is the potential for further infill sites owned by the applicant and this will create further urban sprawl.

I consider the proposal will add to a ribbon of development it does not comply with CTY 8 where it can be considered a gap site.

As stated earlier in the assessment, I am content the access will not damage rural character.

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

I have no ecological, built heritage, flooding or residential amenity concerns.

**Neighbour Notification Checked    Yes**

### **Summary of Recommendation:**

The proposal is recommended for refusal as it is contrary to CTY 8, CTY13, CTY 14 and CTY 15 in PPS 21.

### **Reasons for Refusal**

1. The proposal is contrary to CTY 8 – Ribbon Development of Planning Policy Statement 21 in that the development would add to ribbon development.
2. The proposal is contrary to CTY 13 – Integration of Planning Policy Statement 21 in that the proposal will rely on new planting for integration.
3. The proposal is contrary to CTY 14 – Rural Character of Planning Policy Statement 21 in that the development would add to ribbon development.
4. The proposal is contrary to CTY 15 – The Setting of Settlements of Planning Policy Statement 21 in that the development would blur the distinction between the settlement limits of Coalisland and Annaghmore.

**Signature(s)**

**Date:**

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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1088/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed extension of curtilage and erection of domestic store, mixed martial arts grappling and wrestling studio and all associated site works	<b>Location:</b> Lands immediately between 218 and 220 Ballynakilly Road Dungannon
<b>Referral Route:</b> Objection	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Moussa Jaafar 85 Coash Road Ballynakilly Dungannon BT71 6JE	<b>Agent Name and Address:</b> Armagh Design 63 Glen Mhacha Armagh BT61 8AF
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	

### Representations:

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

**Summary of Issues** 1 objection letter received 26<sup>th</sup> September 2019

### Description of Proposal

This is a full planning application to extend the curtilage of a dwelling, located at 218 Ballynakilly Rd, to include lands to its southeast for the erection of domestic store, mixed martial arts grappling and wrestling studio, and all associated site works which includes .

The lands sought to be included within the curtilage of no. 218 are located between it and another dwelling, no. 220 Ballynakilly Rd.

The domestic store, mixed martial arts grappling and wrestling studio is for the applicant son, Mr Yousef Jaafar who resides at no. 218 Ballynakilly Rd. Yousef is an amateur

MMA fighter and requires an studio to progress his career. Yousef proposes to train personally and simultaneously provided a limited no. of training sessions.

The studio has a rectangular floor plan and pitched roof construction. It measures 8m (gable depth) x 12m (length) x 3.7m (height) and has a roller shutter garage door located on its front gable elevation. There are no windows in the garage only a door in its southeast elevation.

Material finishes to the proposed studio include:

- Walls: black pvc insulated steel wall cladding with black trims
- Roof: black pvc insulated steel roofing sheets
- Doors: black upvc insulated roller shutter door and upvc black double glazed pedestrian door.
- Rainwater goods: black pvc guttering upvc black downspouts.

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

The site which sits adjacent the Cohannon Inn is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan 2010, approx. ½ mile north west of the Tamnamore Roundabout unto the M1.

The site which is a relatively flat irregular shaped plot comprises a small single storey dwelling, no.218 Ballynakilly Rd (the applicant's son's residence), and its curtilage. It also comprises part of an adjacent agricultural field located between no. 218 Ballynakilly Rd and 220 Ballynakilly Rd a large two storey hipped roof dwelling with detached garage that is bound to its southeast side by a horse arena and to its rear by outbuildings/sheds.

It is the aforementioned lands between nos. 218 and 220 Ballynakilly Rd that the applicant seeks to include within the curtilage of no.218 Ballynakilly Rd for the provision of the domestic store, mixed martial arts grappling and wrestling studio.

No.218 is a vernacular dwelling set back from and accessed off the Ballynakilly Rd via a short concrete lane. It has a simple rectangular floor plan and pitched roof construction with only a small pitched roof porch located on its front elevation and dropped pitched outbuilding attached to its northern gable. It has dash finished walls, a red corrugated metal roof, and white upvc window frames and doors.

The dwelling fronts onto a small farm yard (to its east) bound by small no. of outbuildings only one of which is within the red line of the application site. It is positioned quite tight to its rear/western party boundary of the site with The Cohannon Inn leaving only a small amenity strip to its rear. It has a slightly larger garden located further to its southern gable running alongside the access lane.

The western/party boundary of the site with The Cohannon Inn is bound by close boarded fencing; the northeast boundary of the site is bound along the existing curtilage of no. 218 by a small no. outbuilding, the remainder of this boundary taking in what is proposed as the new curtilage is undefined and opens unto the larger agricultural field from which it is cut. The southeast/party boundary of the site with no.220 Ballynakilly Rd is defined primarily by a mix of mature vegetation.

Whilst the site is located in the rural countryside and has agricultural lands running to its east, the immediate area is characterised by the heavily trafficked Ballynakilly Rd



connecting Coalisland to the M1; and by The Cohannon Inn, the Service Station, and no. of mixed retail units all located on lands immediately to its northwest.

### **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.

### **Key Policy Context**

Regional Development Strategy

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Addendum to PPS 7 Residential Extensions and Alterations

The Mid Ulster Local Development Plan 2030 – Draft Strategy published February 2019

### **Planning History**

- M/1986/0305 - Bungalow - Ballynakilly Rd, Tamnamore, Dungannon
- M/1987/0071 - Two storey dwelling - Ballynakilly Rd, Tamnamore, Dungannon
- M/1991/0041 - Domestic Garage and Store - 220 Ballynakilly Rd Tamnamore Dungannon
- M/1992/0577 - Change of use from store to bedroom accommodation for Tourists - Adjacent to 210 Ballynakilly Rd Dungannon

### **Consultations**

Transport NI (TNI) - consulted the 29/08/2019 in relation to access, movement and parking arrangements. TNI responded 18/09/2019 advising the applicant's agent to clarify if the proposed studio will cater for members of the public. That, if it will cater for the public information detailing number of vehicles/persons at the premises daily is required.

An email was subsequently received from the agent on the 24/09/2019. The email stated that this is a residential proposal with an associated grappling/wrestling studio or home business element. That its likely that any one time 1 visitor will be present to train with Mr Yousef Jafaar (the applicant's son who is an amateur fighter) however 4 additional carparking spaces have been provided as some overlapping between training sessions may occur or attendees may stay on after their session to witness/study Yousef in the next session. The email states this is to be a private facility and not open to the general public as such are content to have conditions attached to any decision notice to said effect.

The agent details Yousef's rigorous training regime of between 2 – 5 hours a day Monday – Saturday, before adding that it is expected visitors will only be able to train for a maximum of 2 hours at a time so the following visitors can be expected:

- Mon, Wed & Fri – 3 sessions, 1 visit per session (6 additional vehicular movements)
- Tues & Thus – 2 sessions, 1 visit per session (4 additional vehicular movements)
- Sat – 1 session, 1 visit per session (2 additional vehicular movements)

Identifying the niche nature of the home business and its rural location the agent advised that it is considered that all visitors will generally be car borne however requests some allowance be made for the lack of vehicular movements by Yousef who will live and work on site.

TNI did not identify any road safety concerns in relation to the entrance arrangements.

### **Policy Consideration and Assessment**

Dungannon and South Tyrone Area Plan 2010 - The site is located in the rural countryside. The plan offers no specific policy relevant to this application.

Mid Ulster Development Plan 2030 Draft Plan Strategy - was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

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.

As this is a residential proposal with associated home business element, which I am content based on the supporting information received from the applicants agent (see planning portal) will be ancillary to the existing dwelling on site, I believe if it complies with the provisions of PPS 7 Residential Extensions and Alterations which have been retained under the SPPS, then it will not cause demonstrable harm to any interests of acknowledged importance.

Planning Policy Statement 7 Residential Extensions and Alterations - This proposal meets the criteria as set out in Policy EXT 1 of this policy in that:

The scale, massing, design and external materials of the proposed studio are sympathetic with the built form and appearance of the existing property and associated buildings on site and as such should not detract from the appearance and character of the property or the area. It is my opinion that the proposed building will take on the appearance of an agricultural shed typical of the rural countryside, and when viewed from critical vantage points along the Ballynakilly Rd it will cluster with the existing dwelling and small no. of outbuildings on site.

The extension should not unduly affect the privacy or amenity of neighbouring residents in terms of overlooking or overshadowing. In terms of overlooking the extension has no windows in any of its elevations and only one door in its southeast elevation which despite being glazed I am content should not overlook any private amenity afforded to no. 220 Ballynakilly Rd given the mature vegetation that runs along the party boundary of the site with no. 220 which in my opinion will provide adequate screening between both properties.

With regards overshadowing I am content that adequate separation distance will be retained between the proposed building and existing buildings as to not cause any concern in this regard.

The extension which is to be located on agricultural lands between nos. 218 and 220 Ballynakilly Rd will not cause any loss of, or damage to, trees or other landscape features contributing significantly to local environmental quality.

Existing amenity space within the curtilage of no.218 Ballynakilly Rd for recreational and domestic purposes including for the parking and manoeuvring of cars will not be impacted by this proposal. In effect this proposal will provide additional amenity space within the increased curtilage of no. 218, in the form of the studio and additional garden area to its front/south side.

### **Representations**

Neighbour notification and press advertisements have been carried out in line with the Council's statutory duty. At the time of writing, 1 objection had been received and is detailed below.

The objection was submitted by Mr David Mounstephen for FM Planning on behalf of their client, the details of whom were not supplied. The objection relates to the studio element of the proposal which Mr Mounstephen states appears commercial and questions by reason of its size and scale whether it will be ancillary to the dwelling. In relation to this concern he notes the following:

- The studio and associated shower/changing facilities are some 63 sqm (680sqft) in area;
- The studio is in a new stand alone building as opposed to an extension or alteration to the existing dwelling;
- The studio is sited beyond the curtilage of the existing dwelling; and
- The proposal includes provision for 4 car parking spaces, a turning space and passing bay.

He states that the supporting statement accompanying this application confirms the proposal is sited so as not to detrimentally affect amenity of residents. And highlights that an ancillary studio for domestic purposes would be unlikely to need such consideration.

He also states the development is contrary to PPS 7 Residential Extensions and Alterations Policy EXT 1 justification and amplification text, that in all cases the (Council) need to be satisfied the accommodation will remain ancillary to the main residential property and careful consideration be given to the impact of proposals on neighbouring dwellings. Furthermore he states the design does not appear to result in an integrated rural group of building as per Annex A Guidance. And finally that the development is also contrary to PPS 21 CTY1 Development in the Countryside as there are no overriding reasons why the development is essential and could not be located in a settlement.

Having taken into account the objection letter received above, based on the supporting information received from the applicants agent my opinion has not changed. I believe proposal does comply with the policy provision PPS 7 Residential Extensions and Alterations Policy EXT 1. I am satisfied the accommodation will remain ancillary to the main residential property and I propose attaching a condition to ensure this remains the

case. I note careful consideration has been given to the impact of proposals on neighbouring dwellings. As the proposal meets with the provision of PPS7 it does not require justification for its siting within the countryside under PPS 21 CTY1 Development in the Countryside.

I am content that the size, scale and location of this stand alone building is acceptable for the site and locality and could be viewed similarly to any other ancillary domestic building. The proposed development will remain ancillary to the existing dwelling where the applicant's son, an amateur MMA fighter resides and who in the first instance requires the building to train in order to progress his career. He will offer only a limited no. of private training sessions per week. The 4 car parking spaces, a turning space and passing bay as detailed by the agent in a supporting email received is only to accommodate any overlapping which may occur between training sessions or attendees that may stay on after their session to witness/study Yousef in the next session.

I am content that the extension to the properties curtilage for the provision of this studio will not, in my opinion cause any significant detrimental impact on this visual amenity of the area. It is noted the building is within a substantially built up frontage with the Cohannon Inn and Cohannon Complex next door and a large detached dwelling with equestrian facilities on the other side. I had concerns regarding noise from the building and discussed this with Environmental Health, they did not raise any concerns with this due to its location close to other noisy activities and its small scale nature.

I note all proposals requiring planning permission, including those for domestic purposes are considered in relation to any unduly affect they may have on the privacy or amenity of neighbouring residents. As detailed above in my assessment of this proposal against PPS7 I am content this proposal should not cause any unduly affect on neighbouring residential amenity.

#### **Other Considerations**

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

**Taking all of the above into consideration I would recommend the approval of this application.**

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Approve

#### **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 occupation of the building hereby approved all areas of hardstanding, including for car parking, shown on Drawing 02 bearing the date stamp received 15 AUG 2019, are to be provided and permanently retained.

Reason: To ensure adequate provision to service the site.

3. The building hereby approved shall be used only for purposes ancillary to and for the enjoyment of the occupiers of 218 Ballynakilly Road.

Reason: To protect residential amenity.

Informative

1. This permission only allows for domestic use and homeworking ancillary to 218 Ballynakilly Road. This approval does not give permission for any a separate planning unit for a commercial gym or training facility which would require a separate permission.

**Signature(s)**

**Date:**

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> 05/11/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1169/O	<b>Target Date:</b>
<b>Proposal:</b> Erection of infill dwelling & garage	<b>Location:</b> Lands between 33a & 33b Grange Road Moy
<b>Referral Route:</b> Objection received from a third party.	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Mr Andrew Smith 15 Grange Road Moy BT71 7EJ	<b>Agent Name and Address:</b> 2 Plan NI 47 Lough Fea Cookstown BT80 9QL
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NI Water - Single Units West - Planning Consultations	Content

### Representations:

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

### Characteristics of the Site and Area

The site is located in the rural countryside and is 1.87km from the settlement limit of Moy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is predominantly rural with sprawling agricultural fields, single detached dwellings and farm complexes. The site is located along the Grange road in a row of detached dwellings. Within the immediate area of the site, there are a number of detached dwellings along Grange Road and along Seyloran Lane, which is at a junction with the site.

The application site is a square shaped plot with a roadside frontage along the public road. There are several detached dwellings on either side of the public road. The site has a

relatively flat topography. It is situated between No. 33A and No. 33B Grange Road. There is mature hedgerow along the roadside boundary and the eastern/western boundaries are defined by a row of mature trees and hedgerows. The rear boundary is undefined as the site is a portion of a larger agricultural field. The site is accessed via an existing field gate along Grange Road.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage on an infill site.

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

#### **Planning History**

M/2002/0743/O – Dwelling – Opposite 34 Grange Road, Moy – Withdrawn

This application is on the same site as this planning application but was withdrawn after being recommended for approval.

#### **Consultees**

NI Water were consulted and responded with no objections.

DFI Roads were consulted and responded with no objections subject to a 1:500 scale plan being submitted.

#### **Planning 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.

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

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

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet



other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

## **Planning Policy Statement 21 – Sustainable Development in the Countryside**

### **Policy CTY 8 – Ribbon Development**

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. As this is an application for a dwelling on an infill site CTY8 – Ribbon Development is the relevant policy, which will apply.

The application site has a roadside frontage along a public road. There is a dwelling 260m east of the site at No. 35, a dwelling abutting the eastern boundary at No. 33B and a dwelling abutting the western boundary at No. 33A. There are also dwellings at No. 33 and No. 31. No. 31, No 33A and No. 35 are all set back from the public road with sweeping driveways to the dwellings. However, I am satisfied the dwellings have frontages with the public road as the gardens of the properties abut the road so I consider this is still the frontage of the dwellings. On balance, I am content the proposal situated on a small gap site is within a substantial and continuously built up frontage, which includes a line of 3 or more buildings along a road frontage.

There are varying plot frontages along this public road with 62m at No. 24, 56m at No. 33, and 50m at No. 33A, 67m at No. 33B and 273m at No. 35. The application site has a frontage of 72m. I am satisfied the proposed site has a plot frontage which respects the existing development pattern in terms of plot size. The proposal is the same size plot as No. 33B east of the site.

In terms of size and scale of the proposed dwelling, this is an outline application so the design of the dwelling will be considered at the Reserved Matters Stage. Along the Grange road, there are a number of large two storey dwellings so I am content that either a single/two storey dwellings would integrate into the landscape.

A number of the dwellings such as No. 31, No. 33a and No. 35 are sited further back in the plot with large gardens fronting the road. No. 33B which is adjacent to the site has a dwelling frontage onto the road. No. 34 is directly opposite the application site so members may want to set a siting condition to move the dwelling further back from the public road to protect the amenity of No. 34.

Overall I am content the proposed site is an infill site and meets the criteria in CTY 8 in PPS 21.

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

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 application site is along an existing roadside frontage and is on land with an undulating topography. There are no long distance views of the site in both directions along the public road as there are mature trees and hedgerows along the eastern and western boundaries, as shown in figures 1 and 2. There is also mature trees along the roadside boundaries of

No. 31 and No. 33A which particularly blocks any direct views in a westerly direction. On balance, I consider the proposal will not be a prominent feature in the landscape.



Figure1 – View from western direction



Figure 2 – View from eastern direction

There are established trees along the east and west boundaries which will integrate the site in long distance views. There is a mature hedgerow along the roadside boundary and some of this will be removed for visibility splays. As shown on Drawing No. 01 date stamped 05 SEP 2019 additional planting is proposed to replace any removed which will further aid integration. As the proposal consists of a portion of an existing larger field, a new hedge is proposed along the southern boundary, which will aid integration in views from Majors

Lane. I am content new planting will not be primarily relied on for the purposes of integration.

A double garage will sit behind the dwelling and I am content this will integrate into the overall scheme. A new access is proposed which will travel through the middle of the site. It is preferable that the access runs along the boundary but as the access travels a short distance, I am content the new access is acceptable. Also, No. 31 and No. 33A have long sweeping driveways running through the middle of the site so the new access is acceptable in comparison with the surrounding landscape.

The design of the proposed dwelling will be considered at the Reserved Matters Stage. I consider a one or two storey dwelling would integrate well at this site.

I am content the proposal will blend with the existing trees along the east and west boundaries. There are no other buildings at this site but as there are other dwellings along this stretch of public road, I am content the proposal will blend with the other development in the surrounding area.

The case of dwelling on a farm is not applicable in this case.

I am content that the proposal is capable of complying with CTY 13.

#### **CTY 14 – Rural Character**

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. As mentioned, the site benefits from existing vegetation on three boundaries and further landscaping is proposed on the remaining boundaries, which will further aid integration. The proposed dwelling is sited to cluster with existing dwellings along the road. I am content that this dwelling will not be a prominent feature in the landscape.

As there are already dwellings along this public road and they are sited within a roadside frontage I am satisfied that the development will not result in a suburban style build-up of development. I am of the opinion that the proposal is able to respect the traditional pattern of development as the site can accommodate either a one or two-storey dwelling, which would be in scale and form with other dwellings in the area. The site will be located between 2 other dwellings so I am content the proposal will not add to a ribbon of development.

The creation of a new access at this site will not damage the rural character as there is proposed hedging to mitigate the impact of a new entrance onto a public road.

#### **Planning Policy Statement 3 – Access, Movement and Parking**

DFI Roads were consulted as there is a new access from the Grange Road. There is a field gate but according to PPS 3, this is not considered an existing access. DFI Roads requested visibility splays of 2.4m x 70m in both directions and this should be submitted on a 1:500 scale plan at Reserved Matters Stage.

#### **Representations**

An objection was submitted from the owner/occupier at 34 Grange Road, Moy. Their dwelling is across the public road from the application site. The following issues have been raised :

1. The proposal is not in the spirit of the gap site i.e. small site in an existing row of no more than six. There will be eleven houses on the same side of Grange Road. This is ribbon development and detrimental to the rural area.
2. The proposal will alter the character of the area and lead to a loss of amenity. Currently the land is used for agricultural purposes and provides relief to the existing housing build-up.
3. The proposed dwelling will be closer to the public road than No. 33B and together with its elevated position will make it a prominent feature in the landscape.
4. The proposed dwelling overlooks the front garden at No.34 and will lead to a loss of privacy.

In regards to point 1, CTY 8 states that to be an infill site there must be three buildings with a roadside frontage and there is no mention of 'no more than six approvals in a row'. As stated earlier in the assessment I am satisfied the proposal meets the criteria in CTY 8.

In regards to point 2, I do not consider the proposal will alter the character of the rural area. The proposal has met the principle of CTY 8 and will not lead to ribbon development. In addition, the immediate area is already built-up with a number of detached dwellings along Grange Road and particularly at the junction with Seyloran Lane and Dreemore Road.

In regards to point 3, the proposed site is 13m from the public road and No. 33B is 16m. I consider the proposed dwelling is not much nearer to the public road than No. 33B. The topography of the application site has a slight undulating topography as shown in figure 3 below but I do not consider a dwelling on this site would be a prominent feature in the landscape.



Figure 3 shows the undulating topography of the site, which is one of the factors the objector feels the proposed dwelling may be a prominent feature in the landscape.

In regards to point 4, this issue was discussed in the assessment of CTY8. If approved the position of the dwelling is a material consideration, which can set as a siting planning condition in the decision notice. This would protect the amenity of No. 34 if the dwelling set further back from the public road. As shown in Drawing No 01 date stamped 05 SEP 2019 the proposed dwelling is 17m from the boundary fence of No.34 and additional planting is proposed on the roadside boundary. I consider the separation distance and the planting on the roadside boundary will protect the amenity of No. 34.

**Neighbour Notification Checked** Yes

**Summary of Recommendation**

The proposal is recommended for approval as it complies with CTY 8, CTY 13 and CTY 14 in PPS 21.

**Conditions**

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

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

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

3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70 m in both directions shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

4. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of

development and details of a native species hedge to be planted to the rear of the of the visibility splays and along the new boundaries of the curtilage identified in orange on drawing No 01 bearing the stamp dated 05 SEP 2019. 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.

### **Informatives**

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

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

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

The applicant is advised that under Article 11 of the Roads Order (NI) 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

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

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site

- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
- The developer should note that this planning approval does not give consent to discharge water into a Transportni drainage system.

**Signature(s)**

**Date:**







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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2016/0634/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Replacement of existing filling station, shop and car wash to incorporate along side it the construction of mixed use units (including a filling station, classes A1 and classes B2) and associated car parking and landscaping (amended plans)	<b>Location:</b> 132 Drum Road Cookstown
<b>Applicant Name and Address:</b> Mr Seamus Molloy 132 Drum Road Cookstown	<b>Agent name and Address:</b> CMI Planners Ltd Unit C5 80/82 Rainey Street Magherafelt BT45 5AJ
<b>Summary of Issues:</b> Scale and Nature of proposal contrary to PPS4 / Area Plan/ SPPS Intensification of an unsafe access to Protected Route	
<b>Summary of Consultee Responses:</b> DFI Roads objection	
<b>Characteristics of the Site and Area:</b> <p>The site currently accommodates a vacant shop, petrol filling station (disused), car wash, poly tunnels, tyre fitting centre, car repairs and a vacant dwelling. A car wash area on site at the time of the site visit includes a small shed of indoor valeting and wash ramp. The tyre fitting facility was located in sheds to the rear. A canopy and pumps remain on site. 3 detached dwellings are located to the west of the site all fronting onto Drum Road. The site, being located outside the settlement limits for Cookstown has agricultural lands opposite and at this point a more rural ambience.</p> <p>A historical permission under I/2000/0219/F included the proposed removal of the fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and COU from coal store to store and shop with extension for new garden centre. It is unclear if any aspect of this permission was ever implemented.</p>	



**Deferred Consideration:**

The original proposal on the site was presented to the Planning Committee in Feb 2017 and subsequently deferred for an office meeting held in Feb and a site visit with the agent in March 2017. The description has been amended to remove the reference to Classes A2, B1 \_ D2 for the construction of mixed use units. The proposal still involves the replacement of existing filling station with a new one with 6 pumps, shop and carwash and the construction of units with classes A1 \_ B2, along with car parking and landscaping.

The application again came before Committee in July 2017 with a recommendation to refuse, at the meeting members decided to defer the case for a site visit. The visit took place on the 21<sup>st</sup> July 2017. Those who attended observed the present mix of uses on the site and in particular observed the access difficulties to the left hand side emerging where DFI Roads have identified a shortfall in splays and a significant vertical plane issue due to a crest in the road. In concluding, CMI Planning (agent) indicated that he would carry out a traffic analysis for the proposal based on what 'lawful' uses on site were already attracting vehicles. As yet the Council have not received this survey despite a number of requests (3 in total) and conversations with the applicant and myself, Mr Molloy.

The SPPS supports Economic development in setting out the following aims:

6.81 The planning system has a key role in achieving a vibrant economy. In this regard, the aim of this SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.

6.82 The regional strategic objectives<sup>28</sup> for facilitating economic development through the planning system are to:

- promote sustainable economic development in an environmentally sensitive manner;
  - tackle disadvantage and facilitate job creation by ensuring the provision of a generous supply of land suitable for economic development and a choice and range in terms of quality;
  - sustain a vibrant rural community by supporting rural economic development of an appropriate nature and scale;
  - support the re-use of previously developed economic development sites and buildings where they meet the needs of particular economic sectors;
  - promote mixed-use development and improve integration between transport, economic development and other land uses, including housing;
- and • ensure a high standard of quality and design for new economic development.

6.87 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.

6.88 In the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must however be restricted.

6.91 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.

In relation to retail use at this location the SPPS states:

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

### Regional Strategic Objectives

6.271 The regional strategic objectives for town centres and retailing are to: • secure a town centres first approach for the location of future retailing and other main town centre uses;

6.279 Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS.

6.282 In the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites.

6.283 All applications for retail or town centre type developments above a threshold of 1000 square metres gross external area which are not proposed in a town centre location and are not in accordance with the LDP should be required to undertake a full assessment of retail impact as well as need

On further reduced plans received on the 14<sup>th</sup> March 2018 the retail element of this proposal is some 180sqm and 162sq.m in 2 separate A1 units. The applicant has not prepares an assessment of need which is proportionate to support the application as required by the SPPS however.

B2 or light industrial uses comprise approx. 310 sq.m over 5 separate smaller units. Class A1 retail on the site has largely been abandoned as I see it based on my observations. The proposal as it stands does not promote a town centre first approach for A1 retail use and promotes an intensification of the use of the site in a more formal way. The P1 form proposes an increase from 28 visitors to the site today to a total of 450 and an increase in vehicle numbers to 260 per day from a present level of 24. This underlines the concerns in particular relating to intensification of the access to the protected route.

This is also essentially the redevelopment of an established economic development site in the rural area, as such, in Policy terms PPS4 PED2, PED4 and PED9 are to be considered

### **Policy PED2 has provision for this proposal which in turn engages Policy PED 4 Redevelopment of an Established Economic Development Use in the Countryside**

A proposal for the redevelopment of an established economic development use in the countryside for industrial or business purposes (or a sui generis employment use) will be permitted where it is demonstrated that all the following criteria can be met:

- (a) the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area;

The latest amended plans dated March 2018 have reduced the scheme somewhat. There is significant swathes of hard surfacing for a short stay car park to the front of the site and large parking and turning areas within the remainder of it. An attempt has been made to soften this with some greenspaces.

(b)there would be environmental benefits as a result of the redevelopment;

Other than bringing some sense of order to a site which has currently a rather mix of abandoned and operational uses there are no clear other environmental benefits

(c) the redevelopment scheme deals comprehensively with the full extent of the existing site or in the case of partial redevelopment addresses the implications for the remainder of the site; and

(d)the overall visual impact of replacement buildings is not significantly greater than that of the buildings to be replaced.

The overall replacement of buildings on the site currently (as below) is reduced on the March 2018 plans from the original submission and as such I don't feel there will be a significantly greater visual impact if the plans were to proceed.



#### Policy PED 9

#### General Criteria for Economic Development

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

Given the site's historical use/s the proposed use is largely compatible in my view. The proposal does include Class B2 light industrial uses which may give rise to impacts on close by residential dwellings.

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

EHO have not objected to the proposal subject to conditions restricting the use to A1 and B1 (business). However plans proposed B2 uses within the site (light industrial). Given this it has not therefore been demonstrated that the proposal would not have a detrimental impact on some nearby residential property.

(c) it does not adversely affect features of the natural or built heritage; (none)

(d) it is not located in an area at flood risk and will not cause or exacerbate flooding; (none)

(e) it does not create a noise nuisance;  
as per (b)

(f) it is capable of dealing satisfactorily with any emission or effluent; (no issues anticipated)

(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 have commented as below, these comments also relate to the reduced March 2018 plans.

As demonstrated in Section 25 of the P1 form, intensification is a major factor in DFI's decision on this application.

Also, given the topography of the Drum Road and the high speed of the traffic, DFI's recommendation to Council dated 10/8/2016 remains the same.

Dfi Roads are unable to approve this application for the following reasons:

- The development is contrary to Planning Policy Statement 3, Development Control: Roads considerations in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
- The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 4.5m x 215m in both directions cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.
- The site access is unsafe for the significant intensification proposed and consequently Transportni's opinion is that the application of the full standard of 4.5m x 215m at the access is fully justified, particularly as it is a protected route. (Sight lines are not achievable on the vertical plane)
- Relaxations and departures from DMRB standards will not be accepted in order to ensure a safe access on this high speed trunk road.

(h) adequate access arrangements, parking and manoeuvring areas are provided; (as per 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; (this is a site on the edge of Cookstown settlement with easy access)

(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; (broadly yes I'm of the view that this is the case)

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

Subject to more landscaping details this matter could be addressed satisfactorily.

(l) is designed to deter crime and promote personal safety; - there appear to be no clear crime or personal safety concerns with the proposal.

(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape. (as per my comments at h)

In considering the reduced scheme which has gone some way to addressing some of the building massing and inappropriate uses on the site, the proposal in my view fundamentally fails to demonstrate a clearly intensified safe access can be achieved onto a protected route and that the nature of proposed uses within the site (A1 and B2) are appropriate in relation to Cookstown town centre and the amenity of adjoining residential properties.

On this basis I recommend refusal as per the below amended refusal reasons:

### **Refusal Reasons**

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

2. The proposal is contrary to Policies PED 4 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that it has not been demonstrated that the proposal will not impact negatively on the amenities of the adjoining residential properties.

3. The proposal is contrary to the Cookstown Area Plan and the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that it has not been demonstrated that development would not have an adverse impact on the vitality and viability of the existing town centre.

4. The development is contrary to Planning Policy Statement 3, Development Control: Roads considerations in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

5. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 4.5m x 215m in both directions cannot be provided and requires a Right Turn Lane in accordance with the standards contained in the Department's Development Control Advice Note 15.

**Signature(s): M.Bowman**

**Date 24<sup>th</sup> Oct 2019**

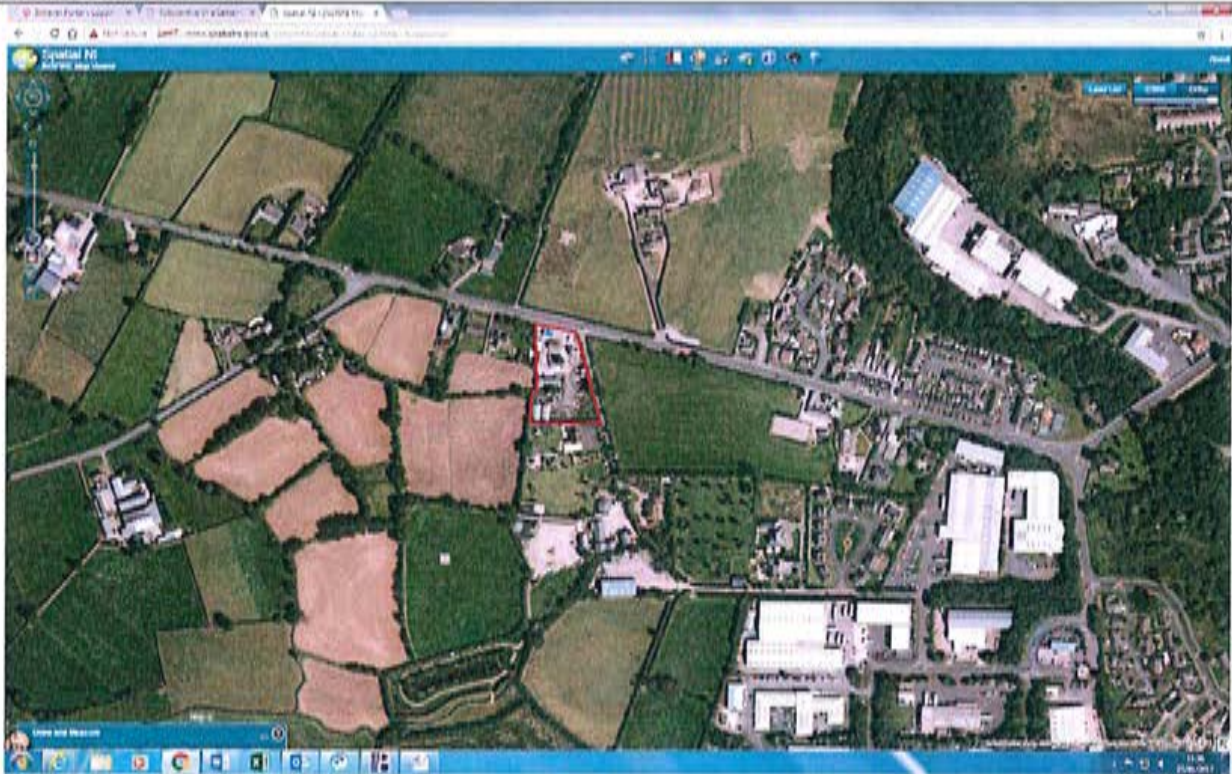


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/0634/O	<b>Target Date:</b> 17/8/16
<b>Proposal:</b> Replacement of existing filling station, shop and car wash to incorporate along side it the construction of mixed use units (Classes A1, A2, B1, B2 and D2) associated car parking and landscaping	<b>Location:</b> 132 Drum Road Cookstown
<b>Referral Route:</b>  Refusal recommended.	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Seamus Molloy 132 Drum Road Cookstown	<b>Agent Name and Address:</b> CMI Planners Ltd Unit C5 80/82 Rainey Street Magherafelt BT45 5AJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

#### Representations:

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

#### Detail of the Proposal:

Replacement of existing forecourt, shop, dwelling, tyre repair unit, greenhouses and car wash with new shop front, forecourt, carwash and retail/industrial units in compliance with Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside.

#### Characteristics of the Site and Area

The site currently accommodates a vacant shop, petrol filling station (closed), car wash, poly tunnels, tyre fitting unit and dwelling. The dwelling is single storey with garden area to rear. Car wash area includes small shed for indoor valeting and wash ramp. The tyre fitting service is accommodated in sheds to the rear and side of the dwelling and the single storey shop is located to the western side of the dwelling with petrol pumps and canopy to front of same. Poly tunnels are located towards the rear of the site in a separate compound. These do not have the



appearance of recent use. Three detached dwellings are located to the west of the site all fronting the Drum Road from which access is currently gained for the site. To the south of the site along a laneway is a detached dwelling with another dwelling and yard beyond. On the opposite side of the Drum Road are agricultural lands with dwellings and farm groups to the right and left of same. The area, although close to the edge of the limit of development (over 160 metres) has a rural feel.

#### **Relevant Site Histories:**

I/2000/0219/F

Proposed removal of existing fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and change of use from existing coal store and garage to store and shop with extension for new garden centre shop at existing service station premises.

Approved: 30/1/2001.

Conditions attached:

The change of use and extension for new garden centre shop, hereby approved, shall not commence until the fuel pumps and canopy have been removed from the site.

Reason: to ensure that the proposed development does not intensify the site usage.

#### **Representations:**

No representations received from neighbour notification or press notice. Consultation with Transportni and Environmental Health has resulted in differing opinions.

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

The site is located within the open countryside as defined by the Cookstown Area Plan 2010 (CAP) where Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside applies. Policy CTY1 identifies acceptance of non-residential development, for industrial and business uses which accord with Planning Policy Statement 4 (PPS 4): Planning and Economic Development and in particular policies PED 2, 4 and 9. Although this application has been submitted for outline consideration a detailed site plan has been submitted for information purposes and forms the basis of the proposal.

Policy PED 2 Economic Development in the Countryside is relevant where policy allows for the redevelopment of an established economic use in compliance with PED 4. In my opinion the redevelopment of this economic development will harm the rural character or appearance of the local area even though there is no increase in the site area. The existing structures on site are single storey and residential in form, the new proposal entails significant structures of greater massing with significantly greater car parking and turning provision thus providing a negative visual impact. From the proposal submitted it is not evident that environmental benefits would result. The current layout does incorporate a small element of retail within the vacant shop. The scheme would if approved increase that provision significantly with the proposal for a main shop of some 375 sqm (4036 sqft). Policy PED 9 of PPS 4: provides general criteria for assessing all applications relating to the location in siting and design: impact on residents and the environment, access and movement improvement. This proposal is generally compatible with the existing land use. However since this proposal is adjacent to residential property attention needs to be given to the neighbours amenities. It is my opinion that as the scale of the buildings and the increase in both vehicles and customers is greater than that existing there will be a significant adverse impact on neighbouring amenity by way of increased noise and nuisance as well as



dominance and an overbearing impact on neighbouring property. There is no evidence of any negative natural or built heritage impact. The site is not in an area of flood risk and there is no evidence to suggest that any emission or effluent cannot be dealt with. There are issues relating to traffic movement and it has not been proved that there would be sufficient space for additional car parking and turning required for the development. In addition the access details cause concern in respect of traffic safety. Information to comply with the substantive Transportni requirements has not been requested as the principle of the development is at variance with policy. No provision has been allowed for significant site planting to aid integration of the proposal. It is noted that some of these issues could be dealt with by condition however the proposal in my opinion does not meet policy and in my opinion should be refused.

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

The Strategic Planning Policy Statement for Northern Ireland (SPPS) has removed Planning Policy Statement: Retailing and Town Centres however the SPS reinforces the importance of town centres and the need to locate such proposals within the town. This proposal although redeveloping existing uses proposes significant increase in town centre uses which I believe would be to the detriment of Cookstown and so contrary to policy.

The Drum Road is the main road between Omagh and Cookstown and has protected route status.

The uses proposed in this application are A1, A2, B1, B2 and D2. This equates to

#### **Class A1: Shops**

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food;
- (b) as a post office;
- (c) for the sale of tickets or as a travel agency;
- (d) for hairdressing;
- (e) for the display of goods for retail sale;
- (f) for the hiring out of domestic or personal goods or articles; or
- (g) for the reception of goods including clothes or fabrics to be washed, cleaned or repaired either on or off the premises where the sale, display or service is to visiting members of the public.

#### **Class A2: Financial, professional and other services**

Use for the provision of services which it is appropriate to provide in a shopping area, where the services are provided principally to visiting members of the public including—

- (a) financial services; or
- (b) professional services.

#### **Class B1: Business**

Use—

(a) as an office other than a use within Class A2 (Financial, professional and other services);

(b) as a call centre; or

(c) for research and development which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

**Class B2: Light Industrial**

Use for any industrial process which can be carried out without detriment to amenity by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

**Class D2: Assembly and leisure**

Use as a—

(a) bingo hall;

(b) cinema;

(c) concert hall;

(d) dance hall;

(e) theatre.

It should be noted that a majority of the uses proposed would be more suited to being within the town centre and to that end to allow this proposal could have an impact on the vitality and viability of the town centre. The time for enforcement action for the noncompliance of the condition attached to the previous permission has now lapsed, however no application has been submitted for a certificate of lawfulness for the retention of the existing fuel pumps and canopy. The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features or conservation objectives of any European site. The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area.

**Neighbour Notification Checked**

**Yes**

**Recommendation:**

I recommend that this application is refused for the following reasons.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this



development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Policies PED 2, PED 4 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that the scale and nature of the proposal would harm the rural character of the area and impact negatively on the amenities of the adjoining residential properties.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that the development would, if permitted, have an adverse impact on the vitality and viability of the existing town centre.
4. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that it would be possible within the application site to provide adequate sight lines, forward sight distance and right turn lane.
5. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that the internal layout can provide requisite parking and servicing to an adequate standard.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th May 2016
<b>Date First Advertised</b>	19th May 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 129 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 130 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 130A Drum Road, Cookstown, Co Tyrone The Owner/Occupier, 132A Drum Road, Cookstown, Co Tyrone The Owner/Occupier, 134 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 136 Drum Road Derryloran Alias Kirktown Cookstown The Owner/Occupier, 137 Drum Road Derryloran Alias Kirktown Cookstown	
<b>Date of Last Neighbour Notification</b>	18th May 2016
<b>Date of EIA Determination</b>	n/a
<b>ES Requested</b>	Yes /No
<b>Planning History</b> Ref ID: LA09/2015/1052/PAD Proposal: Replacement of existing forecourt, shop, dwelling, tyre repair unit, greenhouses and carwash with new shop front, forecourt, carwash and retail/industrial units Address: 132 Drum Road, Cookstown, Decision: Decision Date:  Ref ID: I/2000/0219/F Proposal: Proposed removal of existing fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and change of use from existing coal store and garage to store and shop with extension for new garden centre shop at existing service station premises. Address: Kirktown Service Station 132 Drum Road Kirktown Cookstown Decision: Approval Decision Date: 11.06.2001	

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

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

Drawing No. 02  
Type: Concept Plan  
Status: Submitted

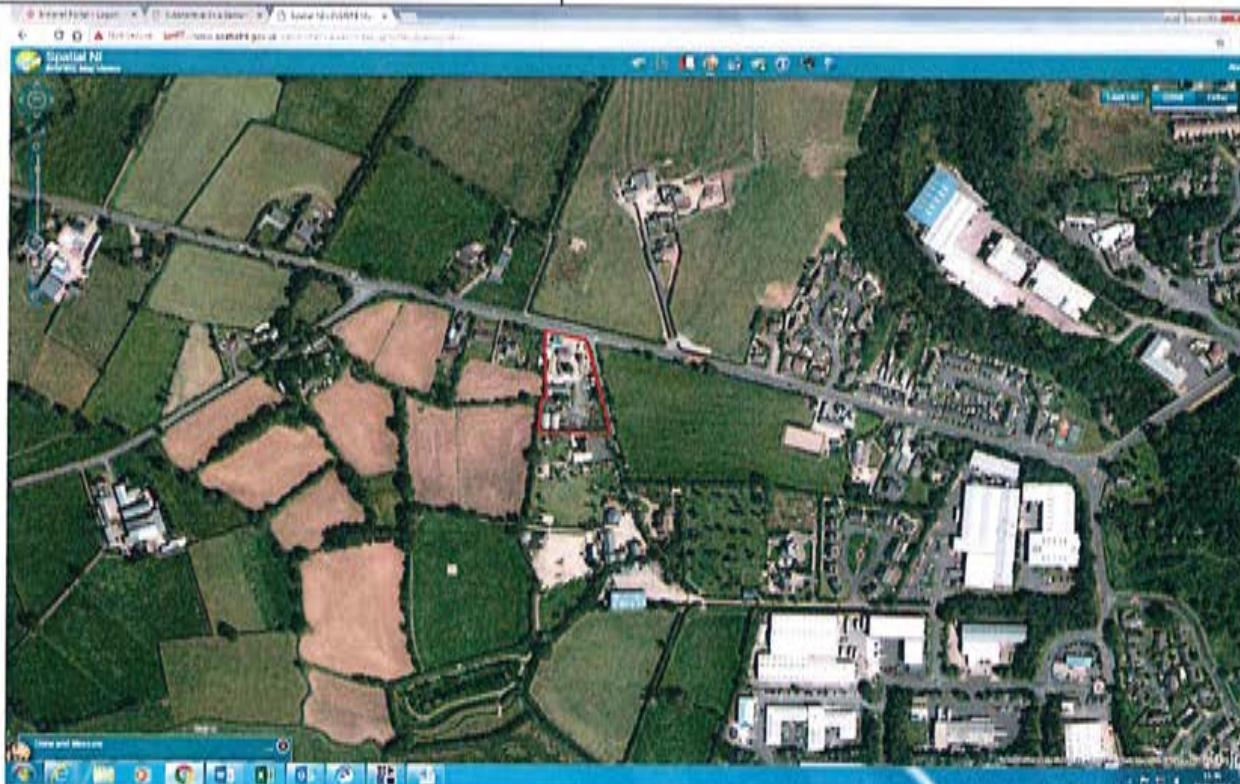
**Notification to Department (if relevant)**

Date of Notification to Department: n/a  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2016/0634/O	<b>Target Date:</b>
<b>Proposal:</b> Replacement of existing filling station, shop and car wash to incorporate along side it the construction of mixed use units (including a filling station, classes A1 and classes B2) and associated car parking and landscaping (amended description)	<b>Location:</b> 132 Drum Road Cookstown
<b>Applicant Name and Address:</b> Mr Seamus Molloy 132 Drum Road Cookstown	<b>Agent name and Address:</b> CMI Planners Ltd Unit C5 80/82 Rainey Street Magherafelt BT45 5AJ



**Location**

*For committee  
decision*



**Summary of Consultee Responses:**

TNI are objecting to the proposal.

**Characteristics of the Site and Area:**

The site currently accommodates a vacant shop, petrol filling station (closed), car wash, poly tunnels, tyre fitting unit, car repairs and vacant dwelling. The dwelling is single storey with garden area to rear. Car wash area includes small shed for indoor valeting and wash ramp. The tyre fitting service is accommodated in sheds to the rear and side of the dwelling and the single storey shop is located to the western side of the dwelling with petrol pumps and canopy to front of same. Poly tunnels are located towards the rear of the site in a separate compound. These do not have the appearance of recent use. Three detached dwellings are located to the west of the site all fronting the Drum Road from which access is currently gained for the site. To the south of the site along a laneway is a detached dwelling with another dwelling and yard beyond. On the opposite side of the Drum Road are agricultural lands with dwellings and farm groups to the right and left of same. The area, although close to the edge of the limit of development (over 160 metres) has a rural feel.

History on part of the site includes, I/2000/0219/F - Proposed removal of existing fuel pumps and canopy and change of use from existing coal yard area to display area for garden centre and change of use from existing coal store and garage to store and shop with extension for new garden centre shop at existing service station premises. Approved: 30/1/2001.

**Description of Proposal**

Replacement of existing filling station, shop and car wash to incorporate alongside it the construction of mixed use units (including a filling station, classes A1 and classes B2) and associated car parking and landscaping (amended description)

**Deferred Consideration:**

The original proposal on the site was presented to the Planning Committee in Feb 2017 as a refusal for the following reasons;

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies PED 2, PED 4 and PED 9 of Planning Policy Statement Planning and Economic Development in that the scale and nature of the proposal would harm the rural character of the area and impact negatively on the amenities of the adjoining residential properties.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that the development would, if permitted, have an adverse impact on the vitality and viability of the existing town centre.
4. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that it would be possible within the application site to provide adequate sight lines, forward sight distance and right turn lane.



5. The proposed development would if permitted be contrary to Planning Policy Statement 3: Access Movement and Parking as it would prejudice the safety and convenience of road users since it has not been demonstrated that the internal layout can provide requisite parking and servicing to an adequate standard.

And was subsequently deferred for an office meeting held in Feb and a site visit with the agent in March 2017. The description has been amended to remove the reference to Classes A2, B1 & D2 for the construction of mixed use units. The proposal still involves the replacement of existing filling station with a new one with 6 pumps, shop and carwash and the construction of units with classes A1 & B2, along with car parking and landscaping.

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

The site is located within the open countryside as defined by the Cookstown Area Plan 2010 (CAP) where Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside applies. Policy CTY1 identifies acceptance of non-residential development, for industrial and business uses which accord with Planning Policy Statement 4 (PPS 4): Planning and Economic Development and in particular policies PED 2, 4 and 9. Although this application has been submitted for outline consideration a detailed site plan has been submitted for information purposes and forms the basis of the proposal.

Policy PED 2 Economic Development in the Countryside is relevant where policy allows for the redevelopment of an established economic use in compliance with PED 4. A proposal will only be permitted under this policy where it is demonstrated all the following criteria can be met;

- (a) The scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area; even though in this case there is no increase in the site area, it will be the increase in the proposed structures which will be significant in comparison to that existing on site. There is also significantly greater car parking providing a negative visual impact of hard standing on a roadside site.
- (b) There would be no significant environmental benefits as a result of the redevelopment.
- (c) The redevelopment scheme does deal with the full extent of the existing site and addresses the implications of the remainder of the site, a concept plan has been provided to show this.
- (d) The overall visual impact of the replacement buildings will be significantly greater than that of the buildings to be replaced. In particular the retail element of the scheme will be greatly increased. The main shop (Class A1) will be 375sqm and Unit 5 (Class A1) will be 324sqm, resulting in a total of approx. 700sqm. Currently on site is a small disused flat roofed building which has previously been the shop on site. In addition to this will be 3 workshops and a showroom which do not currently exist on site.

PED4 also goes on to state 'redevelopment proposals involving retailing, however, will not be permitted.'

Policy PED 9 of PPS 4: provides general criteria for assessing all applications relating to the location in siting and design: impact on residents and the environment, access and movement improvement. This proposal is generally compatible with the existing land use. However since this proposal is adjacent to residential property attention needs to be given to the neighbours amenities. It is my opinion that as the scale of the buildings and the increase in both vehicles and customers is greater than that existing there will be a significant adverse impact on neighbouring amenity by way of increased noise and nuisance as well as dominance and an overbearing impact on neighbouring property. There is no evidence of any negative natural or built heritage impact. The site is not in an area of flood risk and there is no evidence to suggest that any emission or effluent cannot be dealt with. There are issues relating to traffic movement and it has not been proved that there would be sufficient space for additional car parking and turning required for the development. In addition the access details cause concern in respect of traffic safety.



The Strategic Planning Policy Statement for Northern Ireland (SPPS) has removed Planning Policy Statement: Retailing and Town Centres however the SPS reinforces the importance of town centres and the need to locate such proposals within the town. As the application is not in a town centre location a retail impact assessment is not required. This proposal although redeveloping existing uses proposes a significant increase in town centre uses which would be to the detriment of Cookstown and therefore remains contrary to policy.

It should be noted that a majority of the uses proposed would be more suited to being within the town centre and to that end to allow this proposal could have an impact on the vitality and viability of the town centre. The time for enforcement action for the non-compliance of the condition attached to the previous permission has now lapsed, however no application has been submitted for a certificate of lawfulness for the retention of the existing fuel pumps and canopy.

### **Recommendation**

The application should be refused for the following reasons;

### **Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies PED 2, PED 4 and PED 9 of Planning Policy Statement 4: Planning and Economic Development in that the scale and nature of the proposal would harm the rural character of the area and impact negatively on the amenities of the adjoining residential properties.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development in that the development would, if permitted, have an adverse impact on the vitality and viability of the existing town centre.
4. The development is contrary to Planning Policy Statement 3, Development Control: Roads considerations in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
5. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 4.5m x 215m in both directions cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

**Signature(s):**

**Date**





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/1368/F	<b>Target Date:</b>
<b>Proposal:</b> Replacement dwelling (amended proposal)	<b>Location:</b> 45m North East of 19 Ardagh Road Coagh Cookstown
<b>Applicant Name and Address:</b> Mr Tony Anderson Gort Road Coagh Cookstown	<b>Agent name and Address:</b> Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Summary of Issues:</b>  This application was originally submitted as a dwelling on a farm, however following a recommendation for refusal the proposal has been amended as an off-site replacement dwelling and has been recommended for approval on this basis.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located less than 1 mile north-west of Ballinderry in open countryside in accordance with the Cookstown Area Plan 2010. The site outlined in red is located at No 19 Ardagh Road, Coagh and consists of a single storey dwelling, two small agricultural buildings and a cut-out portion of a large field identified as field No 5 on the farm map. The site fronts onto the public road with access via an existing laneway. The northern and southern boundaries are defined by 1.5m hedgerow and the southern boundary is defined	

by tall mature trees. The remaining eastern boundary is undefined. The topography of the area is relative flat in nature and the Ballinderry River is located approximately 150m south-east of the site.

### **Description of Proposal**

The application seeks full planning for a two storey dwelling with attached carport and garage. The proposed dwelling has a 13m frontage with a gable depth of 8.8m and a ridge height of 8.5m above finished floor level. A two storey rear return is also proposed. The chimneys are expressed on the ridge, the wall finishes are smooth render painted white and the roof finishes is blue/black natural slate.

### **Deferred Consideration:**

This application was originally submitted as a dwelling on a farm and presented as a refusal in Feb 2019 for the following reason;

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that a development opportunity has not been sold off from the farm holding within 10 years of the date of the application.

It was subsequently deferred for an office meeting held on 26th June 2019, for further consideration. The Area Manager had indicated that the application could have been held until the outcome of the draft area plan. However following the initial consultation period a number of objections to the policies in the plan were received and it was decided in June 2019, whilst the draft plan remains a material consideration, it cannot be given determining weight at the current time.

Following further discussions with the agent regarding alternatives for obtaining a dwelling, a replacement dwelling was put forward as an option.

The applicant submitted an amended P1 and plans changing the proposal to 'replacement dwelling at 45m NE of 19 Ardagh Road, Coagh'. Neighbours were re-notified and proposal was re-advertised. No objections were received.

The building proposed to be replaced is to the rear of the main dwelling on the farm, No.19. Our records do not show that No.19 was ever approved on the basis of a replacement for the building being replaced in this current proposal.

CTY3 states permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all ref to 'dwellings' includes those buildings formerly known as dwellings.

It is important to note that policy states buildings designed and used for agricultural purposes, will not however be eligible for replacement under this policy. However, the building in question for this site was designed as a dwelling (see evidence in report below), although it is no longer used as a dwelling house.

Land and Property Services public records show that within the red line of the site there were at one time 3 domestic properties at the site, and that two of the properties merged

to become one in the rating year 1880/1881, and that property is now known as No.19 Ardagh Road. There are currently 3 separate buildings on the site. Historical Ordnance survey maps show the building to be replaced as No.19, which would indicate it had been known as a dwelling at some stage. Current Ordnance survey maps show No.19 as the main dwelling to the front of the site. This would tie in with the LPA records that the dwelling formerly known as No.19 merged with another dwelling to become one.

Based on the information submitted by the agent there is sufficient evidence that the building to be replaced was once a dwelling.

Other general criteria under CTY3 has to be considered;

The building to be replaced is single storey and is set back behind the proposed site and existing 2 storey farm house, No.19. However to replace a dwelling in-situ would be very restrictive due to the existing house and shed and would not allow for adequate amenity space for either house and so there are amenity benefits. The proposed location is visually linked with the replacement house and the proposed planting aids in reducing its visual impact.

The overall size of the proposed 2 storey dwelling will allow it to integrate into the surrounding rural setting as it reflects the characteristics of a rural farm house and similar houses within the vicinity.

The proposed design at this location is acceptable and will not change the rural character of the area. Finishes are in keeping with traditional rural design guide.

DFI Roads have no objections subject to condition. Access will not prejudice road safety or significantly inconvenience the flow of traffic.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Recommended as approval for a replacement under CTY3.

**Conditions:**

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

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

2. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan 01/01 date stamped 27<sup>th</sup> Sept 2019 is demolished, all rubble and foundations have been removed and the site restored in accordance with the details on the approved plans.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.



3. During the first available planting season after the occupation of the building for its permitted use, the landscaping scheme shall be carried out as shown in plan 01/01 date stamped 27<sup>th</sup> Sept 2019.

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

4. 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.

5. 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.

6. The vehicular access, including 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 before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

**Signature(s):**

**Date**

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1368/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling on a farm	<b>Location:</b> 45m North East of 19 Ardagh Road Coagh Cookstown
<b>Referral Route:</b> Contrary to CTY 10 of PPS 21	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Tony Anderson Gort Road Coagh Cookstown	<b>Agent Name and Address:</b> Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

*For committee  
decision*



## Case Officer Report

### Site Location Plan



#### Consultations:

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



Non Statutory	DAERA - Coleraine	Substantive Response Received
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b> - The proposal is contrary CTY1 and CTY10 – in that a development opportunity has been sold off.		
<b>Characteristics of the Site and Area</b> The site is located less than 1 mile north-west of Ballyinderry in open countryside in accordance with the Cookstown Area Plan 2010. The site outlined in red is located at No 19 Ardagh Road, Coagh and consists of a single storey dwelling, two small agricultural buildings and a cut-out portion of a large field identified as field No 5 on the farm map. The site fronts onto the public road with access via an existing laneway. The northern and southern boundaries are defined by 1.5m hedgerow and the southern boundary is defined by tall mature trees. The remaining eastern boundary is undefined. The topography of the area is relative flat in nature and the Ballyderry River is located approximately 150m south-east of the site.		
<b>Description of Proposal</b> The application seeks full planning for a two storey farm dwelling with attached carport and garage. The proposed dwelling has a 13m frontage with a gable depth of 8.8m and a ridge height of 8.5m above finished floor level. A two storey rear return is also proposed. The chimneys are expressed on the ridge, the wall finishes are smooth render painted white and the roof finishes is blue/black natural slate.		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<b>Relevant Site History:</b> No relevant history on the proposal site on the Ardagh Road, however LA09/2016/0183/F - Proposed new dwelling and detached garage/store (infill site), located between 12 and 12a Gort Road, Coagh, Cookstown for Jeffrey and Naimh McCrystal - Approved 20th June 2016 is considered relevant because it has been 'sold off' from the farm holding.		
<b>Representations:</b> 1 neighbour notification letter was sent to the occupier No 60 Brookmount Road, Magherafelt. No letters of representation have been received		
<b>Development Plan and Key Policy Consideration:</b> Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.		
<u>Cookstown Area Plan 2010:</u> The site itself is located in the open countryside. There are no other designation on the site.		
<u>SPPS – Strategic Planning Policy Statement for Northern Ireland:</u> sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.		



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

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

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

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

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

Under criterion (b) which requires no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

A planning history search reveals that a full application for new dwelling, ref No. LA09/2016/0183/F was approved on 20th June 2016 for Jeffrey and Naimh McCrystal, the applicant's brother in law and sister. The site is located between 12 and 12a Gort Road, Coagh and is in the process of being constructed. The site on the Gort Road is still shown as an agricultural field on the 2017 farm map, however Jeffrey and Naimh McCrystal completed certificate 'A' indicating that they were in full ownership of their site on 10th February 2016. A land registry check was carried out to determine if the land had been transferred. The land registry check proved inconclusive but indicated that an application was pending. However, given that the Jeffrey and Naimh McCrystal claimed ownership of their site in 2016, in my opinion this provides confirmation that the site has been transferred off the farm.

Paragraph 5.40 of the Justification and Amplification makes it clear that planning permission will not be granted for a dwelling under this policy where a rural business has recently 'sold off' a development opportunity from the farm such as a replacement dwelling. Paragraph 5.40 goes on to say for the purposes of this policy, 'sold-off' will mean any development opportunity disposed of from the farm holding to any other person including a member of the family. As the 2016 application was approved under PPS 21, and was subsequently 'sold off', this application fails to comply with criterion (b) of policy CTY 10.

Under criterion (c) of the policy which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The established grouping is located immediately to the rear of the site and consists of a number of agricultural buildings and a single storey farm dwelling. The proposal site is a cut out portion of a large agricultural field identified on the farm map as field No 5. I am satisfied the proposal complies with criterion (c) and criterion (g) of CTY13. Site Curtilage of Proposed Dwelling

#### **Integration.**

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.



The proposed site is relatively flat and the rear boundary consists of a large belt of tall mature trees which provides an ideal backdrop to allow the proposed two storey dwelling to successfully integrate into the landscape. When travelling in a westerly direction the proposed dwelling will read with the established farm grouping located to the rear and when traveling in the opposite direction the mature belt of trees will help to screen the proposal.

In terms of design the proposed dwelling has become fairly standardised in rural areas and does consist of elements which are considered traditional such as vertically emphasised windows, linear form and chimneys expressed on the ridge. The finishes include blue/black natural slates and smooth rendered painted white are generally acceptable and will not appear incongruous in the rural area. The orientation of the proposed dwelling fronts onto the public road and the proposal will make use of an existing access onto the Ardagh Road.

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

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

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

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

**Neighbour Notification Checked:** Yes

**Summary of Recommendation:** I recommend refusal on the bases that a development opportunity has been sold off.

#### **Refusal Reasons**

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 a development opportunity has not been sold off from the farm holding within 10 years of the date of the application.

**Signature(s)** Sean Diamond

**Date:** 23/01/2018

ANNEX	
<b>Date Valid</b>	5th October 2017
<b>Date First Advertised</b>	19th October 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 19 Ardagh Road Coagh Londonderry	
<b>Date of Last Neighbour Notification</b>	31st October 2017
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/1368/F Proposal: Proposed dwelling on a farm Address: 45m North East of 19 Ardagh Road, Coagh, Cookstown, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	
<b>Notification to Department (if relevant)</b>  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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2017/1705/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of and completion to reinstatement of previous building for agriculture purposes	<b>Location:</b> 200m SW of 107 Lisacclare Road (on the Aughagranna Road) Stewartstown
<b>Applicant Name and Address:</b> James Canavan 80 Mountjoy Road Aughrimderg Coalisland	<b>Agent name and Address:</b> Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF
<b>Summary of Issues:</b> Planning permission has been refused for a replacement dwelling on the site, the building was been reconstructed without planning permission, an application was submitted for its retention and re-instatement as a dwelling. The application has been amended to retain it for agricultural purposes. The building is located on an active and established farm.	
<b>Summary of Consultee Responses:</b> DFI Roads – approve with conditions to improve the access to achieve sight lines of 2.0m x 33.0m and forward sight distance of 33.0m. DEARA – the building is on an active and established farm	
<b>Characteristics of the Site and Area:</b> The application site is located in the rural location as defined within the Dungannon and South Tyrone Area Plan 2010. The access point is from an existing access onto Aughagranna Road. There is evidence of previous works to the building noted on my site visit report namely, parts of the exterior walls comprising of stone (remnants of 2 walls) with concrete block forming the main structure of the building. The block work of the building appears to be completed with a slate pitch roof, no chimney stacks are in place and part of the rear wall appears to be of original stone work.	



The application site forms part of a field where the land within it is slightly elevated towards the west there are no defined boundaries apart from post and wire fence erected to accommodate the curtilage of the site. The surrounding landform is one of undulating countryside where the land falls away from Aughnagranna Road in a westerly direction. There are views of the application especially traveling in a southerly direction along the Aughnagranna Road.

The wider area is predominantly agricultural, on the shores of Lough Neagh, relatively flat landscape.

The predominant land use in the area is agricultural fields, with dispersed single dwellings and farm holdings.

#### **Description of Proposal**

Retention of and completion to reinstatement of previous building for agriculture purposes.

#### **Deferred Consideration:**

Members are advised this application has a long planning history, pre-application discussion were held in 2013 where an opinion issued from DOE stating that permission for a replacement dwelling was unlikely to be forthcoming under CTY3 of PPS21. An application for a replacement dwelling was refused by the Department of the Environment under M/2014/0040/O. This decision was appealed by the applicant and was dismissed by the Planning Appeals Commission on 2nd November 2015 reference No. 2014/A280. The PAC determined that the proposal was contrary to;

- CTY1 and CTY3 of PPS21 in that the existing structure on site did not meet the criteria for a replacement dwelling;
- CTY13 in that a building on the site would not integrate into the landscape.

A planning proposal, LA09/2017/0614/F was submitted on a household developer application for improvements to dwelling. This proposal was withdrawn as it was determined the application was invalid, as it was assessed that no dwelling is in existence on this site to improve. This current application was submitted for the reinstatement of the building as a dwelling and was recommended as refusal. Following submission of farming information it has been established the building is on an active and established farm and the application has now been amended and is currently under consideration as an agricultural building. The applicant has advised it its only for the storage of animal feeds and equipment and will not be used to house any animals.

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

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

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

CTY1 - Development in the Countryside

CTY12 – Agricultural and Forestry Development

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

Mid Ulster Development Plan 2030 - Draft Plan Strategy - The Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

### **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.

### **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 sets out, in policy CTY12, where new development on an active and established agricultural holding will be granted planning permission. Policy CTY10 sets out what is meant by an active and established farm business, DEARA have advised the building is on a farm that has been established for over 6 years and it is currently active.

This building is on an outfarm comprising 5.88ha, the main farm is located 1.2km to the south east, on the main Mountjoy Road. It is in 3 parcels and is 11.65ha used for keeping beef cattle, in 2017 there were 97 animals on the herd book. The proposed building is

small in scale and is only visible from close up views on the minor Augharanna Road. The site has some vegetation around its northern boundaries that help to screen it from views from the west. It is prominent in views from the east, though due to the road alignment, this is for a limited stretch of the minor road. I consider additional landscaping would reduce the impact of the building in this view. The building is modest in its size and scale and it is obvious there was a building on the site before. Evidence on the previous files indicates a building of a similar size and scale to the one proposed was previously on this site and as such I consider the building is appropriate to the area in terms of its size and sale. There are no occupied dwellings close to the site, though there is a site approved directly opposite. The applicant has advised the building will not be used for housing animals, it will be used as an agricultural store for feeds when animals are in these fields and as this will be in effect a store, I do not consider it will have any detrimental impacts on the amenity of any dwellings by virtue of noise or odours. There are no built heritage features on or adjacent to the site. This application is for an agricultural building, it is not for housing animals and as such is not a development that would result in any ammonia emissions. There are no other features of natural heritage on the site or adjacent to the site.

It has not been demonstrated that the building is necessary for the efficient use of the holding, it has not been demonstrated there are any demonstrable health and safety reasons for the building and it is not sited beside any buildings on the farm. I do not consider the proposed development meets with the exception within Policy CTY12 and in view of these failings, it is reasonable for members to refuse planning permission and for enforcement action to progress to remove the unauthorised works.

However, members should be aware that the enforcement action cannot seek the total removal of the building and clearing of the site, it can only put it back to the position it was previously in. This would result in the ruins of the building still on the site with no requirement to take these away. The retention of these ruins could, in my opinion, have a more detrimental impact on the appearance of this area than the proposed building with a properly conditioned and provided landscaping scheme. Members will be aware of planning gain and the concept that a development can result in the betterment of the appearance of an area. There is no specific policy for planning gain and it is a judgement taken in full knowledge of the facts of a case. In this case there is a building partially completed on the site, enforcement action cannot be taken to remove the entire building or to retain the existing vegetation on the site. The land owner can leave the original walls and clear all the vegetation from around the site which would result in this partial ruin being open to full public view. In my opinion the proposed building will not have any greater visual impact on the landscape than the previous ruinous building. A robust landscaping scheme can be conditioned for implementation along the road frontage and site boundaries. The landscaping will, in time, provide full screening of the building such that it will not be visible from any public views on the public road.

I consider a properly conditioned building here would be more preferable in visual amenity terms than the previous ruins that were on the site and I recommend this application is approved with the conditions attached.

**Conditions/Reasons for Refusal:**

**CONDITIONS**

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

Reason: This is a retrospective application.

2. The agricultural building approved shall be used only for agricultural storage and not for housing of animals.

Reason: To prohibit a change to an unacceptable use.

3. The vehicular access, including visibility splays of 2.0m x 33.0m and 33.0m forward sight distance shall be provided in accordance with Drawing No. 01 (Rev.2) bearing the date stamp 23 OCT 2018, prior to the building hereby approved becoming operational. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. All hard and soft landscape works as detailed on drawing no 01 (Rev.2) bearing the date stamp 23 OCT 2018 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 6 months of the date of this permission. 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 and the character of this rural area.

**Signature(s):**

**Date**



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

**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1705/F	Target Date:
Proposal: Retention of and completion to reinstatement of previous dwelling	Location: 200m SW of 107 Lisaclore Road ( on the Aughagranna Road) Stewartstown
Referral Route: Recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: James Canavan 80 Mountjoy Road Aughrimderg Coalisland	Agent Name and Address: Seamus Donnelly 80A Mountjoy Road Aughrimderg Coalisland BT71 5EF

## Case Officer Report

### Site Location Plan



Representations: None Received

#### Description of proposal

This is a full planning application for the reinstatement of previous dwelling

#### Characteristics of site and area

The application site is located in the rural location as defined within the Dungannon and South Tyrone Area Plan 2010. The access point is from an existing access onto Aughagranna Road. There is evidence of previous works to the building noted on my site visit report namely, parts of the exterior walls comprising of stone (remnants of 2 walls) with concrete block forming the main structure of the building. The block work of the building appears to be completed with a slate pitch roof, no chimney stacks are in place. The building resembles a small dwelling with a single window opening on either side of a central door, similar to the rear. There is evidence of a fireplace having been located to the northern elevation (roadside gable), and part of the rear wall appears to be of original stone work. The rest of the construction is new and there is still scaffold erected along the southern gable.

The application site forms part of a field where the land within it is slightly elevated towards the west there are no defined boundaries apart from post and wire fence erected to accommodate the curtilage of the site. The surrounding landform is one of undulating countryside where the land falls away from Aughnagranna Road in a westerly direction. There are views of the application especially traveling in a southerly direction along the Aughnagranna Road.

The wider area is predominantly agricultural, on the shores of Lough Neagh, relatively flat landscape.

The predominant land use in the area is agricultural fields, with dispersed single dwellings and farm holdings.

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

### **Area Plan**

Dungannon and South Tyrone Area Plan 2010- the site is located in the open countryside. No specific plan policies relate to the proposal and the provisions of SPSS and PPS21 apply.

### **Relevant Planning History**

A pre-app was submitted in 2013 where an opinion issued from DOE stating that permission for a replacement dwelling was unlikely to be forthcoming under CTY3 of PPS21.

An application for a replacement dwelling was refused by the Department of the Environment under M/2014/0040/O. This decision was appealed by the applicant and was dismissed by the Planning Appeals Commission on 2nd November 2015 reference No. 2014/A280. The PAC determined that the proposal was contrary to;

-CTY1 and CTY3 of PPS21 in that the existing structure on site did not meet the criteria for a replacement dwelling;

-CTY13 in that a building on the site would not integrate into the landscape.

A planning proposal, LA09/2017/0614/F was submitted on a household developer application for improvements to dwelling. This proposal was withdrawn as it was determined the application was invalid, as it was assessed that no dwelling is in existence on this site to improve.

### **Objections**

No 3rd party planning objections have been received.

### **Consideration**

Since the appeal the applicant has carried out work to the structure on site, to re-instate the previous dwelling. Walls have been constructed in block, roof trusses have been put in place and a new slate roof installed. Inside the structure there is evidence of the previous structure which includes stone walls, window openings, a chimney breast and mosaic tiled floors. Photographic evidence of this has also been provided by the applicant.



On discussion with our Enforcement Team, a case has been opened on this site as it is their view that the works carried out are unauthorised. Works on the site have ceased, and no further enforcement action will take place until this application is decided. (enforcement ref: LA09/2017/0028/CA)

In my view, the works to the structure on site are unauthorised and the position has not change in my assessment of a replacement dwelling. There is no structure to replace.

Similarly, as no dwelling exists on site it is not possible to reinstate the dwelling as a considerable time has lapsed from when a dwelling did rest on this site and this use and structure has now been abandoned. In some instances, where exceptional circumstances are presented, it may be possible to reinstate a dwelling on a site, such as where a dwelling/building has been recently burnt down. No evidence has been presented by the applicant/agent of this nature to warrant reinstatement.

On 27th September 2018 an office meeting was held between the applicant (James Canavan), agent (Seamus Donnelly), Dr Boomer (Planning Manager) and I (Case Officer). During the course of this meeting it was agreed that the applicant would provide evidence that he farms the land, or provide the Agricultural Business ID of the person who does, in the attempt to make a farming case. No dispute lies over land ownership which belongs to James and his wife. The Business ID that was provided belongs to James' brother. This Business ID is both active and established but does not include the land which is under the ownership of James. DAERA confirm in their response dated 11/02/2019 that the field on which the proposed site is located has been claimed for SFP/SAF BPS 2005-2018 by a business other than that quoted on the P1C Form.

I e-mailed the agent on 31st January 2019 to provide a revised P1C form and farm maps showing the Business ID of the person who does farm James' land. 7 days were granted to provide this information and to date nothing has been forthcoming. In my view there is insufficient evidence to demonstrate that this farm land is both active and established and sufficient time has been given for the applicant to demonstrate that it is bot active and established. In my view all the facts have not been presented. The proposed dwelling is not sited beside existing farm buildings and does not meet this part of the policy. In my view the proposal is also contrary to policy CTY10 of PPS21.

Other information has been provided by the applicant/agent to demonstrate that the James is an active and established farmer. The evidence provided is over 20 years old, including old herd numbers, and it was not clearly demonstrated that the applicant has an established and active holding. While this may be the case, it has not been clearly demonstrated and therefore no weight can be attached to this argument at present. James does not currently hold any animals on his land.

The PAC also ruled that a single storey dwelling would not integrate onto this site. The site has not changed dramatically from this refusal and in my view a dwelling on the site will be contrary to policy CTY13 of PPS21.

#### **Other considerations**

I am not convinced that the description of proposal is correct, as it suggests that there is currently a lawful dwelling on site that can be reinstated/completed. In my view the description should be amended to 'site for dwelling' as no determining weight can be

attached to what is currently on site in terms of meeting the policy provisions of PPS21 Sustainable Development in the Countryside. This description can be amended should circumstances change.

The site is not subject to flooding and there are no land contamination issues to consider. No natural or built heritage interests will be detrimentally impacted by the development.

DfI Roads have no objections to this proposal subject to 2m by 33m sight spays in both directions and a 33m forward sight distance.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission is refused for the following reasons of refusal.

#### Refusal Reasons

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

2.The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and all external structural walls are not substantially intact.

3.The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:

-the farm business is currently active and has been established for at least six years;

-the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

4. The proposal is contrary to CTY13 of PPS21 in that;

-it lacks long established natural boundaries and is unable to provide a suitable degree of enclosure to integrate a dwelling into the landscape;

and as a result a dwelling on this site will have a detrimental impact on the visual amenity and landscape character of this area of countryside.

Signature(s)

Date:

ANNEX	
Date Valid	7th December 2017
Date First Advertised	21st December 2017
Date Last Advertised	12th July 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	NA
ES Requested	No

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0666/O	<b>Target Date:</b>
<b>Proposal:</b> New farm dwelling and garage	<b>Location:</b> Approx 40m South East of 32A Mayogall Road Gulladuff
<b>Applicant Name and Address:</b> Mr Damon Brown 32A Mayogall Road Gulladuff Magherafelt	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  The applicant initially sought permission to replace the existing mobile home with a dwelling. This was not possible under the current replacement policy and was then amended to an application for a dwelling on a farm. It has been assessed under CTY10.	
<b>Summary of Consultee Responses:</b> No objections	
<b>Characteristics of the Site and Area:</b>  The application site is plot of land located approx. 40m South East of 32A Mayogall Road, Gulladuff and is located just outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is triangular in shape and there is an existing static caravan/mobile home located on the site towards the northern corner. There are no other buildings within the red line of the site. The boundary of the site is comprised of a mixture of mature hedgerows and trees. There is one third party dwelling located to the North West of the site. To the South East there is a ribbon of detached dwellings fronting onto the existing lane.	

**Description of Proposal**

Farm dwelling and garage

**Deferred Consideration:**

This application was presented as a refusal to Committee in Feb 2019 and an office meeting was held on 14th Feb 2019 with the Area Planning Manager. The reasons for refusal are as follows;

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is not active and established for at least six years; the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

2. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

The development would if permitted mar the distinction between the defined settlements limit of Gulladuff and the surrounding countryside.

As the agent wished the proposal to be assessed under CTY10, description now reads 'new farm dwelling and garage'. As previously stated there is no option to replace a static caravan with a dwelling, however it can continue to remain as a mobile as it would appear to be immune from enforcement as previously stated in the initial case officers report.

The applicant, Mr Brown, was issued with a farm Business ID on 27 Jan 2017. Previous to this, the applicants partner father and mother ( Mr & Mrs Lagan now both deceased) farmed the land and evidence in the form of invoices and receipts have been supplied dating back to 2011, with Mr Brown being mentioned on them since 2014 for 32a Moyogall Road, when he took over working on the farmland. The land is kept in good agricultural condition and there has been sufficient information provided to show there is currently an active farm business, but CTY10 states the farm business has to be 'established for at least 6 years'.

DEARA confirmed that Mr & Mrs Lagan have not had a farm business registered with them. They do have records dating back to 1995 but these do not prove a farm business.

A letter from the applicant's accountant was forwarded to confirm farming income being declared on Mr. Brown's income tax returns from 2014 until present. These show he has claimed for farming related activities in his accounts since 2014. The details provided, together show the continuous farming of the land of Mr Brown since the deaths of Mr and Mrs Lagan and that this was an active and established farm business for over 6 years.

The only building on the farm is dwelling No. 32a, located to west, north/west of the site. Due to the shape of the site and how narrow it is at the north where the existing mobile sits, a dwelling would most likely have to be built on the larger southern part of the site as the top part may not accommodate a modest sized dwelling. The site will have to be opened up to provide an access and splays which will allow the site to be visually linked with the existing farm house across the road, in line with Policy CTY10.

Policy CTY15 had been considered as a refusal due to its location on the edge of the settlement limit of Gulladuff and that it would mar the distinction between the defined settlement limit and the surrounding countryside. However, although the site is on the settlement limit its location is not one that has as clear a distinction as would have other parts of the edge of the limits. Here a dwelling has been approved and built to the west, changing the character at this part of the settlement. I do not feel a dwelling on the site would result in urban sprawl or mar the distinction of the town and countryside of Gulladuff.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Approval is recommended.

### **Conditions**

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

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

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

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

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

3. 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.

4. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.

Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

6. The proposed dwelling shall have a ridge height of less than 7 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.

**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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0666/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement of existing Mobile Home with [new farm dwelling and garage]	<b>Location:</b> Approx 40m South East of 32A Mayogall Road Gulladuff
<b>Referral Route:</b> The proposal is contrary to the policy requirements of PPS 21 Sustainable Development in the countryside	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Damon Brown 32A Mayogall Road Gulladuff Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

For comment  
deavour

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	Historic Environment Division (HED)	Content
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	DAERA - Coleraine	Substantive Response Received
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p>There have been no third party objections to this application. Transport NI and Water NI were consulted on the application, DAERA were also consulted.</p>		



### Characteristics of the Site and Area

The application site is plot of land located approx. 40m South East of 32A Mayogall Road, Gulladuff and is located just outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is triangular in shape and there is an existing static caravan/mobile home located on the site towards the northern corner. There are no other buildings within the red line of the site. The boundary of the site is comprised of a mixture of mature hedgerows and trees.

There is one third party dwelling located to the North West of the site. To the South East there is a ribbon of detached dwellings fronting onto the existing lane.

### Description of Proposal

The applicant initially sought permission to replace the existing mobile home with a new farm dwelling. This was not possible under the current replacement policy (CTY 3) and was then assessed under CTY 10, dwellings on farm.

### Planning Assessment of Policy and Other Material Considerations

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) 21 – Sustainable Development in the countryside
4. Planning Policy Statement 3 – Access, Movement and Parking

#### Planning History

There is no history relevant to the determination of this planning application.

#### Representations

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

#### 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 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.

The proposal is for a new dwelling and garage on a farm. Initially the application came in as a replacement of existing mobile home with new farm dwelling. However, there is no provision to replace a static mobile home/caravan under the CTY3 Policy for replacement dwellings. I contact the agent to ask if they wanted the application assessed under any other policy and they requested that it was then assessed under Policy CTY 10 as a new



dwelling on a farm, this had been mentioned in the original proposal description. I then requested farm maps from the agent and consulted DEARA on the scheme. I also note that the mobile did not have planning permission, however as it appears to have been on the site for more than 5 years it is now immune from enforcement action, therefore the land can continue to be used for storage of a mobile.

PPS 21, Policy CTY 1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY10. 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.
- (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 respect to (a) the applicant provided a P1C form and I had to request farm maps from the agent/applicant and received a spatial NI map with the relevant fields identified. DAERA were consulted and responded to state that the Business ID identified on the P1C was not active or established. The business id was only issued on 27 January 2017 and no claims for BPS have been submitted. I enquired further information from the applicant/agent, they said they had acquired the farm from relations. I went back to DAERA and asked them to check if there was any continuation of farm numbers or any claims had been made. DAERA responded to say that the Business id was issued to Mr Daman Brown on 27 January 2017. The business was awarded following the submission of a 5 year lease for the two fields and no farm payments have been claimed over the past 6 years for any of the fields identified. Therefore this proposal fails to meet this test.

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), there are no buildings within the red line of the site for a new dwelling to visually link or cluster with. There is one dwelling house within the blue land indicated on the location map drawing No 01, date stamped 15.05.2018, however a new one on the site and would not sufficiently link or cluster with the dwelling. The portion of the site where the mobile is located, narrows significantly and would not be suitable to accommodate a modest sized dwelling. Also, as the proposed site is on the boundary of the settlement limits of Gulladuff the development would if permitted mar the distinction between the defined settlement limit of Gulladuff and the surrounding countryside and is therefore contrary to policy CTY 15, the setting of settlements of PPS 21.

**Access**

Transport NI were consulted on this application and responded stating they had no objections to the proposal, subject to condition.

**Conclusion**

In conclusion, the proposal fails to meet the policy requirements of the SPPS, PPS 21 (Policy CTY 1,10 & 15) and therefore it is recommended that permission is refused.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Refuse

**Conditions/Reasons for Refusal:**

- 1) The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - the farm business is not active and established for at least six years;
  - the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm
- 2) The proposal is contrary to Policy CTY15 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 Gulladuff and the surrounding countryside

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	15th May 2018
<b>Date First Advertised</b>	31st May 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 22 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 24 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 26 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 28 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 30 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 32 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 32a Mayogall Road Gulladuff The Owner/Occupier, 34 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 36 Mayogall Road Gulladuff Londonderry	
<b>Date of Last Neighbour Notification</b>	29th May 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/0666/O Proposal: Proposed replacement of existing Mobile Home with new farm dwelling and garage Address: Approx 40m South East of 32A Mayogall Road, Gulladuff, Decision: Decision Date:   Ref ID: H/1997/0026 Proposal: DWELLING AND GARAGE Address: ADJ TO 32 MAYOGALL ROAD GULLADUFF MAGHERAFELT Decision:	

Decision Date:

Ref ID: H/2002/0280/A41

Proposal: Disabled Improvements to Dwelling

Address: 30 Mayogall Road, Magherafelt

Decision:

Decision Date:

Ref ID: H/2005/1025/F

Proposal: Two Storey Dwelling and Garage

Address: 700m NW of 32 Mayogall Road, Priest Town Lane, Gulladuff

Decision:

Decision Date: 21.12.2005

Ref ID: LA09/2015/1275/O

Proposal: Infill dwelling and garage between 32 and 32a Mayogall Road, Gulladuff

Address: Lands Between 32 and 32a Mayogall Road, Gulladuff,

Decision: PG

Decision Date: 15.06.2016

Ref ID: H/1996/0430

Proposal: SITE OF DWELLING

Address: ADJACENT TO 32 MAYOGALL ROAD KNOCKLOUGHRIM MAGHERAFELT

Decision:

Decision Date:

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

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



Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



1000

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0799/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed demolition of garage and provision of new detached dwelling	<b>Location:</b> Adjacent to 23 Beechland Road Magherafelt.
<b>Applicant Name and Address:</b> Ashley Booth 45 Ballynagarve Road Magherafelt BT45 6NB	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Issues:</b>  No objections have been received in respect of this application, two support letters have been received.	
<b>Summary of Consultee Responses:</b>  Roads Service provided suggested conditions if the proposed development were to be considered acceptable.	
<b>Characteristics of the Site and Area:</b>  Description of proposal The proposal is an application for a detached two storey dwelling within the side garden of an existing dwelling.  Characteristics of the site and area	

The site is comprised of a small side yard/amenity area of a modest two storey detached dwelling at Beechland Road. Within that amenity area is a small single garage with a flat roofed which attached to a similar garage at no.25. The dwelling fronts onto a small, wedged shaped area of grass and a communal car parking area. The site is bounded along the rear of the public footpath by a low concrete wall. While the existing dwelling has a side yard/amenity area it also has an elongated private amenity area to the rear which is accessed via a narrow entry between the existing dwelling and the garage. The rear garden measures approximately 28m by 7m. Currently there is parking for one vehicle within the side yard/amenity area with a second parking space within the existing garage.

### **Description of Proposal**

Proposed demolition of garage and provision of new detached dwelling

### **Deferred Consideration:**

This application was presented as a refusal at Committee in June 2019 and an office meeting was held on 13th June with the Area Planning Manager. The application was been recommended as refusal for the following reasons;

1. The proposal is contrary to Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted;  
be detrimental to the character of the surrounding area by reason of its siting and design which are out of character with the area; and  
have an unacceptable negative impact on neighbouring amenity and therefore would not make a positive contribution to the area.
2. The proposal is contrary to the Magherafelt Area Plan, Policy QD1 of Planning Policy Statement 7 Quality Residential Environments and Policy LC1 of Addendum to Planning Policy Statement 7 Safeguarding the Character of Established Residential Areas in that the development would, if permitted:  
fail to respect the surrounding context in terms of design, layout and appearance;  
fail to make adequate provision for private amenity space;  
have an unacceptable adverse impact on the private amenity space of the existing dwelling at No. 23;  
be out of keeping with the overall character of the established residential area; and  
Represent over-development of the site.

Following the office meeting, two letters of support have been received welcoming the proposal into the area.

Amendments were received on 10/10/19 to address the refusal reasons and concerns raised at the office meeting. The footprint of the proposed dwelling has been reduced ensuring it is in keeping with the scale of the existing dwellings in the development. Design and finish of the house is acceptable for the area.

The amenity space is the form of a long piece of land separated from the neighbouring property (no.23) with a 1.8m high timber fence with access gates. Although this is not the

character of the amenity space in the immediate area, the minimum requirements are being met in policy terms and it ensures the provision of amenity for the 2 dwellings.

DFI Roads have provided conditions to be attached at any decision notice. No objections have been received.

Approval is recommended.

### **Conditions**

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

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

2. The vehicular access, including visibility splays, shall be in place in accordance with Drawing No.02/4 bearing the date stamp **19<sup>th</sup> Oct 2019**, prior to the commencement of any other works or other development hereby permitted.

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

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

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

4. The 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.

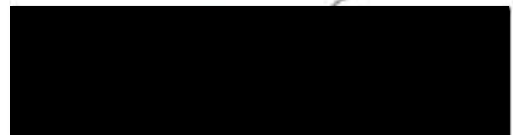
**Signature(s):**

**Date**

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0799/F	Target Date:
Proposal: Proposed demolition of garage and provision of new detached dwelling (Amended Plans).	Location: Adjacent to 23 Beechland Road Magherafelt.
Referral Route:  This application is being presented to Committee as it is being recommended for Refusal.	
Recommendation:	REFUSE
Applicant Name and Address: Ashley Booth 45 Ballynagarve Road Magherafelt BT45 6NB	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s):	

*For committee decision*



*23/5/18*



## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice

## Representations:

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

## Summary of Issues including representations

No representations have been received in respect of this application.

## Description of proposal



The proposal is an application for a detached two storey dwelling within the side garden of an existing dwelling.

#### Characteristics of the site and area

The site is comprised of a small side yard/amenity area of a modest two storey detached dwelling at Beechland Road. Within that amenity area is a small single garage with a flat roofed which attached to a similar garage at no.25. The dwelling fronts onto a small, wedged shaped area of grass and a communal car parking area. The site is bounded along the rear of the public footpath by a low concrete wall. While the existing dwelling has a side yard/amenity area it also has an elongated private amenity area to the rear which is accessed via a narrow entry between the existing dwelling and the garage. The rear garden measures approximately 28m by 7m. Currently there is parking for one vehicle within the side yard/amenity area with a second parking space within the existing garage.

#### Planning Assessment of Policy and other Material Considerations Include Development Plan and planning history

There is no planning history on the site.

The proposal is in accordance with the Magherafelt Area Plan 2010 insofar as the site is unzoned land within an existing housing development.

PPS 7 Quality 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 proposed development is assessed against these criteria as follows:-

- (a) The proposed layout fails to meet the first of these criteria in that it does not respect the surrounding context in terms of layout and appearance. Overall, this is a small restricted site which does not allow for a layout similar in size and appearance to the existing dwellings along this part of Beechland Road in that it removes a side amenity area and also relies on dividing up the rear amenity space by erecting a 1.8m high timber fence along its entire length. This will create two long and very narrow rear amenity spaces, one of which is 2.5m wide. Access to the two rear amenity spaces is via a shared entry between the two dwellings.
- (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 two separate private amenity spaces of around 95m<sup>2</sup> and 100m<sup>2</sup>, however as discussed above the layout of these areas are impracticable and undesirable as the proposed dwelling has a poor relationship to its amenity space.
- (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 Magherafelt 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) Although the existing garage is to be removed and the parking availability reduced from two parking spaces, one in-curtilage parking space is proposed for the new dwelling. The existing dwelling will then rely on communal car parking.
- (g) The design as submitted is unacceptable. It is evident that the proposal is an attempt to shoehorn a dwelling into a restricted side yard/amenity area of an existing dwelling. The proposed development introduces a form of development which is alien to this area in that it proposes to erect a dwelling within a very restricted side yard/amenity area with the dwelling being gable end to the road and at its closest point is only 1m from the rear of the public footpath.



(h) Whilst the design and layout will not create conflict with adjacent land uses as these are predominantly residential, the layout, as discussed above, will undoubtedly have a major impact on the residential amenity of the existing dwelling at No.23 as the existing rear garden will be reduced to 2.5m wide at the rear of the dwelling. This is in addition to having to share an access to that amenity space with the proposed dwelling.

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

**Addendum to Planning Policy Statement 7 – Policy LC 1 Protecting Local Character, Environmental Quality and Residential Amenity**

In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

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

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

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

While the proposal will not increase the overall density of the Beechland Road development significantly, the proposed site does not respect the existing pattern of development in that it results in a dwelling on an overly restricted site. This does not respect the existing layout in that the existing plot sizes are more substantial thereby resulting in more generous areas of private amenity space.

For a residential development scheme to be successful, the following issues, will need to be fully considered:

i. the extent of the surrounding area and the relevant development plan context;

ii. context of site and surroundings, including:

existing densities and layouts;

plot sizes;

ratios of built form to garden area;

spacing between buildings;

scale, height, and massing of buildings;

architectural styles and materials;

landscaping and boundary treatments; and

potential impacts on non-residential uses e.g. schools, open space, etc.

iii. the potential impacts of proposals on the street scene including main views, distance from boundaries of adjoining properties, overlooking, loss of light, overshadowing, refuse and recycling storage, noise or other general disturbance;

iv. the impact of parking provision on street scene, and the ratio of hard landscaping to soft landscaping / garden areas; and where appropriate,

v. the size, form, function and existing character of villages and smaller settlements.

The proposed development is considered to be contrary to the above addendum to PPS 7 in that it does not respect the existing plot sizes, the ratio of built form to garden areas, and the spacing between buildings. The proposal also fails to respect the existing street scene.

**A Planning Strategy for Rural Northern Ireland**

Policy DES 2 Townscape requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. In my opinion, the proposed development fails to make a positive contribution to this area as it proposes to develop a dwelling on a very

restricted site and in doing so will be out of keeping with the existing development within Beechland Road.

#### Recommendation

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

Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refuse for the reasons stated below:-

#### Refusal Reasons

1. The proposal is contrary to the Magherafelt Area Plan, Policy QD1 of Planning Policy Statement 7 Quality Residential Environments and Policy LC1 of Addendum to Planning Policy Statement 7 Safeguarding the Character of Established Residential Areas in that the development would, if permitted;

fail to respect the surrounding context in terms of design, layout and appearance;

fail to make adequate provision for private amenity space;

have an unacceptable adverse impact on the private amenity space of the existing dwelling at No. 23;

be out of keeping with the overall character of the established residential area; and

represent over-development of the site.

2. The proposal is contrary to Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted;

be detrimental to the character of the surrounding area by reason of its siting and design which are out of character with the area; and

have an unacceptable negative impact on neighbouring amenity and therefore would not make a positive contribution to the area.

Signature(s)

Date:



ANNEX	
Date Valid	8th June 2018
Date First Advertised	21st June 2018
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 10 Beechland Place Magherafelt Londonderry</p> <p>The Owner/Occupier, 12 Beechland Place Magherafelt Londonderry</p> <p>The Owner/Occupier, 19 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 21 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 22 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 23 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 24 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 25 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 27 Aughrim Road, Magherafelt, Londonderry, BT45 6AZ</p> <p>The Owner/Occupier, 27 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 29 Beechland Road Magherafelt Londonderry</p> <p>The Owner/Occupier, 31 Beechland Road Magherafelt Londonderry</p>	
Date of Last Neighbour Notification	31st January 2019
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2018/0799/F</p> <p>Proposal: Proposed demolition of garage and provision of new detached dwelling.</p> <p>Address: Adjacent to 23 Beechland Road, Magherafelt.,</p> <p>Decision:</p> <p>Decision Date:</p> <p>Ref ID: H/2000/0196/F</p> <p>Proposal: Extension To Dwelling</p>	

Address: 21 Beechland Road, Magherafelt

Decision:

Decision Date: 14.04.2000

Ref ID: H/2005/0817/F

Proposal: Extension & Renovations To Dwelling

Address: 27 Aughrim Road, Magherafelt

Decision:

Decision Date: 30.05.2006

Ref ID: H/1992/0572

Proposal: ALTS TO DWELLING

Address: 25 BEECHLAND RD MAGHERAFELT

Decision:

Decision Date:

#### Summary of Consultee Responses

Roads Service provided suggested conditions if the proposed development were to be considered acceptable.

#### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02/1

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03/1

Type: Proposed Plans

Status: Submitted

#### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/1179/F	<b>Target Date;</b>
<b>Proposal:</b> Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business	<b>Location:</b> 39 Rocktown Road Bellaghy
<b>Applicant Name and Address:</b> N.Ireland Wedding Cars 39 Rocktown Road Bellaghy	<b>Agent name and Address:</b> J E McKernan and Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Summary of Issues:</b>  One of the main issues with the proposal was that the proposal refers 'existing wedding car hire business', and it has been claimed the building in question has been used for this use until it was storm damaged, but there was insufficient information provided to establish this use. However, since the office meeting a Certificate of Lawfulness has been approved under LA09/2019/0515/LDE which now confirms and establishes the use of the building as being for a car wedding hire business.	
<b>Summary of Consultee Responses:</b>  No objections	



**Characteristics of the Site and Area:**

The proposal site is located on the road side of Rocktown Road, Bellaghy. This site has a modest detached bungalow and several domestic outbuildings, some of which are in a poor state of repair. Surrounding the proposal site is agricultural land which drops away in level from the proposal site. The road is a minor road which serves several properties but which leads to a dead end. The site has no distinctive or mature boundaries around it.

**Description of Proposal**

Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business.

**Deferred Consideration:**

This proposal was presented as a refusal in Feb 2019 to Committee for the following reasons;

1. The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4, Industrial Development Policy PED 2, PED3, PED4 & PED 9, in that the development would, if permitted, be incompatible with the character of the surrounding area by reason as it does not represent the expansion or redevelopment of an established economic development use in the countryside.
2. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development (PED 9) \_ Policy CTY 13 of PPS21, in that it has not been demonstrated that the proposed replacement building will not have an adverse visual impact in this countryside location.

It was subsequently deferred for an office meeting which was held on 14th Feb 2019. One of the main issues with the proposal was that the proposal refers 'existing wedding car hire business', and it has been claimed the building in question has been used for this use until it was storm damaged, but there was insufficient information provided to establish this use. However, since the office meeting a Certificate of Lawfulness has been approved under LA09/2019/0515/LDE which now confirms and establishes the use of the building as being for a car wedding hire business.

The damaged shed to be replaced has the same footprint as the proposed shed and will be surrounded by existing buildings. Its scale and design is appropriate for its location. It will not have a significant detrimental visual impact on the countryside.

DFI Roads have no objections subject to the conditions they have provided. Landscaping as shown will also be conditioned.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Approval is recommended.

**Conditions;**

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

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

2 The development shall be carried out in accordance with the stamped approved Drawing, No's: 02/1 date stamp 17 October 2018 also 01 and 03 date stamp 11 September 2018

Reason: To ensure the development is carried out in accordance with the approved plans.

3. 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.

4. The access gradient(s) to the dwelling(s) 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 users.

5. The existing natural screenings of this site as shown on plan 02/01 date stamped 17 Oct 2018, shall be retained 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. The proposed planting on the same plan shall be carried out in the next available planting season.

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

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.

**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>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1179/F	<b>Target Date:</b>
<b>Proposal:</b> Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business	<b>Location:</b> 39 Rocktown Road Bellaghy
<b>Referral Route:</b> Contrary to The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4 & PPS 21.	
<b>Recommendation:</b> <b>Refusal</b>	
<b>Applicant Name and Address:</b> N.Ireland Wedding Cars 39 Rocktown Road Bellaghy	<b>Agent Name and Address:</b> J E McKernan and Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

for comm. mee  
decision

[Redacted signature]

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Refusal recommended – proposal contrary to

### Characteristics of the Site and Area

The proposal site is located on the road side of Rocktown Road, Bellaghy. This site has a modest detached bungalow and several domestic outbuildings, some of which are in a poor state



of repair. Surrounding the proposal site is agricultural land which drops away in level from the proposal site. The road is a minor road which serves several properties but which leads to a dead end. The site has no distinctive or mature boundaries around it.

### **Description of Proposal**

Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business.

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

Consultees: - DfI were asked to comment and in their final response dated 19.11.2018 they are satisfied with the proposed access subject to conditions and informatives.

Site History - LA09/2016/0504/F - Approval granted 06.06.2018 for 'Erection of garages for the storage of vintage cars (retrospective), within this approval condition No. 2 specifically stated ' This permission authorises only private domestic use of the garage and does not confer approval on the carrying out of trade or business there from.' The reason for the this particular condition was stated as to prevent the creation of an unacceptable business use in the rural area.

This proposal is for the erection of garage to replace existing storm damaged garage in relation to ex. wedding car hire business. During the site visit carried out on 30.10.2018 it was noted the poor state of repair of the indicated building on site, it has been claimed that the building in question had been 'in use up to the time of the storm damage', however I would comment that it is unclear as to when the building was last in use as it appears to have been in disrepair for a long time with no available access unless through an adjacent agricultural field. The proposal description refers to 'ex. wedding car hire business', there was no evidence during the site visit as to the existence of this business. Upon discussion with senior planners the applicant was requested to amend the description of the proposal to 'domestic garage' as following the site visit and consideration of submitted information no business use has been established on site. This amendment has not taken place to date.

According to PED 2 of PPS 4 proposals for economic development uses in the countryside will be permitted in accordance with the provisions of PED 3, PED 4, PED 5 or PED 6. Economic development associated with farm diversification schemes and proposals involving the re-use of rural buildings will be assessed under the provisions of Planning Policy Statement 21 'Sustainable Development in the Countryside'. All other proposals for economic development in the countryside will only be permitted in exceptional circumstances. This particular proposal is not considered the expansion or redevelopment of an established economic development use as the site is not considered as an existing business, nor is it considered as major industrial development or a small rural project. The proposal is not seeking permission for the wedding car business at this location but is claiming that this business is already established and the replaced garage is to be used in conjunction with this.

A supporting statement has been submitted dated 04.12.2018 whereby the agent has claimed that the business use had been accepted under LA09/2016/0504/F & H/2014/0039/CA, however this is not correct and the business use was never established but rather the building approved was specifically only for private domestic use. Should the applicant wish to establish the business use then he would be required to submit a Certificate of Lawfulness.

Considering the proposal against the requirements of PED 9 of PPS4 it would be my consideration that the proposal is not compatible with surrounding land uses unless amended to



be a garage for domestic purposes only. The proposal site is not within an area affected by flood risk or have the potential to negatively impact on the natural or built heritage. It should also be noted that the proposed replacement building is of a greater scale than that which is already existing, currently the existing building sits at a much lower level than that of the dwelling, yard and other buildings however it is unclear from the submitted drawings as to how the replacement building would sit and what visual impact it may create. Thus I feel this proposal fails to meet the requirements set out in PED 9 of PPS 4.

In addition the proposal should be assessed against the requirements of CTY 13 of PPS21 - Integration and Design of Buildings in the Countryside, 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. As submitted the plans do not clearly demonstrate how the proposed triple replacement garage would integrate into the site as currently the storm damaged building sits at a much lower level than the remainder of the site and buildings but it is not clear whether the replacement building would be built at this same level or the ground be built up and the replacement building sit at the same level as the dwelling and existing sheds. This point I do feel is important and would result in a building either being acceptable in terms of visual integration and it being unacceptable. Thus it is my consideration that as submitted there is not a sufficient degree of information to determine this impact.

Having considered all of the above I feel that a recommendation of refusal would be the most appropriate.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation: Refusal

#### Reasons for Refusal:

1. The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4, Industrial Development Policy PED 2, PED3, PED4 & PED 9, in that the development would, if permitted, be incompatible with the character of the surrounding area by reason as it does not represent the expansion or redevelopment of an established economic development use in the countryside.
2. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development (PED 9) & Policy CTY 13 of PPS21, in that it has not been demonstrated that the proposed replacement building will not have an adverse visual impact in this countryside location.

#### Signature(s)

Date:



ANNEX	
Date Valid	10th September 2018
Date First Advertised	27th September 2018
Date Last Advertised	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
<b>Planning History</b>  Ref ID: LA09/2018/1133/RM Proposal: One and a half storey dwelling and Garage. Address: 40m North West of 39 Rocktown Road, Bellaghy., Decision: Decision Date:  Ref ID: LA09/2018/1179/F Proposal: Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business Address: 39 Rocktown Road, Bellaghy, Decision: Decision Date:  Ref ID: H/1990/0539 Proposal: ALTS AND ADDS TO BUNGALOW Address: 39 ROCKTOWN ROAD CASTLEDAWSON Decision: Decision Date:  Ref ID: H/2001/0114/RM Proposal: Dwelling And Garage Address: Adjacent To 43 Rocktown Road, Knockloughrim Decision:	

Decision Date: 27.03.2001

Ref ID: LA09/2016/0504/F

Proposal: Erection of garages for the storage of vintage cars (retrospective)

Address: 39 Rocktown Road, Bellaghy,

Decision: PG

Decision Date: 08.06.2018

Ref ID: H/2014/0194/O

Proposal: One and a half storey farm dwelling and garage

Address: 40m north west of 39 Rocktown Road Bellaghy,

Decision: PG

Decision Date: 13.01.2016

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/0289/F	<b>Target Date:</b>
<b>Proposal:</b> Change of use from part of ground floor bookmakers to 2 No. 1 bedroom apartments and ground floor stores to 1 No. 2 bedroom apartment (amended description)	<b>Location:</b> 11 The Diamond Pomeroy
<b>Applicant Name and Address:</b> Patrick Keogh 6 Castlevew Heights Dungannon	<b>Agent name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Characteristics of the Site and Area:</b>  The application site takes in a two storey building at 11 The Diamond, Pomeroy. It is within the settlement limits of the Village of Pomeroy as defined in the Cookstown Area Plan 2010. It has a rear return which also incorporates a lower ground floor. The ground floor is currently occupied by a hair salon and a book makers. The first floor provides residential accommodation. It is difficult to determine whether this residential accommodation is currently occupied. The lower ground floor is currently used for storage purposes ancillary to the book makers. The host building also includes a third party element which is not part of this proposal. Adjacent and attached to number 11 is Pomeroy Credit Union, a small single storey building. North Street runs along the Eastern gable of the host building. At the opposite side of North Street is a two storey terraced residential property. To the front of the site is a Listed (COI) Church, which is the main feature of the local Square. To the rear and NE of the host property is an ally which is used to access the lower ground floor of the building. Further to the NE is the rear gable of a two storey dwelling which fronts on to Lucy Street. The boundary treatment here is defined by a wall topped with a closed board wooden fence.	

This area is characterised by a mix of uses ranging from commercial, to residential to community buildings. It is designated as an Area of Townscape Character in the Cookstown Area Plan 2010.

### **Description of Proposal**

This is a full application for Change of use from part of ground floor bookmakers to 2 No. 1 bedroom apartments and ground floor stores to 1 No. 2 bedroom apartment (amended description).

### **Deferred Consideration:**

The proposal was recommended as a refusal at Planning Committee in August 2019 and was deferred for an office meeting which was held with the Area Planning Manager on 15th August 2019. The key issues for the meeting were to address the car parking provision and the inadequacies of the environment for any occupants.

At the meeting, the Area Planning Manager expressed great concern that two apartments at ground floor level created rooms without external windows, which were small and poor quality accommodation.

Neighbours and objectors were re-notified of the amended scheme. Re-advertisement took place of the amended reduced scheme. A further objection was received from 12-13 The Diamond, relating to car parking issues and 2 exterior windows. These issues had been previously raised and considered in the original case officer report. The 2 exterior windows on the side elevation look on to a blank wall and a boundary wall of No.12-13 and will have no impact on their privacy.

In the office meeting when addressing the car parking, the Planning Manager made it clear that he was unconvinced that the bookmakers currently generated a need for 10 spaces. When asked if the applicant could provide in-curtilage parking, it was stated they could not. It is clear the site is restricted and the Planning Manager advised that a reduction in the number of units would reduce parking pressures.

The scheme was reduced from 4 to 3 units, with only one on basement level. This would also alleviate the concerns of the limited size of the two original apartments proposed on the ground floor. Also following discussion, the plans were revised to allow more light into the apartments and an existing panel of wall between the living area/kitchen and kitchen/dining increased in width. Glazed doors are included at the main access and living room/hall and the depth of the living room window has been increased. The amended scheme has adequately addressed this issue.

DFI Roads have raised no concerns in relation to road safety and traffic flow but acknowledge the proposal fails to include parking provision in line with Parking Standards. In AMP7 of PPS3, it states where a reduced level of car parking can be accepted; Where the development is well served by public transport and where it would benefit from nearby or on street car parking.

There are 22 assigned spaces in the Square and 10/15 unassigned spaces. DFI Roads have indicated 5 unassigned spaces would be required for a development of this type. The bookmakers would have required 10 spaces so this scheme would actually require less spaces as a residential use.

In conclusion, I am content parking issues have been adequately addressed in line with policy requirements and the requirement can be met through the existing spaces in the locality. The final decision on this issue is however a matter for the Planning Committee.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Approval is recommended.

### **Conditions**

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

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

### **Informatives**

1. The applicant is advised to ensure that all plant and equipment used in connection with the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.

**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> 6/8/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0289/F	<b>Target Date:</b> 19/6/2019
<b>Proposal:</b> Change of use from part of ground floor bookmakers and lower ground floor stores to 4 apartments	<b>Location:</b> 11 The Diamond, Pomeroy
<b>Referral Route:</b> 1 no. objection received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Patrick Keogh 6 Castlevue Heights Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon, BT70 3LY
<b>Executive Summary:</b> This proposal is in compliance with all relevant policy for this type of development in an urban location. 1 objection has been received and all material matters raised have been fully considered and do not merit the refusal of the application.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	No Objection

### Representations:

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

### Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. 5 neighbouring properties have been notified of the proposal. To date there has been 1 objection received from the occupants of number 12-13 The Diamond, Pomeroy.

Issues raised are summarised and rebutted as follows:



- Impact on their privacy from overlooking bedroom windows
- Accuracy of elevation plans submitted
- Inadequate parking and blocking of their entrance
- Impact from noise
- Query as to whether this scheme will enhance the social make-up of this area in both the short and long term.

The bedroom windows referred to will be located on the ground floor and will look directly onto the boundary wall of number 12-13 The Diamond, which runs along North Street. Their ground floor position will not give rise to any overlooking into the rear amenity space of the objectors property and on this basis, I do not accept that the proposal will negatively impact on their privacy. The agent has amended the elevation drawings so that they reflect the proposed floor plans. Objectors and neighbours have been notified of these changes. The proposal does not include any parking provision. Parking Standards would indicate that 6 spaces are required for assigned parking and 5 for unassigned parking for a development of this nature. The applicant has submitted a Design and Access Statement in which he makes a case for not providing any parking as part of this scheme. I would agree that these apartments will be located in a village centre location where there is available parking within The Diamond. On the day of my site inspection I easily found a parking space in The Diamond. The red line of the application would indicate that it is actually impossible for the applicant to provide any in-curtilage parking so he has to rely upon existing parking spaces in The Diamond. I will explore this further in my report. The nature of the scheme is residential and does not normally generate any unacceptable levels of noise by its very nature. Environmental Health have been consulted with the objection letter and have no objection in principle. Any query around whether or not this scheme will enhance the social makeup of the village is not a material planning consideration in this assessment.

Having fully considered all material planning concerns raised in this objection letter it is my opinion that none of the issues raised would merit refusal of this application.

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

The application site takes in a two storey building at 11 The Diamond, Pomeroy. It is within the settlement limits of the Village of Pomeroy as defined in the Cookstown Area Plan 2010. It has a rear return which also incorporates a lower ground floor. The ground floor is currently occupied by a hair salon and a book makers. The first floor provides residential accommodation. It is difficult to determine whether this residential accommodation is currently occupied. The lower ground floor is currently used for storage purposes ancillary to the book makers. The host building also includes a third party element which is not part of this proposal. Adjacent and attached to number 11 is Pomeroy Credit Union, a small single storey building. North Street runs along the Eastern gable of the host building. At the opposite side of North Street is a two storey terraced residential property. To the front of the site is a Listed (COI) Church, which is the main feature of the local Square. To the rear and NE of the host property is an ally which is used to access the lower ground floor of the building. Further to the NE is the rear gable of a two storey dwelling which fronts on to Lucy Street. The boundary treatment here is defined by a wall topped with a closed board wooden fence.

This area is characterised by a mix of uses ranging from commercial, to residential to community buildings. It is designated as an Area of Townscape Character in the Cookstown Area Plan 2010.

#### **Description of Proposal**

This is a full application for the proposed change of use from part of a ground floor bookmakers and lower ground floor stores to 4 one bedroom apartments.



the ATC or the adjacent Listed Church. Historic Environment Division (HED) have been consulted and have no concerns about the impact of this proposal on the Listed Church.

### **The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy**

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and Policy HOU 2 – Quality Residential Development are applicable to this application. Whilst little weight can be attributed to the Draft Plan Strategy, it should be noted that the proposal does not raise any conflict with the Policies GP1 and HOU 2.

### **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. This proposal involves the use of an existing unaltered access to a public road. DFI Roads have been consulted and have raised no concerns in relation to road safety or traffic flow. They have acknowledged that the proposal fails to include any parking provision and that 5/6 parking spaces are required in line with Parking Standards Guidance.

Policy AMP 7 deals with Car Parking and Servicing Arrangements. It advises that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. This site is not in an area of parking restraint and DFI Roads have not raised any concerns in relation to road safety or traffic flow.

AMP 7 goes on to state that reduced level of car parking provision may be acceptable in certain circumstances, two of which are:

- where the development is in a highly accessible location well served by public transport
- where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking; or

Given the village centre location of this site it will be easy to access public transport. Ulster Bus does run a daily service through the village. There are 22 assigned spaces in the square and an additional 10/15 unassigned spaces. This proposal does not indicate any parking provision and at a minimum, 5 unassigned spaces would be required for a development of this nature. The bookmakers would have required a total of 10 spaces according to Parking Standards so this scheme actually requires less spaces than the current use. I am therefore satisfied that the parking requirement can be met through the spaces provided in the immediate locality.

### **Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage**

This site is located in close proximity to Altedesert Church of Ireland Parish Church, which is a Grade B1 Listed Building. Historic Environment Division have been consulted and have considered the proposal with respect to the setting of this Church. They have advised that as there will only be minimal external changes they have no objections from a built heritage perspective. I am therefore satisfied that the proposal complies with Policy BH 11 of PP 6 – Development effecting the Setting of a Listed Building.



### **Planning Policy Statement 6 (Addendum) – Areas of Townscape Character**

Policy ATC 2 of the Addendum to PPS 6 deals with new development proposals in an Area of Townscape Character.

It states that new development will only be allowed where the development maintains or enhances its overall character and respects the built form of the area. It also requires that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development.

This proposal is for a change of use to an existing building with only minimal external changes to the building. There is no landscape features to be protected. The proposal is not in conflict with this policy test.

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

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity is not relevant in this assessment as the site is not located in an "Established Residential Area"

Policy LC2 - The conversion or change of use of existing buildings to flats or apartments is relevant in this assessment.

LC2 states that Planning permission will only be granted for the conversion or change of use of existing buildings to flats or apartments (including those for multiple occupancy) where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

**(a) there is no adverse effect on the local character, environmental quality or residential amenity of the surrounding area;**

The proposed residential use is an acceptable use in this mixed-use area and will not have a negative impact on local character. The introduction of a ground floor bedroom window on the gable of the host building will not result in any overlooking into number 12-13 The Diamond. An existing stairwell and WC at the rear of the property will be converted into a Kitchen and Living room. The separation distance between the rear wall of the host building and the rear wall of number 14 Lucy Street is limited and would normally give rise to overlooking/privacy concerns, however given the lack of useable amenity space at the rear of number 14 Lucy Street, I am of the opinion that this matter would not merit the refusal of this application. I also would recommend that this particular windows be conditioned to be obscured glazing. The proposal does not involve the introduction of any new floor space so I have no concerns with the loss of light or overshadowing.

**(b) the proposal maintains or enhances the form, character and architectural features, design and setting of the existing building;**

As previously noted, the proposal involves only very minor design changes. These will not impact on the overall design and setting of the existing building.

**(c) the original property is greater than 150 square metres gross internal floorspace;**

The host building has in excess of 150 sqm of floorspace

**(d) all flats or apartments are self contained (i.e. having separate bathroom, w.c. and kitchen available for use only by the occupiers);**



Each of the 4 apartments are self contained and have their own bedroom, kitchen, living room and bathroom.

**(e) the development does not contain any flat or apartment which is wholly in the rear of the property and without access to the public street.**

Three of the apartments are located to the rear of the host property on the lower ground floor. They all have direct access out onto Lucy Street. The Fourth apartment is accessed via the gable of the host property.

#### **Planning Policy Statement 7 - Quality Residential Environments.**

PPS 7 is a policy consideration for this type of development in a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 (Quality in New Residential Developments) of PPS 7. I will deal with these as they appear in the policy.

**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 proposed development is residential in nature and is in an area where there are a mix of uses including residential development. The proposed change of use will not detract from the overall character of the area. Proposed external changes to the host building are confined to windows so I have no concern with layout, scale, massing or appearance.

**Features of the archaeological and built heritage, and landscape features should be identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development**

The site is not in an area of archaeological importance. It is adjacent to a Listed Church. HED have been consulted and have no concerns. There are no TPO trees or important landscape features within the site to be retained or protected.

**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**

Communal amenity space is being provided. There is a small area for bin storage. Public open space is available within the village which can be utilised by residents and can be accessed by car or foot. Planting is not necessary for the purposes of integration.

**Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development**

The site is within the development limits of Pomeroy and there are existing neighbourhood facilities already available in the locality (eg) School, shops etc

**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**

As the site is within an urban settlement there is an existing movement pattern (eg) foot paths

and bus routes. The level of traffic travelling through the settlement would be fairly high and would be travelling at a low speed. DFI Roads have been consulted and have no objections to the proposal.

**Adequate and appropriate provision is made for parking**

I have dealt with parking under PPS3 policy consideration.

**The design of the development must draw upon the best local traditions of form, materials and detailing**

I have no concern with design.

**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**

I have dealt with amenity under SPPS and PPS 7 (Addendum)

**The development is designed to deter crime and promote personal safety**

I am satisfied that the overall development is considered to be designed to deter crime and promote personal safety. Street lighting exists along the adjacent public road and The Diamond.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The proposal complies with all relevant policy criteria for this type of development in an urban location. Approval is recommended subject to conditions

**Conditions**

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

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

2. The kitchen and living room windows on the ground floor rear elevation shall be finished in obscure glazing.

Reason: In order to protect the amenity of neighbouring residents

**Informatives**

1. The applicant is advised to ensure that all plant and equipment used in connection with the development is so situated, operated and maintained as to prevent the transmission of noise to nearby premises.



Signature(s) *Karen McKinnell*  
Date: *10-7-19*

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

### **Planning History**

I/2007/0800/F - 11-12 The Diamond, Pomeroy, Co. Tyrone. Change of use of general merchants shop to bookmakers. Approved 11.01.2008

I/2001/0613/F - 11-12 The Diamond, Pomeroy. Change of use from function rooms to 2 No Shop Units. Approved 31.12.2001

The relevant policies under consideration in this assessment are:

Strategic Planning Policy Statement (SPPS)

Cookstown Area Plan 2010

Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage

Planning Policy Statement 6 (Addendum) – Areas of Townscape Character

Planning Policy Statement 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

Planning Policy Statement 7 - Quality Residential Environments.

Creating Places

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The proposal will not cause demonstrable harm to any interests of acknowledged importance. The site is not in an area of archaeological importance. There is a Listed Church located opposite the site. Historic Environment Division (HED) have been consulted and have no concerns about the impact of this proposal on this Listed Church. The closest third party residential properties to the site are located at 12-13 The Diamond and 14 Lucy Street. I am satisfied that given the nature of the proposal and the minor design changes being introduced, residential amenity will not be impacted upon. This will be addressed in more detail later in my report.

The SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It does not present any change in policy direction with regards to residential development in settlements. As such, existing policy will be applied, primarily PPS 7, Quality Residential Environments.

### **Cookstown Area Plan 2010 (CAP)**

The site sits within the existing settlement of Pomeroy as defined in the CAP. It is also located within an Area of Townscape Character (ATC). The Area Plan does not set out any key site requirements for development within the village but it does raise capacity concerns and advises that schemes should be of an appropriate design so as not to impact upon the ATC. It also advises that development that will impact on the views of the Listed Church of Ireland will not normally be permitted. NIW have been consulted with this application and have no raised any concerns regarding capacity. The proposal involves only very minor design changes (introduction of 1 window and changes to 3 existing windows) to an existing building and given the minor nature of these changes I am satisfied that they will not have any negative impact on

<b>ANNEX</b>	
<b>Date Valid</b>	6th February 2019
<b>Date First Advertised</b>	21st March 2019
<b>Date Last Advertised</b>	30th May 2019
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 1 Lucy Street Pomeroy Tyrone The Owner/Occupier, 12 The Diamond, Pomeroy, Tyrone, BT70 2QX James and Eithne Quinn 12-13 The Diamond, Pomeroy, Tyrone, BT70 2QX The Owner/Occupier, 13 The Diamond Pomeroy Tyrone The Owner/Occupier, 14 Lucy Street, Pomeroy, Tyrone, BT70 2QS The Owner/Occupier, 17 Loughbracken Road, Pomeroy, Tyrone, BT70 2SE The Owner/Occupier, Pomeroy Church Of Ireland 59 Main Street Pomeroy The Owner/Occupier, Pomeroy Credit Union, 8 The Diamond, Pomeroy, Tyrone, BT70 2QX	
<b>Date of Last Neighbour Notification</b>	9th July 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/0658/PAD Proposal: Public realm scheme Address: Main Street, Pomeroy, Decision: Decision Date:  Ref ID: LA09/2019/0289/F Proposal: Change of use from part of ground floor bookmakers and lower ground floor stores to 4 apartments Address: 11 The Diamond, Dungannon, Decision: Decision Date:	



Ref ID: I/1980/0119

Proposal: EXTENSION AND IMPROVEMENTS TO DWELLINGS

Address: 8 AND 9 THE DIAMOND, POMEROY

Decision:

Decision Date:

Ref ID: I/1985/0217

Proposal: OFFICE

Address: THE DIAMOND, POMEROY

Decision:

Decision Date:

Ref ID: I/2003/0362/F

Proposal: Extension and refurbishment of existing office

Address: 8 The Diamond, Pomeroy

Decision:

Decision Date: 17.06.2003

Ref ID: I/2007/0800/F

Proposal: Change of use of general merchants shop to bookmakers

Address: 11-12 The Diamond, Pomeroy, Co. Tyrone

Decision:

Decision Date: 11.01.2008

Ref ID: I/1994/6090

Proposal: Social Club and 4 No. Houses Main Street Pomeroy

Address: Main Street Pomeroy

Decision:

Decision Date:

Ref ID: I/1994/6048

Proposal: Site Junction of the Diamond/North Street Pomeroy

Address: Junction of the Diamond/North Street Pomeroy

Decision:

Decision Date:

Ref ID: I/1994/0514

Proposal: Social Club

Address: 11 & 12 THE DIAMOND POMEROY

Decision:

Decision Date:

Ref ID: I/2001/0613/F

Proposal: Change of use from function rooms to 2 No Shop Units

Address: 11-12 The Diamond, Pomeroy

Decision:

Decision Date: 31.12.2001

Ref ID: I/1994/0515

Proposal: Town House

Address: 14 NORTH STREET POMEROY

Decision:

Decision Date:

Ref ID: I/2000/0060/F

Proposal: 2 No Town Houses

Address: 14 North Street, Pomeroy

Decision:

Decision Date: 14.03.2000

Ref ID: I/2000/0238/F

Proposal: Town House - Change of House Type (Ref: I/94/0515)

Address: 14 North Street, Pomeroy, County Tyrone

Decision:

Decision Date: 09.10.2000

Ref ID: I/1998/0241

Proposal: Realignment of Roadways, Footways, Parking Bays etc. Resurfacing/Tree Planting/Street Furniture/New Lampheads

Address: The Diamond and Main Street Pomeroy

Decision:

Decision Date: 13.05.2003

Ref ID: LA09/2017/0169/PAN

Proposal: Public realm improvements comprising street scape resurfacing and new paving to pedestrian footpaths and Pomeroy Square, upgrades to existing street lighting, safety/lighting bollards, outdoor furniture/planting, painting to selected existing buildings and resurface to link from Queen Elizabeth II Primary School and existing Main Street footpath

Address: Main Street, Pomeroy, Dungannon,

Decision: PANACC

Decision Date:

Ref ID: LA10/2018/1475/PAD

Proposal: Heart of Ancient Ulster Landscape Partnership 2019-2024

Address: Lands on Carrickmore Plateau and the Pomeroy Hills, Co Tyrone,

Decision:

Decision Date:
<b>Summary of Consultee Responses</b>  NIW – No capacity concerns EH – No objections DFI – No objections HED – No objections
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted  Drawing No. 04 Type: Existing Floor Plans Status: Submitted  Drawing No. 03 rev 1 Type: Proposed Floor Plans Status: Submitted  Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/0385/O	<b>Target Date:</b>
<b>Proposal:</b> Rural type dwelling and garage.	<b>Location:</b> 20m North of 34 Waterfoot Road Ballymaguigan Magherafelt.
<b>Applicant Name and Address:</b> Paul Johnson 34 Waterfoot Road Ballymaguigan Magherafelt	<b>Agent name and Address:</b> Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
<b>Summary of Issues:</b>  Dwelling is now assessed under CTY8 rather than CTy2a. No objections received.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approx. 20m North of 34 Waterfoot Road, Ballymaguigan. The site is located within the countryside as designated within the Magherafelt Area Plan 2015. The site currently appears to be used as a yard. The site is quite flat throughout and has a mix of vegetation and wire fencing providing the boundary treatment. The surrounding land uses are predominantly rural with dispersed dwellings and their associated outbuildings.	

## **Description of Proposal**

Outline application for dwelling and garage.

## **Deferred Consideration:**

The proposal was presented to Planning Committee in September 2019 as as a refusal and subsequently deferred for an office meeting which was held on 12th sept 2019.

The proposal has been refused for the following reasons;

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

2.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads and 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, the dwelling would if permitted visually intrude into the open countryside.

At the office meeting the argument for infill dwelling under CTY8 was raised as there is an existing laneway serving other dwellings to the west of the site. It was agreed a site visit and re-assessment would be carried out on this basis.

A site visit was carried out on 19th Sept 2019. To the west of the site is an existing laneway accessed off Waterfoot Road. No 34 has an access gate and frontage to the laneway, adjacent to this is the site and an agricultural field, which would equate to a small gap site 'sufficient only to accommodate up a maximum of two houses', adjacent to this is single storey dwelling, No.30 which has a frontage on to the laneway, and next is No.28 a two storey dwelling which fronts on to the end of the laneway, although it does not technically have a 'roadside frontage', it is read as part of a substantial and continuously built up frontage. It sits in a cluster of development of 3 agricultural sheds at the dead end of the laneway. Recent appeal decisions support this argument.

A dwelling on the site here will not cause any detrimental harm to the existing character of the area.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

Approval is recommended with 7m ridge

## Conditions

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

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

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

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

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

3. 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.

4. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.

Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

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

6. The proposed dwelling shall have a ridge height of less than 7 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.

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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0385/O	<b>Target Date:</b>
<b>Proposal:</b> Rural type dwelling and garage.	<b>Location:</b> 20m North of 34 Waterfoot Road Ballymaguigan Magherafelt.
<b>Referral Route:</b> Refusal	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Paul Johnson 34 Waterfoot Road Ballymaguigan Magherafelt	<b>Agent Name and Address:</b> Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

## Site Location Plan

**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

**Representations:**

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

**Summary of Issues**

Contrary to Policy. No objections received.



### Characteristics of the Site and Area

The site is located approx. 20m North of 34 Waterfoot Road, Ballymaguigan. The site is located within the countryside as designated within the Magherafelt Area Plan 2015. The site currently appears to be used as a yard. The site is quite flat throughout and has a mix of vegetation and wire fencing providing the boundary treatment. The surrounding land uses are predominantly rural with dispersed dwellings and their associated outbuildings.

### Description of Proposal

Outline planning permission is sought for a rural type dwelling and garage.

### Planning Assessment of Policy and Other Material Considerations

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 34, 35, 38 and 40 Waterfoot Road. At the time of writing, no representations were received.

#### Planning History

There is not considered to be any relevant planning history associated with the site.

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

- Magherafelt Area Plan 2015
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 – Draft Plan Strategy

The Magherafelt Area Plan 2015 identify the site as being outside any defined settlement limits, located North West of Ballymaguigan Settlement Limit. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. At present, it is felt that the proposal is contrary to the policies held within this document, more specifically Policy CT1 and criterion (a) and (b) of Policy CT2 however it must be noted that Draft Plan Strategy holds little determining weight following on from the consultation stage.

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 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 range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being new dwellings in existing



clusters in accordance with CTY 2a. This application was also considered against the policy criterion held within CTY 8.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that a number of criteria are met. The cluster of development lies outside of a farm and consists of four or more buildings including No 34, 38, 40 and 35 Waterfoot Road and therefore there is at least three dwellings within the cluster. The cluster is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.

The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility, or is located at a cross roads. The agent was asked to provide justification for the site and has not noted any of the aforementioned focal points therefore I have considered the closest social/community building/facility and crossroads to the site. There is a crossroads which is located approx. 260m SE of the site and Ballymaguigan GAA club grounds are located approx. 330m South East of the site. The GAA grounds and part of the crossroads to the south are located within the settlement limits of Ballymaguigan, both have been considered however it is felt that the site is not associated with either given the significant distance between them, consequently there is no focal point and third criterion of CTY 2a has not been met.

The proposed site is located to the rear of the existing dwelling (No. 34) and therefore public views would be somewhat limited. There is existing vegetation along some of the existing boundaries, however it is not considered that the site is bounded by two sides and therefore the proposal fails on the fourth criterion. The site is only bound by development along one side (southern boundary). The remaining three sides are not bound by development and as a result the proposed site is unable to be absorbed into the existing cluster through rounding off and consolidation. The proposed site would also visually intrude into the open countryside.

I am satisfied that the proposed site would not have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval is forthcoming. The sixth criterion of CTY 2a has been met.

The proposal is contrary to a number of the criterion held within Policy CTY 2a. Policy CTY 2a states that all criteria must be met, therefore the proposal is contrary to policy and as such refusal is recommended.

There was some ambiguity about what policy the applicant/agent wanted the proposal to be assessed under. The agent referred to the site being "situated in a cluster" which links with the wording contained within CTY 2a, however to ensure that all avenues have been considered, the proposal was also considered under CTY 8. The application site is located to the rear of the dwellings along Waterfoot Road and therefore cannot be considered a gap site within an otherwise substantial and continuously built up frontage and therefore fails the policy tests held within CTY 8.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the



rural character of an area. 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 however given the limited views available of the site and existing landscaping, it is considered that the impact of a suitably designed dwelling would be minimal however may lead to ribbon development. DfI Roads were consulted and have no objection to the proposal subject to condition.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

It is considered the proposal is contrary to the relevant planning policy and thus refusal is recommended.

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads and 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, the dwelling would if permitted visually intrude into the open countryside.

**Signature(s)**

**Date:**

**ANNEX**

<b>Date Valid</b>	22nd March 2019
<b>Date First Advertised</b>	4th April 2019
<b>Date Last Advertised</b>	

**Details of Neighbour Notification** (all addresses)

The Owner/Occupier,  
 34 Waterfoot Road, Magherafelt, Londonderry, BT45 6LF  
 The Owner/Occupier,  
 35 Waterfoot Road Magherafelt Londonderry  
 The Owner/Occupier,  
 38 Waterfoot Road Magherafelt Londonderry  
 The Owner/Occupier,  
 40 Waterfoot Road Magherafelt Londonderry

**Date of Last Neighbour Notification**

1st April 2019

**Date of EIA Determination****ES Requested**

Yes /No

**Planning History**

Ref ID: LA09/2019/0385/O

Proposal: Rural type dwelling and garage.

Address: 20m North of 34 Waterfoot Road, Ballymaguigan, Magherafelt.,

Decision:

Decision Date:

Ref ID: LA09/2016/0061/O

Proposal: Erection of Replacement Dwelling with Detached Garage

Address: 32 Waterfoot Road, Ballymaguigan, Magherafelt,

Decision: PG

Decision Date: 16.06.2016

Ref ID: H/2001/0480/F

Proposal: Alterations and extension to dwelling

Address: No. 34 Waterfoot Road, Ballymaguigan

Decision:

Decision Date: 14.12.2001

Ref ID: H/2005/0245/F

Proposal: Conservatory to dwelling

Address: 34 Waterfoot Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 07.07.2005

Ref ID: H/1996/0646

Proposal: ALTS AND ADDS TO DWELLING

Address: 30 WATERFOOT ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2000/0045/F  
 Proposal: Replacement Dwelling  
 Address: 30 Waterfoot Road, Ballymaguigan, Magherafelt  
 Decision:  
 Decision Date: 15.03.2000

Ref ID: H/2013/0432/O  
 Proposal: Proposed dwelling on a farm.  
 Address: 30m North of 38 Waterfoot Road Magherafelt,  
 Decision: PG  
 Decision Date: 28.02.2014

Ref ID: H/2014/0280/F  
 Proposal: Farm Dwelling and Garage  
 Address: 30m North of 38 Waterfoot Road, Magherafelt. BT45 6LF,  
 Decision: PG  
 Decision Date: 13.10.2014

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

DfI Roads – content.

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

Drawing No. 01  
 Type: Site Layout or Block Plan  
 Status: Submitted

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

Date of Notification to Department:  
 Response of Department:





<b>Report on</b>	<b>Consultation from Department for Communities, Historic Environment Division, regarding their consideration to List a Telephone Kiosk at 67 Dergenagh Road, Dungannon</b>
<b>Date of Meeting</b>	<b>5<sup>th</sup> November 2019</b>
<b>Reporting Officer</b>	<b>Michael McGibbon – Senior Planning Officer</b>
<b>Contact Officer</b>	<b>Chris Boomer – Planning Manager</b>

<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 provide members with background to a consultation by Department for Communities, Historic Environment Division (DfC, HED) regarding their consideration to list a Telephone Kiosk in our District at: <ul style="list-style-type: none"> <li>- 67 Dergenagh Road, Dungannon</li> </ul>
1.2	The consultation from DfC, HED on the telephone kiosk is attached at Appendix 1.
	<b>Background</b>
2.1	On the 4 <sup>th</sup> October 2019 Planning Department of Mid Ulster District Council received an 'Advance Notice of Listing' letter (Appendix 1) from DfC, HED, of a BT Telephone Kiosk at: <ul style="list-style-type: none"> <li>- 67 Dergenagh Road, Dungannon.</li> </ul>
2.2	Part 4, Section 80(3) of the Planning Act (NI) 2011 requires the Department (HED) to consult with Mid Ulster Council, as the appropriate council in this instance, and the Historic Buildings Council before amending or compiling lists of buildings of special architectural or historic interest. HED has requested the response of MUDC received within 6 weeks from the date of their correspondence.
<b>3.0</b>	<b>Main Report</b>
3.1	Members will recall that the Planning Department initially recommended proceeding with a Building Preservation Notice (Temporary Listing) on this phonebox, following correspondence from Councillor Clement Cuthbertson, on 8 <sup>th</sup> April 2019, requesting a temporary listing. Councillor Cuthbertson's correspondence included a number of photographs, which provided some context to the location and condition of the kiosk.

	<p>Following receipt of this correspondence the Planning Department sought informal advice from Historic Environment Division, Department for Communities, on the merits of listing the telephone kiosk. On the 1<sup>st</sup> July 2019 DfC, HED indicated that they were prepared to consider the structure for survey as it appeared to be largely intact.</p>
3.2	<p>The telephone box at Dergenagh Road is a 'classic' style red phone kiosk, of the 'K6' variety, designed by Sir Giles Gilbert Scott, in 1935, to commemorate the silver jubilee of King George V and is widely considered a modern design icon. This particular example can be dated post 1953 due to the removable St. Edward's Crown insert, located just below the doomed roof. The telephone kiosk is located adjacent to No.67 Dergenagh Road, approximately 5 miles east of Ballygawley and 12 miles south west of Dungannon.</p>
3.3	<p>Members will recall that at Planning Committee meeting of 6<sup>th</sup> August 2019 the Planning Department recommended the serving of a BPN on the phone box at 67 Dergenagh Road based on the information provided by DfC, HED. Members will also recall that at this meeting Planning Committee disagreed with the Officer's recommendation and decided that a Building Preservation Notice should not be served on the telephone kiosk at 67 Dergenagh Road, Dungannon.</p>
3.4	<p>Since this time DfC, HED has issued the Council with an 'Advance Notice of Listing' letter, dated 4<sup>th</sup> October 2019 (Appendix 1). DfC, HED's letter advises that they are considering the listing of the structure under Section 80(1) of the Planning Act (Northern Ireland) 2011 and welcome receipt of views on the proposed listing within 6 weeks of the date of their letter.</p>
3.5	<p>It is important to note that the consultation response from this Council is only one of the factors that DfC, HED will consider in deciding a way forward with the listing of the structure. The final decision on listing will be one for DfC, HED to make. Historic Buildings Council and the owner of the structure are also consulted as part of the process, and their representations are considered by HED before a final decision is made. DfC, HED guidance on listing states that concerns over the impact of the listing on future planning considerations, such as development proposals, are not considered as part of their assessment.</p>
3.6	<p>Given that the preservation of this phone kiosk has been previously discussed by members, officers await instruction as to how to respond to this consultation.</p>
	<p><b>Other Considerations</b></p>
4.1	<p><b>Financial, Human Resources &amp; Risk Implications</b></p>
	<p>Financial: None identified</p>
	<p>Human: None identified</p>
	<p>Risk Management:</p>

	None identified
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: None identified
	Rural Needs Implications: None identified
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	That members inform officers as to how they should proceed.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
	Appendix 1 – Consultation from DfC, HED - Advance Notice of Listing

C0800901

**ADVANCE NOTICE OF LISTING**

Head of Planning  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN



Department for  
**Communities**

www.communities-ni.gov.uk  
Historic Environment Division  
Ground Floor  
NINE Lanyon Place  
Townparks  
Belfast  
BT1 3LP



Tel: (028) 90819332

Our Ref: HB13/12/051

Date: 04/10/2019

Dear Sir/Madam,

**LISTING OF BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST**

**TELEPHONE KIOSK, BESIDE 67 DERGENAGH ROAD, DUNGANNON, BT70 1TW**

At present, the listing of the above-mentioned property is being considered under section 80(1) of the Planning Act (Northern Ireland) 2011.

I would welcome receipt of your offices views on the proposed Listing within 6 weeks of the date of this Letter. *Comments received outside this period will not normally be considered.*

Please find enclosed a copy of the location map together with a copy of our Second Survey Report of the building for your information. Where this letter refers to building(s), this term includes all types of structures.

Grid Ref: H6859 5734

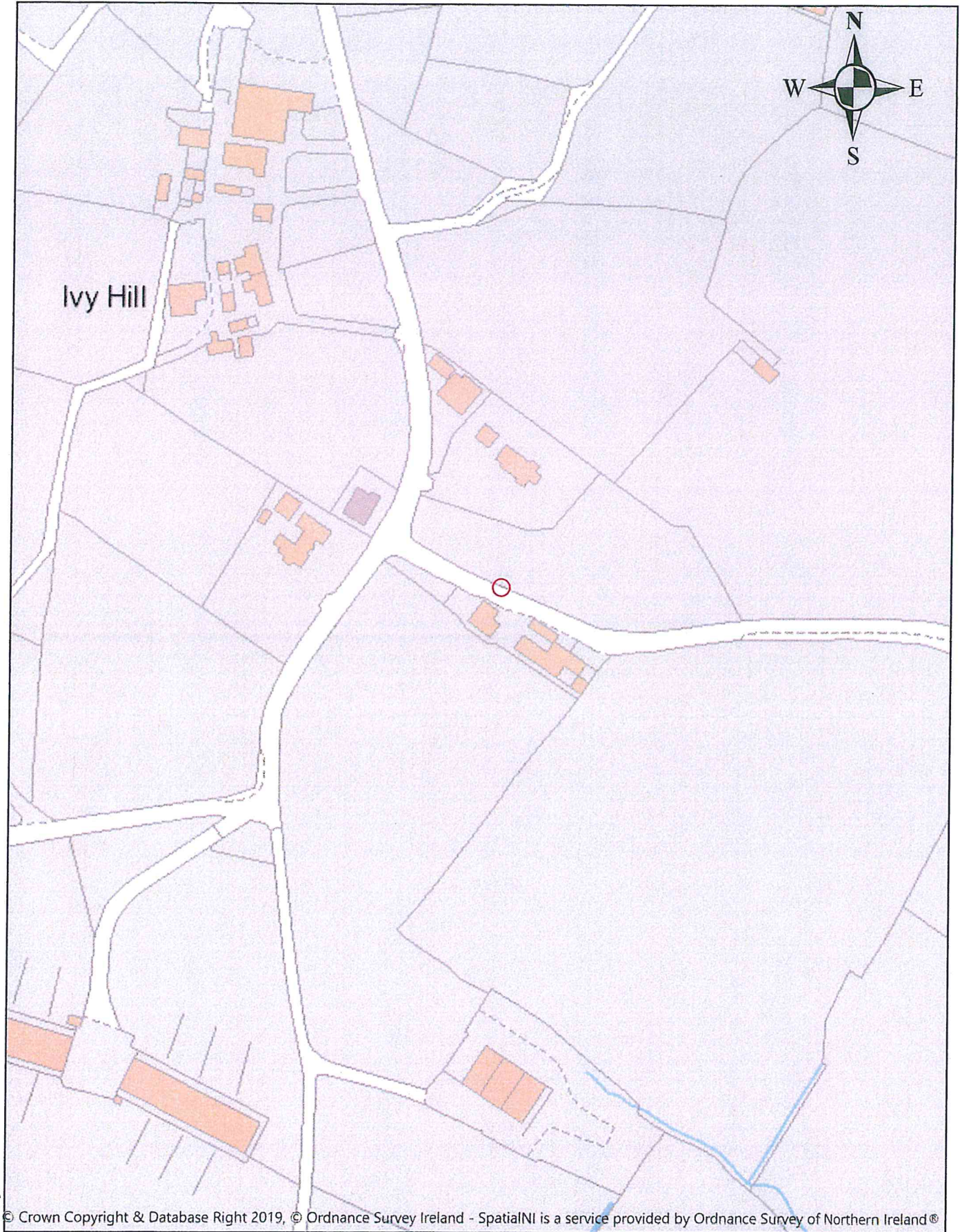
G. Brown

**GERALDINE BROWN**

Enc Second Survey HBC Report  
Location Map

LB2 – Advance Notice of Listing





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**DfC**

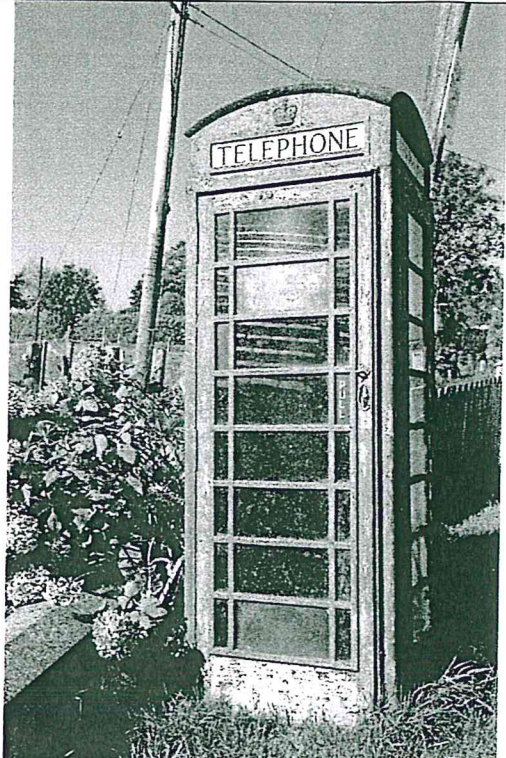
Department  
for Communities  
[www.communities-ni.gov.uk](http://www.communities-ni.gov.uk)

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**Title:** HB13/12/051  
**Scale:** 1:2,250  
**Date Printed:** 26 September 2019  
**Drawn By:** JMcl  
**Site Map** HBU



<b>Address</b> Telephone Kiosk beside 67 Dergenagh Road Dungannon BT70 1TW	<b>HB Ref No</b> HB13/12/051
<b>Extent of Listing</b> Telephone kiosk	
<b>Date of Construction</b> 1940 - 1959	
<b>Townland</b> Dergenagh	
<b>Current Building Use</b> Telephone Kiosk	
<b>Principal Former Use</b> Telephone Kiosk	

<b>Conservation Area</b>	No	<b>Survey 1</b>	Not_Listed	<b>OS Map No</b>	178/10NE
<b>Industrial Archaeology</b>	No	<b>HED Evaluation</b>	B2	<b>IG Ref</b>	H6859 5734
<b>Vernacular</b>	No	<b>Date of Listing</b>		<b>IHR No</b>	
<b>Thatched</b>	No	<b>Date of Delisting</b>		<b>HGI Ref</b>	
<b>Monument</b>	No			<b>SMR No</b>	
<b>Area of Townscape Character</b>	No				
<b>Local Landscape Policy Area</b>	No				
<b>Historic Gardens Inventory</b>	No				
<b>Vacant</b>	N/A				
<b>Derelict</b>	No				

**Owner Category** Charity

### Building Information

#### Exterior Description and Setting

A 'K6' telephone kiosk designed by Sir Giles Gilbert Scott, dating from post 1955. The kiosk is located in the small rural settlement of Dergenagh, next to 67 Dergenagh Road, approximately 4 miles from Cabragh.

The kiosk has the usual cast-iron body painted red and many of the glazed panels retain their glass, with



only a few replaced with perspex. Each elevation displays the 'St Edward's' crown motif within an inserted plate, over a glazed 'TELEPHONE' panel. The door opens to the south-east and following the standard arrangement, the south-west side which faces directly into the rear garden of No.67, is blank.

#### Interior Description

The interior has had its payphone removed.

#### Architects

#### Historical Information

This telephone kiosk can be dated to post 1955, the period during which this particular version of the 'K6' type was in use (see below). The first available OS map on which it is shown is that dated 1973.

The K6 model was designed by Sir Giles Gilbert Scott in 1935 to celebrate the Silver Jubilee of King George V. Constructed in cast-iron with a teak door, compact in size and easily mass-produced, the design of the K6 was developed from Scott's previous telephone kiosk models, the larger K2 (introduced in 1926) and K3 (1929). It was distributed throughout the UK from 1936 and represents the most successful and populous type of kiosk to be introduced with some 60,000 being placed around the country. About 8,000 of these were installed as part of the 'Jubilee Concession', which allowed towns and villages with a post office to apply for a kiosk. A year later under the 'Tercentenary Concession' celebrating the Post Office's 300th anniversary, a further 1,000 kiosks were installed over 12 years for local authorities paying a five-year subscription of £4.

A minor alteration in the K6 design occurred following the coronation of Queen Elizabeth II in 1953, when the 'Tudor' crown motif was replaced with St. Edward's crown. From 1955 the Crown of Scotland was used for kiosks in that country, a slot in the fascia allowing either version to be inserted into all of those manufactured from this date. The model continued in production until 1968 when the more modernist K8, designed by Bruce Martin, was introduced.

#### Sources - Primary Sources

- 1 OS map 1973

#### Secondary Sources

1. N. Johannessen, 'Telephone Boxes' Shire Publications (Princes Risborough 1994).
- 2 The Telephone Box - <http://www.the-telephone-box.co.uk/> (accessed August 2019)

#### Criteria for Listing

NB: In March 2011, revised criteria were published as Annex C of Planning Policy Statement 6. These added extra criteria with the aim of improving clarity in regard to the Department's explanation of historic interest. For records evaluated in advance of this, therefore, not all of these criteria would have been considered. The criteria used prior to 2011 are published on the Department's website under 'listing criteria'.

#### Architectural Interest

- A. Style
- B. Proportion
- C. Ornamentation
- J. Setting

#### Historical Interest

- R. Age
- S. Authenticity
- V. Authorship
- Y. Social, Cultural or Economic Importance
- Z. Rarity
- X. Local Interest

#### Evaluation

A telephone kiosk of the K6 type designed in 1935 by Sir Giles Gilbert Scott, located within the small rural settlement of Dergenagh, Co Tyrone. This example is a modified design of the original type with the St Edward's crown contained within a plate inserted into the fascia. Apart from the loss of the telephone, the kiosk is largely intact. Once common, these iconic pieces of street furniture are now increasingly rare.

**Replacements and Alterations**  
None

**If inappropriate, Why?**

**General Comments**

**Monitoring Notes – since Date of Survey**

**Date of Survey**    20/09/2019

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 1 October 2019 Council Offices, Ballyronan Road, Magherafelt**

<b>Members Present</b>	Councillor Mallaghan, Chair	
	Councillors Bell, Black, Brown, Clarke, Colvin, Cuthbertson, Gildernew, Glasgow, Kearney, McKinney, D McPeake, McFlynn, S McPeake, Quinn, Robinson	
<b>Officers in Attendance</b>	Mr Tohill, Chief Executive Dr Boomer, Planning Manager Mr Bowman, Head of Development Management Ms Doyle, Senior Planning Officer Ms McCullagh, Senior Planning Officer Ms McEvoy, Head of Development Plan Mr Marrion, Senior Planning Officer Ms McNally, Council Solicitor Mrs Grogan, Democratic Services Officer	
<b>Others in Attendance</b>	<b>Applicant Speakers</b>	
	LA09/2017/1426/F	Les Ross
	LA09/2018/0519/LBC	Jim Maneely Emma Donaghy
	LA09/2018/0526/F	Jim Maneely Emma Donaghy
	LA09/2018/0826/F	Gemma Jobling
	LA09/2019/0183/F	Derek Whyte Robert Cochrane
	LA09/2018/1349/F	Joe McNulty Councillor Monteith Eamon Cushnahan
	LA09/2017/1384/O	Councillor McAleer

The meeting commenced at 7 pm

The Chair, Councillor Mallaghan welcomed Councillor McFlynn to her first meeting as a member of the Planning Committee.

**P116/19      Apologies**

None.

**P117/19      Declarations of Interest**

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

## P118/19 Chair's Business

The Planning Manager provided Members with an update to advise that:

- The Council had received their revised HGI figure for the period 2016-2030 and that a report would be brought to the November Planning Committee and stated that the revised figure was 10,300.
- Notification had been received from HED advising that they have decided not to list the telephone box at Bovean Cottages. This is a telephone box that the Council recently served a BPN on. They have advised the following.

➤ *“HED surveyed and evaluated this kiosk following the serving of the BPN, but it will not be taken forward for listing.*

*This is due to the fact that although the kiosk itself is of a pre-1953 version of the K6 design which was superseded by the modernist K8 in 1968, it is not marked on this site on the 1972 OS map, and as such would appear to have been relocated. Should further information come to light, we would be happy to review this decision.”*

- Planning Department held a meeting with DfI and their appointed consultants to discuss the traffic model work for the Cookstown by-pass. At the meeting DfI indicated that they aim to have draft vesting orders issued by late 2020.
- Members should be aware that DAERA have recently issued a consultation on a Northern Ireland Environment Strategy – and any response to it would need to be cross-departmental.
- On 17 September 2019 a consultation was received from DAERA – Forestry Service on a Forestry Planning Area at East Fermanagh/East Tyrone.

This is the scoping stage intended to enable Council, and other stakeholders, to become involved, in the process of developing a plan for the promotion of afforestation and sustainable forestry in the East Fermanagh/East Tyrone Forestry Planning Area.

The Forestry Service advise that the plan will be focused on the management of Forest Service forests, and it is intended that it will also consider management planning of forests and woodland managed by others. It was noted that the consultation period is extended to the 4 October 2019, and Planning Department intend to submit a response in conjunction with the bio-diversity officer. It is worth noting that MUDC Parks Department have already submitted a response.

- It was noted that dates for Special Planning Committee meetings would be scheduled in late October/November to discuss the Local Development Plan. It is intended to take place on the counter representations on the Council website and those in the 3 Council Offices in the next 2 – 3 weeks.

- Members were advised of the recent performance statistics published by DfI in respect of the statutory targets and note the local applications are meeting the statutory target of 15 weeks, and in fact, just over 12 weeks processing time has been achieved for the first quarter of the financial year. It noted that approval rates in some of the other Councils are now more in line with the rates in Mid Ulster.
- Members were advised that DfI notified Mid Ulster Council on 30 September that they had decided not to disallow the Councils direction to remove permitted development rights in respect of the Shackleton notification. Also, note Council has advised Shackleton of this and it is intended to notify the community representative, following the committee meeting.

### **Matters for Decision**

The Chair advised that there would be a change in order of the agenda tonight and advised that items 6, 7 and 8 would be presented first.

#### **P119/19      Receive report on Consultation from DfC Historic Environment Division regarding Telephone Kiosk at Knockanroe Road, Ardtrea**

The Head of Development Plan presented previously circulated report to provide Members with background and draft response to a consultation by Department for Communities, Historic Environment Division (DfC HED) regarding their consideration to list a Telephone Kiosk within Mid Ulster District Council's District at: 69 Knockanroe Road, Ardtrea, Cookstown

Proposed by Councillor Cuthbertson  
Seconded by Councillor McFlynn and

**Resolved**      That it be recommended to agree that the draft response as set out in appendix 2 be issued to DfC, HED to support the listing of the aforementioned telephone box.

#### **P120/19      Consultation from Northern and Western Regional Assembly on Material Amendments to the Draft Regional Spatial and Economic Strategy for the Northern Western Regional Assembly Area**

The Head of Development Plan presented previously circulated report to provide members with information on a consultation from Northern and Western Regional Assembly (NWRA) on material amendments to the Draft Regional Spatial and Economic Strategy (RSES) for the Northern Western Regional Assembly Area.

Proposed by Councillor Bell  
Seconded by Councillor Clarke and

**Resolved**      That it be recommended to agree that a response be issued to advise that the previous response remains the position of this Council.



**P121/19      Receive Correspondence from the Ulster Farmers Union on Ammonia Emissions**

The Planning Manager presented previously circulated report to inform members that the Farmers Union has written to all Chief Executives expressing concerns over the assessment.

Councillor McKinney raised concern about the changes and stated that the Shared Environmental Services (SES) were not even accountable to the Permanent Secretary and would propose that this Council lead the way bringing all departments together as a collective to include the Ulster Farmer's Union, DAERA and Shared Environmental Services to find a way forward. He said that if a farmer wanted to replace a shed with a new up to date system with fans that this wouldn't be within the law and believed that this whole process hadn't been thought out properly and going to cause major issues reaching a final process as 7.5 km distance was going to be a major concern especially in Tyrone. He stated that Mid Ulster was the lead for Agri-Food production due to meat, chicken and pork factories and there was a need to sustain this by drawing back and seeing what direction to proceed in. He concluded by saying that there was a need to bring all these departments together to accommodate everyone.

Councillor Glasgow seconded Councillor McKinney's proposal.

Councillor Glasgow said that a wise and calm approach was needed as there could be repercussions for everyone if farming goes down. He stated that in 2018 agriculture showed that it was leading the way in Northern Ireland with 84% compared to 50% in Great Britain resulting in higher employment rates but stressed that there was a need to be proactive in our approach as this could bring Mid Ulster to its knees.

Councillor Gildernew agreed with Councillors McKinney and Glasgow and said that this was a very important issue for the district.

Councillor Kearney said that it was important to note that there were no discussions with stakeholders unlike the Republic of Ireland and stated that there was a lot of work to be done yet.

The Planning Manager stated that other Planning Managers could have been persuaded to get involved but that he was more sceptical as Mid Ulster was different. He said what was concerning most was that there was an assumption that the monitoring regime was accurate across all the sites and more debate was needed for people to buy into this and if no partners were involved something was wrong but would try and set up something to bring all stakeholders together to raise concerns.

He said that he would be happy to be guided by the committee, but that we would need to deal with each application on its own merits.

Councillor McKinney felt if the process was successful it wouldn't be long before there would be a request for more funding.

The Planning Manager advised that Mid Ulster received very little subsidy and wouldn't be happy to participate in that request.

Proposed by Councillor McKinney  
Seconded by Councillor Glasgow

**Resolved** That it be recommended that the Planning Manager writes back to the Ulster Farmers Union recognising their concerns but also explaining the obligations which the Council has when assessing applications. Agreed that this Council lead the way in bringing all stakeholders together as a collective to include the Ulster Farmer's Union, DAERA and Shared Environmental Services to find a way forward.

#### **P122/19 Planning Applications for Determination**

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/withdrawn from tonight's meeting schedule for an office meeting or withdrawn for further information –

**Agenda Item 4.1 - LA09/2017/1426/F** - Retention of boundary wall and the alteration of ground levels to provide concrete finish to hard corded yard at 55 Knockanroe Road, Cookstown for Reid Engineering (withdrawn for further information). -

Councillor Cuthbertson referred to Environmental Health consultation response and enquired if this was due to a late response.

The Head of Development Management advised that the application had been withdrawn from the schedule in order to further consider Environmental Health information. He said that both parties had been advised that this was the issue.

**Agenda Item 4.11 – LA09/2019/0408/F** – Dwelling and garage approx 50m SE of 25 Longfield Lane, Desertmartin, for Mr John Higgins

**Agenda Item 4.12 – LA09/2019/0417/O** – Dwelling and garage 180m NW of 18 Lower Grange Road, Cookstown for Mr Lawson Martin

**Agenda Item 4.13 – LA09/2019/0468/F** – 2 Storey side annex extension to provide granny flat; 2 no dormer windows to the existing dwelling and new retaining wall to rear garden at 40 Coolshinney Road, Magherafelt for Claire McWilliams (withdrawn for further information).

**Agenda Item 4.15 – LA09/2019/0539/O** – Site for a dwelling and garage 35m S of 98 Desertmartin Road, Magherafelt for Mr John Tohill

**Agenda Item 4.16 – LA09/2019/0569/O** – Site for farm dwelling and domestic garage 35m ENE of 22 Dirnan Road, Dirnan, Cookstown for Mr Noel Conway

**Agenda Item 4.19 – LA09/2019/0633/O** – Site for dwelling and garage (amended access) at 25m NE of 59 Ferry Road, Coalisland for Mr Patrick McNeice

**Agenda Item 4.20 – LA09/2019/0640/O** – Site for dwelling and garage 40m N of 210 Shore Road, Magherafelt for Mr Conor Doyle

**Agenda Item 4.21 – LA09/2019/0763/O – Dwelling and garage 29m S of 6 Annaghmore Road, Cookstown for Mr Sean Quinn**

**Agenda Item 4.22 – LA09/2019/0767/O – Dwelling and garage approx. 150m NE of 230 Coalisland Road, Gortin, Dungannon for Mr Cathal Keoagh**

**Agenda Item 4.26 – LA09/2019/0909/O – Dwelling and domestic garage/store at approx. 50m W of 34 Drumard Road, Magherafelt**

Proposed by Councillor Colvin

Seconded by Councillor Clarke and

**Resolved** That the planning applications listed above be withdrawn for further information or deferred for an office meeting.

**LA09/2017/1426/F Retention of boundary wall and the alteration of ground levels to provide concrete finish to hard cored yard at 55 Knockanroe Road, Cookstown for Reid Engineering**

Agreed that application be withdrawn earlier in the meeting.

**LA09/2018/0519/LBC Conversion of coach house as existing to provide pre-function room; installation of temporary sectional sanitary and food preparation buildings and erection of garden function marquee with associated internal bar, kitchen, sanitary and carparking facilities, within grounds of former Killyman Rectory, 38 Trewmount Road, Killyman for Paul Quinn and Emma Donaghy**

**LA09/2018/0526/F Conversion of coach house as existing to provide pre-function room; installation of temporary sectional sanitary and food preparation buildings and erection of garden function marquee and associated internal bar, kitchen, sanitary and carparking facilities, within grounds of former Killyman Rectory, 38 Trewmount Road, Killyman for Paul Quinn and Emma Donaghy**

Members considered previously circulated report on planning applications LA09/2018/0519/LBC and LA09/2018/0526/F advising that it was recommended for approval.

*Councillor Cuthbertson declared an interest in planning applications LA09/2018/0519/LBC and LA09/2018/0526/F.*

Councillor Cuthbertson said that he had been approached by members of the public regarding noise complaints at the site and the business being in existence for quite a while and felt that this application should have been put down as a retention.

The Head of Development Management said that his understanding at the time was that everything was done above board and that the marquee was raised and coach house

operational after the application was made. He said that inspections had been carried out robustly to see everything was legitimate.

The Planning Manager advised that no-one was being prejudiced by this application but obviously people would be still objecting, but there was a lot of changes made to this application, particularly to the property to include re-siting of carparking facilities and other issues which originally raised a lot of objections. He said that these issues had now been addressed but there was still an element of objectors who didn't wish to see this facility there anyway.

Proposed by Councillor Gildernew  
Seconded by Councillor Quinn and

To approve the application.

Councillor McKinney felt that this facility was unfitting for the area as there was a place of rest beside it and may look disrespectful if there was a funeral taking place and something taking place across the hedge and proposed to refuse the application.

Seconded by Councillor Glasgow

To refuse the application.

Members voted on Councillor Gildernew's recommendation for approval -

For - 9  
Against – 6

Members voted on Councillor McKinney's proposal recommending for refusal –

For - 6  
Against - 9

**Resolved** That planning applications LA09/2018/0519/LBC and LA09/2018/0526/F be approved subject to conditions as per the officer's report.

**LA09/2018/0826/F New gantry crane and retention of extension to concrete yard at Blackpark Road, Toomebridge for Creagh Concrete Products Ltd**

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2018/0826/F advising that it was recommended for approval. He drew members attention to circulated addendum advising of late correspondence received, no new issues raised.

Proposed by Councillor Brown  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2018/0826/F be approved subject to conditions as per the officer's report.

**LA09/2018/1129/F    Extension to forklift gantry and reroofing of production area at 4 Ballygillen Road, Coagh, Cookstown for Thomas Hutchinson & Sons Ltd**

Members considered previously circulated report on planning application LA09/2018/1129/F advising that it was recommended for approval.

Proposed by Councillor Brown  
Seconded by Councillor Bell and

**Resolved**      That planning application LA09/2018/1129/F be approved subject to conditions as per the officer's report.

**LA09/2018/1575/F    Replacement garage/general store at 25 Gulladuff Road, Maghera for M Hutchinson Esq**

Members considered previously circulated report on planning application LA09/2018/1575/F advising that it was recommended for approval.

*Councillor McKinney declared an interest in planning application LA09/2018/1575/F.*

Proposed by Councillor Glasgow  
Seconded by Councillor Kearney and

**Resolved**      That planning application LA09/2018/1575/F be approved subject to conditions as per the officer's report.

**LA09/2018/1598/O    Dwelling and garage 40m NW of 109 Drumenny Road, Ardboe for Anthony Mallon**

Mr Marrion (SPO) presented a report on planning application LA09/2018/1598/O advising that it was recommended for refusal.

Councillor Bell felt that this application should be deferred for 4 weeks to allow time to submit all relevant information.

Proposed by Councillor Bell  
Seconded by Councillor McKinney and

**Resolved**      That planning application LA09/2018/1598/O be deferred for 4 weeks to allow the submission of additional information.

**LA09/2018/1617/F    Additional broiler breeder laying poultry shed including link to existing with 2 No. additional feed bins and associated site works at land approx. 100m NW of 43 Errigal Road, Ballygawley, Dungannon for Mr Clive Allen**

Members considered previously circulated report on planning application LA09/2018/1617/F advising that it was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/1617/F be approved subject to conditions as per the officer's report.

**LA09/2018/1636/O Dwelling and garage at and approx. 30m W of 9 Ballymaguigan Road, Magherafelt for William Love**

Members considered previously circulated report on planning application LA09/2018/1636/O advising that it was recommended for approval.

Proposed by Councillor Brown  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2018/1636/O be approved subject to conditions as per the officer's report.

**LA09/2019/0183/F Retention of cattle shed 30m SE of 112a Innishrush Road, Portglenone for Mr Derek White**

Members considered previously circulated report on planning application LA09/2019/0183/F advising that it was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Black and

**Resolved** That planning application LA09/2019/0183/F be approved subject to conditions as per the officer's report.

**LA09/2019/0408/F Dwelling and garage approx 50m SE of 25 Longfield Lane, Desertmartin for John Higgins**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2019/0417/O Dwelling and garage 180m NW of 18 Lower Grange Road, Cookstown for Lawson Martin**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2019/0468/F 2 storey side annex extension to provide granny flat; 2 no. dormer windows to the existing dwelling and new retaining wall to rear garden at 40 Coolshinny Road, Magherafelt for Claire McWilliams**

Agreed that application be withdrawn earlier in the meeting to consider a late objection.



**LA09/2019/0490/F     Public car park (33 new spaces); new entrance onto the Barrack Street Road and drainage for surface water to be included in the works adjacent to properties 10 and 22 Barrack Street, Coalisland for Mid Ulster District Council**

*All members present declared an interest in planning application LA09/2019/0490/F.*

Members considered previously circulated report on planning application LA09/2019/0490/F advising that it was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved**     That planning application LA09/2019/0490/F be approved subject to conditions as per the officer's report.

*Councillor McKinney left the meeting at 7.50 pm.*

**LA09/2019/0539/O     Site for dwelling and garage 35m S of 98 Desertmartin Road, Magherafelt for Mr John Tohill**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2019/0569/O     Site for farm dwelling & domestic garage 35m ENE of 22 Dirnan Road, Dirnan, Cookstown for Mr Noel Conway**

Agreed that application be deferred for an office meeting earlier in the meeting.

**LA09/2019/0606/O     Dwelling and Garage between 76 & 82 Hillhead Road, Toomebridge for Mr J Nugent**

Members considered previously circulated report on planning application LA09/2019/0606/O advising that it was recommended for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved**     That planning application LA09/2019/0606/O be approved subject to conditions as per the officer's report.

**LA09/2019/0621/F     Replacement Dwelling 160m SW of 37 Syerla Road, Dungannon for Farasha Properties Ltd**

Members considered previously circulated report on planning application LA09/2019/0621/F advising that it was recommended for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/0621/F be approved subject to conditions as per the officer's report.

**LA09/2019/0633/O Site for dwelling and garage (amended access) at 25m NE of 59 Ferry Road, Coalisland for Mr Patrick McNeice**

Agreed that application be deferred for office meeting earlier in the meeting.

**LA09/2019/0640/O Site for dwelling and garage 40m N of 210 Shore Road, Magherafelt for Mr Conor Doyle**

Agreed that application be deferred for office meeting earlier in the meeting.

**LA09/2019/0763/O Dwelling and garage 29m S of 6 Annaghmore Road, Cookstown for Mr Sean Quinn**

Agreed that application be deferred for office meeting earlier in the meeting.

**LA09/2019/0767/O Dwelling and garage approx 150 NE of 230 Coalisland Road, Gortin, Dungannon for Mr Cathal Keogh**

Agreed that application be deferred for office meeting earlier in the meeting.

**LA09/2019/0808/F Demolition of an existing commercial building and redeveloped with 5 residential apartments at Silver Saddle Antiques, 1 West Street, Stewartstown for Mr Don Ryan**

Members considered previously circulated report on planning application LA09/2019/0808/F advising that it was recommended for approval.

Proposed by Councillor Colvin  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2019/0808/F be approved subject to conditions as per the officer's report.

**LA09/2019/0826/RM Dwelling and domestic garage at Site 170m E of 18 Cavey Road, Ballygawley for Mr James Frizelle**

Members considered previously circulated report on planning application LA09/2019/0826/RM advising that it was recommended for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2019/0826/RM be approved subject to conditions as per the officer's report.

**LA09/2019/0851/F    Retention of store (change of use of an agricultural building) at lands N and to the rear of 46 Oaklea Road, Magherafelt for Oaklea Kitchens Ltd**

Members considered previously circulated report on planning application LA09/2019/0851/F advising that it was recommended for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved**    That planning application LA09/2019/0851/F be approved subject to conditions as per the officer's report.

**LA09/2019/0909/O    Dwelling and domestic garage/store at approx 50m W of 34 Drumard Road, Magherafelt for Anne and Leo McPeake**

Agreed that application be deferred for office meeting earlier in meeting.

**LA09/2019/0914/O    Dwelling S of 96 English Road, Dungannon for Kevin Daly**

Mr Marrion (SPO) presented a report on planning application LA09/2019/0914/O advising that it was recommended for refusal.

*Councillor McKinney returned to the meeting at 7.53 pm.*

Councillor Gildernew proposed that it may be worthwhile holding an office meeting for this application.

The Planning Manager advised that if someone was interested in requesting a meeting then they would need to tell him why and what officers hadn't considered within their report. He stated that everything was open and transparent and any applications which were deferred tonight went through a process.

Councillor Gildernew withdrew his recommendation.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Colvin and

**Resolved**    That planning application LA09/2019/0914/O be refused on grounds stated in the Officer's report.

**LA09/2019/0988/F    Two storey extension to right hand side of dwelling at 15 Fairlea Close, Moneymore for Declan McDonald**

Members considered previously circulated report on planning application LA09/2019/0988/F advising that it was recommended for approval.

Proposed by Councillor Colvin  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/0988/F be approved subject to conditions as per the officer's report.

**M/2014/0524/F      Mushroom production, packaging, storage and distribution, storage and distribution complex and associated works at land approx 30m SW of 15 Annaghilla Road, Augher for Mr Peadar McGee**

Mr Marrion (SPO) presented a report on planning application M/2014/0524/F advising that it was recommended for approval.

Councillor Cuthbertson advised that he was one of the Councillors which initially attended the site meeting and now it's back to committee tonight as if it was the first time. He said that it's indicated that DfI Roads had no objections and that the policy hadn't changed but during one discussion the agent advised that there was only one accident on the road, but he was aware of 3 fatalities on that stretch of road. He said that DfI Roads were distancing themselves from making a decision and were putting the responsibility onto Mid Ulster District Council.

He referred to the planned footpath at the other side of the road to ease carparking and said that this would be an extra danger trying to cross this busy road and also a blight on the nice green fields entering Augher village.

Councillor Cuthbertson said that he would be requesting a recorded vote on the proposal tonight as DfI Roads has put this Council in a difficult position and he didn't want his name attached to someone's death or accident on that stretch of busy road.

He said that he wanted to put it on record that he had been approached by two individuals on two separate occasions regarding this application. In the first instance he advised the person to seek speaking rights and a short time after the committee he had been approached by another person who may have had an interest in the site but had no proof, and in this instance, he was threatened and wanted it put on record. He said that he was aware of letters of support from the First Minister Arlene Foster and Michelle O'Neill the Minister for Agriculture at the time regarding the potential for job creation, but those letters did not tell this Council to go out and take action on a protected route. He concluded by saying that he was aware of another person being unable to get permission for an entrance onto the same stretch of road and feels that this shouldn't be the case as everyone should have the same opportunity.

Councillor Robinson agreed that it was bringing employment to the area and that it would be a very welcome bonus, but this was a protected route and would be very difficult for someone trying to get an application approved but now there was a recommendation of approval presented for a mushroom factory. He said that this stretch of road is very dangerous and accidents occur regularly.

He advised that the proposal was to construct 12 mushroom houses, resulting in 24 lorry loads moving out each week and although may be safe enough turning left it would be hazardous turning right towards the Belfast area. He said that on top of the 24 loads per week there would be numerous journeys to draw compost in and out and if workers were not there between 8 am and 9 am, where would they park. He stated that this

application was going to create a lot of problems and would be seconding Councillor Cuthbertson's proposal to refuse the application. He concluded by saying that he would agree with Councillor Cuthbertson's comments regarding the dangers linked to this fast road.

Councillor McKinney referred to Councillor Cuthbertson's comments regarding a recorded vote and felt that this was not a sensible comment as it was not the committee's responsibility for the poor judgement of someone else's driving.

Councillor S McPeake said that there could be challenges ahead regarding this if we do not approve the application. If DfI indicated that they are happy to agree to this and meets their standards, and we don't approve it, we could be challenged on our decision when DfI has signed it off.

The Planning Manager advised that this application had a long story to it and had come a long way over the 5 years, with the committee trying to move this along as much as possible. Previously, there was a very long debate at the committee meeting around agriculture and the difficulties of placing mushroom houses inside the settlement.

He said that the roads around Augher were very bendy and twisty and next to a settlement with the traffic emerging from the village speeding up but there was the ability to see everything in front. He advised that the officers had decided to recommend the application for approval at this stage, the Department of Infrastructure had decided not to call in the application and a pre application hearing had been held allowing DfI Roads opportunity to give their arguments and letting us make the decision. A decision had been made to accept the application in principle subject to a safe access being provided. He said although officers were concerned about road safety and had to admit when standing at the site there was a rush of traffic, but the key issue here was that DfI Roads were now willing to accept the application as being safe. He concluded by saying that after the work done on this it would be unreasonable for the council to refuse it on road safety when it's being endorsed by DfI Roads.

Councillor Clarke said that he had listened to what had been said that there was a similar scenario with the Jungle on the A29 route and as there was a roundabout about 100 yards from the proposed site in Augher, it would be difficult to refuse it as it looks like the Council were interfering.

The Council Solicitor noted that the Planning Manager had made a point about a decision in principle some time ago which could lead to the applicant arguing they had a legitimate expectation of an approval. The Council Solicitor noted that the applicant had provided a number of technical assessments and report(s) that didn't appear to have been challenged. In any event, the Council Solicitor asked that the case officer provide a step by step guide in relation to the protected route criteria for members present Mr Marrion (SPO) took members through the Protected Routes criteria to provide clarification.

Councillor Cuthbertson said that he was disappointed with DfI's response and backing out of making a decision when they had indicated that this stretch of road was a protected route and letting this fall back on the responsibility of Mid Ulster District Council.

Councillor Gildernew advised if there was any issue with road safety then he would be the first to refuse it but that he had taken his advice from Engineers and would be happy to propose the application for approval.

Councillor S McPeake seconded Councillor Gildernew's proposal.

The Planning Manager advised members before voting on this, that there would be no precedence taken from this. He said that the application before members tonight was taking in account policy and merits and just because an exception was being made for the mushroom houses it doesn't mean that it was a precedent. He stated that this application had taken five years to get to this position and that engagement was not taken very lightly and an officer, his first starting point would be the protected route but there were merits to the application.

Councillor Cuthbertson called for a recorded vote on the application.

Those in favour of approving the application:

Councillors: Bell, Clarke, Colvin, Gildernew, Glasgow, Kearney, McFlynn, D McPeake, S McPeake, Mallaghan and Quinn

Those against approving the application:

Councillors: Black, Brown, Cuthbertson and Robinson

**Resolved** That planning application M/2014/0524/F be approved subject to conditions as per the officer's report be approved.

**LA09/2017/1384/O Dwelling on a farm at land approx 110m E OF 208 Carnteel Road, Lisgallon, Dungannon for Augustine McMullan**

*Councillor Colvin left the meeting at 8.20 pm and returned at 8.22 pm*

Mr Marrion (SPO) presented a report on planning application LA09/2017/1384/O advising that it was recommended for refusal.

The Chair advised that a request in speak in favour of the application had been received and invited Councillor McAleer to address the committee.

Councillor McAleer advised that this was a family run farm with two sons previously getting planning permission for two sites in 2009 and 2012. The third son submitted an application for a dwelling on the farm but unfortunately it was refused due to the criteria and he wasn't aware of the urgency within the timeframe.

She said that the father has four sons, 2 active farms, but all in one son's name as a collective approach in the daily running of the farms. In 2004 approval was granted for the father to get a replacement dwelling on the farm which was transferred to one son in 2012, and in hindsight the applicant should have sorted this out previously. The applicant has remained on the footprint of the farm and carries out all the daily chores and takes holidays from his full-time employment to attend to busy times on the farm i.e.



lambling and calving season. He also purchases farm machinery which he has receipts for dating back for a 6-year period.

Councillor McAleer advised that the father has now retired and had been diagnosed with cancer in 2018 and his help on the farm has decreased to nothing with the applicant taking all on the duties and was anticipating expanding the herd size and this proposed site would be very much beneficial.

The Planning Manager asked if there was any evidence that this was transferred to the applicant before 2012.

Councillor McAleer advised that there was transfer from the father to the applicant, but deeds were only put into one son's name as it was easier for the running of the farm.

The Planning Manager advised that these were cases that he was not comfortable with and felt if the Development Plan was adopted this would allow applications like this to move forward.

Councillor McKinney referred to the 10-year deadline and felt that this was more about a technicality and paperwork and felt the process was going down a fine line as it was only 1.5 years out and would be of the mind that this was a special circumstance and move forward on the application.

In response to the Planning Manager, Councillor McAleer said that she could provide evidence that the house was constructed in 2009.

The Planning Manager stated that technically if a dwelling was started on that date, it would have been there anyway but going back to policy it's unfortunate that there was a flaw about proceeding.

Councillor McPeake advised that although the transfer of lands should have been investigated at the time, he enquired about the land registry map and if there could have been an agreement date on it.

The Planning Manager advised that the transfer in 2012 was the starting point.

Councillor Gildernew said that the father had 4 sons with some being able to build a dwelling and another not and felt that this was a bad situation which needed changing. He said if a son or daughter was looking to build a dwelling on farm that this wouldn't fit in with policy CTY10 of PPS21.

Councillor Clarke referred to the transfer being agreed in 2012 but there was no clarification when the process started.

Councillor McKinney enquired if the applicant could apply for the dwelling on his own right on the farm.

The Planning Manager advised if the applicant was an active farmer for 6 years, he could have done that, but within the policy, you cannot subdivide a farm as this would go

against the applicant. He said that the policy states that a farm has to be operational for 6 years, but it was difficult to get over the evidence of existence.

Councillor McAleer said what she was trying to indicate earlier was that the transfer wasn't signed off but that the applicant was very much within the farm holding and only one son's name was on the deed as a collective.

The Planning Manager said that this was where the situation got complex and was unfair as this was much depended on the sequence of the applications and he referred to the Minister's statement which advised clearly that where disposals had taken place.

The Chair said that it was worth noting the 2<sup>nd</sup> issue for refusal and sadly the length of time has lapsed and due to policy, there was very little option other than accept the Officer's recommendation for refusal.

Proposed by Councillor Mallaghan  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2017/1384/O be refused on grounds stated in the officer's report.

**LA09/2018/0925/O Dwelling 50m SW of 27 Letteran Road, Moneymore for Desmond Bell**

Members considered previously circulated report on planning application LA09/2018/0925/O advising that it was recommended for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2018/0925/O be approved subject to conditions as per the officer's report.

**LA09/2018/1258/F Storage building and infilling of lands with inert material at approx 110m NE of Portafill International Ltd, Dungannon Business Park, Killyliss Road, Dungannon for Acrow Formworks N.I.**

Proposed by Councillor Glasgow  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2018/1258/F be deferred for 1 month to allow submission of further ecology information.

**LA09/2018/1349/F Cattle handling and isolation facilities (cattle shed, force pen, cattle crush, collecting pen and hard-standing area) at lands to the front of and NE of 102 and 104 Ballygawley Road and S of 101 Ballygawley Road, Glenadush for Mr Bernard McAleer**

*Councillor Glasgow left the meeting at 8.38 pm.*

Mr Marrion (SPO) presented a report on planning application LA09/2018/1349/F advising that it was recommended for approval.

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

*Councillor Glasgow returned to the meeting at 8.40 pm.*

Mr McNulty advised the committee that the applicant had purchased the land approximately in 2010 and was refused planning permission for 2 dwellings under file reference M/2010/0554/O and also a site was refused by the previous owner Mr Donovan Ross for his mother-in-law. He said that the land had been let out to a third party for the last 6 years but that there was no evidence of 6-year proof of active farming by the applicant which is a safety belt for anyone in the country which was genuinely interested. He stated that the 6-year rule was crucial for a non-pop up farmer and that Mr McAleer didn't own the land and was actually his son who was the rightful owner as his father was now a retired man in his 60's. He said that Mr McAleer was never an active farmer and only put 3 sheep on the land to portray that he was a farmer to keep himself right as a farm should be full and active which sells on animals and goods and felt that the planners were going against policy agreeing to this application. He stressed to members that this was only a hobby farm with 3 sheep on the land and stated that if this application was approved, that the committee would be making a mockery of the true farming community as this farm was not a true reflection of this.

The Chair advised that a request to speak against the application had been received and invited Councillor Monteith to address the committee.

Councillor Monteith referred to page 5 and 6 of the report which was alluded to earlier, where it states that the applicant does not meet the definition of the framework and does not meet the criteria for 6 years. He said that the policy was not met but can make an exception as was the case for a previous application earlier in the meeting where it was refused because it didn't meet the 6-year rule. He stated that this was only accrued 3 months ago when the farm was being taken and there was a need to take a minimal approach to make an exception on this and it was worrying ground for this Council to go down a minimal approach as this sets a precedent which is doing a disservice to the whole farming community. He urged the committee to support the working farming community and the residents of the area.

The Chair advised that a request to speak in favour of the application had been received and invited Mr Cushnahan to address the committee.

Mr Cushnahan said that previously stated by the case officer and similarly in the past year, that this land was well maintained and looked after. He said that when members upheld the opinion in the past, Dr Boomer met with the applicant and requested that he make the appropriate changes, and this was achieved. The case officer's report states that there are adequate hedgerows, land drainage and land is in good condition, with fields ploughed, potato drills and reseeded for grass indicating that the land was in good agricultural repair. He said that the applicant had a number of animals and an active farm business ID and asked members to consider the case officer's recommendation for approval.

In response to a query from the Planning Manager, Mr Cushnahan advised that the applicant had leased his land for conacre between 2010 and 2012.

The Planning Manager enquired if Mr McAleer ran the leasing of the conacre and collected the money as a business as it wasn't an active farm at the time.

Mr Cushnahan advised that the applicant was retired and it was his son who leased out the lands.

In response to the Planning Manager's query, Mr Marrion (SPO) advised that the land appeared to be in good conditions and when he visited there was cattle grazing on it.

The Planning Manager said that a common mistake in interpreting the policy is that there is a requirement for a business number with the Department of Agriculture, the applicant to receive the single farm payment for approval to be granted. He stated that there needed to be evidence of a farm business and that there needed to be evidence that the land was being maintained in good agricultural/environmental condition.

The Planning Manager advised that the applicant had submitted an application for a much larger building sited closer to Mr McNulty's house which he was concerned about and investigated a way that it could be downsized and moved further from the dwelling and felt that this was a reasonable way forward.

Councillor Cuthbertson said that previously there was a major objection to the application as it was too close to the dwelling, but conditions have been made to overcome issues and there is evidence of an active farming business ID so would be happy to propose the officer's recommendation of approval.

In response to Councillor McKinney's query about the size of the land, Mr Cushnahan advised that it was 4 acres.

Councillor McKinney advised that 4 acres would not fall into the criteria for claiming the single farm payment and too small for a farm business ID no. He said that 3 sheep or goats would be classed as hobby farming and does not make a person an active farmer and felt that there was clarification needed to see who actually owns the lands, as whoever lets out the land is not a farmer. He said that an active farmer was a person who takes risks, cuts and sells grass, works on the lands and sells crops and felt that it was unjust that a previous application was refused due to paperwork not being up to date when it was clear that there were a number of untruths with this application.

The Planning Manager advised that the policy came into effect in 2010. At that time a single farm payment was given for land let out in conacre and this was presented as evidence in making planning applications. Since then DEARA have changed their grant policy on a single farm payment. However, this change did not change planning policy. The conclusion was that planning policy was made by DfI and Department of Agriculture didn't have the remit to change planning policy as this would be unlawful. This was established in the legal challenge of Omagh Council v Department of Regional Development in relation to PPS14. He said that these were matters for the committee to make a decision on as officers could only give an interpretation.

The Council Solicitor said that members need to exercise caution when considering the application due to the wording within the planning policy and the subsequent justification and amplification. She said that it wasn't clear whether an applicant would be required to have a Business ID over 6 years or whether it could be read that provided there was a Business ID and sufficient evidence of active farming over 6 year period, if that would be sufficient. In relation to the information provided by the applicant, the Committee would have to be content on the balance of probabilities that it was sufficient to establish 6 years of required activity. The Council Solicitor also commented that GAEC was defined under farming activity but that she was unable to see a reference to farming activity in the relevant part of the policy.

Councillor Gildernew stated that things had changed, and Mr McAleer had done everything that he was asked to do and would have no hesitation in supporting Councillor Cuthbertson recommendation for approval.

Councillor McKinney said that he wasn't convinced and was persuaded by Councillor Monteith's comments as this was not an active farm which is the first step of getting a dwelling. He said that if the 6 years and criteria were not met, then he would be voting against the officer recommendation and would propose it for refusal.

Councillor Brown said that he concurred with Councillor McKinney's comments and would also take the point made by the Planning Manager. He said that some man had let out a piece of land in conacre to a lady who was looking after it for 6 years. He said that the ground had been re-drained in 2015 and the case officer's report advised that the lady had paid £400 per year for cattle grazing on it and now a hobby farmer has come along and has taken it over indicating that he was an active farmer which looked to be untrue and would be voting against the proposal.

The Planning Manager said that the sheep weren't the issue here, but as the lands were well maintained and it was farmed for agriculture and evidence of investment, it had met all the required criteria for approval but that it was up to members to decide which way they wish to interpret things.

Councillor S McPeake said that the farm was actually active and well maintained for 6 years and was difficult to decide as within another council area in 2008 there was a case where the solicitor signed off that the farm had been active for years and this provided a lot of ambiguity resulting in the department taking the issue at face value and wonder where this would sit with this council as it was a grey area.

The Planning Manager said if we went down this road, he would be very wary about the whole notion and if anyone attended a planning appeal meeting on wind turbines, they would witness him having heated discussions with them over issues.

Councillor S McPeake said that he knew of other applicants which went down this route and their solicitors wouldn't touch it.

The Council Solicitor said that members should be concentrating on the evidence and information provided in this situation.

Councillor S McPeake said that he could see where the planning officers were coming from and had offered the same advice to people.

Councillor Quinn said that he had listened to both arguments. He said that by looking at it, the applicant comes in for an office meeting with the planners and were advised to implement a,b and c to get their application passed and over the line and asked if this was the case and he also enquired if members were objecting to the definition of the farm or were they objecting to policy.

The Planning Manager advised that people did not come into his office and be told how to get an application over the line, but officers only try to be helpful and advise the applicant. He said that the person who reports back was the senior officer with their view of the best way to proceed but that it was up to the committee to make the decision as officers had only made recommendations on their views. He said that this Council had highlighted to the Department in 2015/16 that the policy was very unclear and problematic and that it would be beneficial to have it reinvestigated again.

Those in favour of Councillor Cuthbertson's recommendation for approval:

For - 10  
Against - 4

Those in favour of Councillor McKinney's recommendation for refusal:

For - 4  
Against - 10

**Resolved** That planning application LA09/2018/0925/O be approved subject to conditions as per the officer's report.

**LA09/2018/1450/F Dwelling and garage between 6 & 6A Carncose Road, Moneymore for Mr Rodney Mitchell**

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1450/F advising that it was recommended for refusal.

*Councillor Quinn left the meeting at 9.26 pm*

The Chair advised that a request to speak in favour of the application had been received and invited Mr Ross to address the committee.



Mr Ross advised the committee that the site was located approximately 2.5 miles south of Desertmartin in open countryside in a roadside plot between No. 6 and 6A Carncose Road and consists of small agricultural field or paddock. The site sits slightly higher than the road and flat in nature, with post and wire fence defining the roadside boundary and hedgerows and mature trees to define the remaining boundaries. Immediately to the west of the site there is a residential property consisting of a single storey dwelling and garage and immediately to the east there is a small farm complex consisting of a roadside corrugated shed and to the rear of it there is a dwelling and some outbuildings. He said that the road frontage was unobscured due to long linear along the paddock and would be confident that this was classed as an infill as the large group of buildings were impressive. He felt that during discussion it was agreed that this site was well enclosed and completely obscured by the trees, with acceptable frontage and substantial buildings to the rear.

*Councillor Quinn returned to the meeting at 9.29 pm.*

The Planning Manager said that there was a different way of looking at things and by looking at it the road, fields and paddock didn't meet the policy. He noted there was frontage and the road went around the corner and in terms of cluster as described in policy it demonstrated a focal point. He said that in cases like, development has to integrate with the rural character and asked Mr Ross if the applicant would reconsider a re-siting.

Mr Ross agreed to this proposal.

The Council Solicitor stated as the members were content with the principle that the detail re re-siting could be delegated to the Planning Manager.

Proposed by Councillor Mallaghan  
Seconded by Councillor McKinney

**Resolved** That planning application LA09/2018/1450/F to be amended and delegated back to the Planning Manager for decision.

*Councillor Gildernew left the meeting at 9.52 pm.*

*Councillor McKinney left the meeting at 9.52 pm.*

**LA09/2018/1457/O Site for dwelling and garage 40m NW of 7 Glenmaquill Road, Magherafelt for Ms Mary Alice McGurk**

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1457/O advising that it was recommended for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/1457/O be approved subject to conditions as per the officer's report.

## **Matters for Information**

### **P123/19 Minutes of Planning Committee held on 3 September 2019**

Members noted minutes of Planning Committee held on 3 September 2019.

### **P124/19 Receive Correspondence from the Chief Planner**

Members noted correspondence from Chief Planner in Department of Infrastructure.

### **P125/19 Receive Information on DfI Northern Ireland Planning Monitoring Framework 2018/19**

Members noted correspondence regarding the DfI Northern Ireland Planning Monitoring Framework 2018/19.

## **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Quinn

Seconded by Councillor Robinson 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 P126/19 to P129/19.

## **Matters for Information**

P126/19 Confidential Minutes of Planning Committee held on 3 September 2019

P127/19 Enforcement Report

P128/19 Enforcement Cases Opened

P129/19 Enforcement Cases Closed

### **P130/19 Duration of Meeting**

The meeting was called for 7 pm and concluded at 10 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

