



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2015/0782/F	<b>Target Date:</b>
<b>Proposal:</b> Change of Use to Storage and Distribution Unit - (Class B4) (Additional information received)	<b>Location:</b> Site 60m North of 52 Ballymoghnan Road Magherafelt
<b>Applicant Name and Address:</b> Cloane Properties Ltd 9 Cloane Road Draperstown BT45 7LW	<b>Agent name and Address:</b> Kevin Cartin Architects Ltd Unit 5 Belmont Office Park 232-240 Belmont Road Belfast BT4 2AW
<p><b>Summary of Issues:</b> One letter of objection has been received from an adjoining landowner. The objection relates to the following issues;</p> <ol style="list-style-type: none"> <li>1. The applicant will be unable to secure the necessary visibility splays as the land on each side of the entrance is under third party ownership, which includes the objector.</li> <li>2. The applicant has included lands which are not within their control;</li> <li>3. Delivery vehicles will cause significant noise and disturbance;</li> <li>4. The local area has not been zoned for industrial use;</li> <li>5. The proposed use will result in a devaluation of property;</li> </ol> <p>The above issues are considered in the same order as follows;</p> <ol style="list-style-type: none"> <li>1. The applicant has not demonstrated that they have control or can achieve control over the third party lands necessary to achieve a safe access to the site;</li> <li>2. The applicant has amended the planning application certificate within the P1 form and has served notice on a third party land owner. However, while Transportni advised that third party lands were required to both sides of the entrance and the objector alleges that the lands on either side of the entrance are owned by two third parties, the applicant has only served notice on one third party, which is not the objector. Notwithstanding the above, the objector is however aware of the application and therefore has not been prejudiced by the notice not having been served on them;</li> <li>3. The delivery vehicles which will be attracted to the site, which may include articulated vehicles, have the potential to cause disturbance by way of noise. Environmental Health were consulted and requested additional information as detailed later in this report;</li> <li>4. This is a rural area without any zoning;</li> <li>5. No evidence has been provided to substantiate the claim of devaluation of property.</li> </ol>	

**Summary of Consultee Responses:**

Transportni advised that third party lands are required to provide the necessary visibility splays. The required lands are not available and therefore the visibility splays cannot be achieved. EHD requested a noise report which was found to be acceptable.

**Description of the proposal**

The description as stated on the P1 form is 'Change of use to a storage and distribution unit – (Class B4)'.

Within the Planning (Use Classes) Order (NI) 2015, Use Class B4 is stated as 'Use for storage or as a distribution centre.'

Although the site layout and detailed floor plans only relate to the existing enclosed yard which contains the industrial type building and the adjoining triple garage and security hut, it should be noted that the site location map includes the existing concrete yard, industrial type building, associated triple garage and security hut, all of which are enclosed within a secure yard in addition to also including two separate areas of agricultural land and two dwellings and their associated out buildings. Therefore the proposal is effectively for a change of use for all lands within the red line.

**Characteristics of Site**

The site is comprised of two dwellings with associated garage and amenity spaces, a large industrial type shed set within a concrete yard to the rear of the dwellings with an agricultural field to its rear in addition to part of a second agricultural field fronting onto the Ballymoughan Road.

The site set to the rear of two dwellings on the Ballymoughan Road and is accessed via an existing laneway which runs between the two dwellings. The site contains a large industrial type building measuring approximately 35.7m x 18.6m with an eaves height of 6.0m and a ridge height of 7.2m. There is a small rear annex to the rear south-eastern corner. There is a second smaller shed located at the south eastern corner which is a single storey garage type building with a third small security building located at the south western side of the entrance gates which are located at the north-western end of the access laneway.

The existing industrial type buildings are set within a large concrete yard which is enclosed and well screened by a mature hedgerow along the south western boundary.

The existing large industrial building within the concrete yard was originally approved under application H/2009/0519/F as 'Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghán Road (retrospective)' on 10.03.2010. This building is currently being used as a storage and distribution centre by Teknos as a paint distribution centre. There is a small office in the front, south eastern corner with kitchen and toilet facilities located in the rear north-western corner. The remainder of the building is being used to store paint on pallet racking and is currently well stocked with large 20/25 litre drums of paint.

An employee stated at the time of site inspection that deliveries are made to the store and then forwarded on to customers by courier. At the time of site inspection, there were three staff present but no customers. However, there was a courier van, Fastway Couriers, arrived during this time. There was one company Ford Transit van and one car in the car park at this time.

**Characteristics of Area**

The site is located in a rural area which is predominantly farmland with dwellings dotted along the road on both roadside sites and also set back off the road. At this location, there are four dwellings with a number of associated outbuildings, all of which access the Ballymoughan Road at the same point as the subject site.

**Planning History**

Planning approval was granted under H/2009/0519/F on 10.03.2010 for 'Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghán Road (retrospective)'. A condition of that approval was that 'The shed hereby approved shall be used only for domestic purposes ancillary to No 54 Ballymoughan Road, Magherafelt.'

Reason: To prohibit an unacceptable change of use.

**Deferred Consideration:**

This application was presented to Committee on 9th January 2017 with an opinion to refuse for the following reasons:-

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse would, if permitted; unduly affect the amenities of nearby residents; the nature and scale of the proposed non-residential use is not appropriate in this countryside location; and access to the public road will prejudice road safety.
3. The proposed development is contrary to PPS 3 - Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

The application was deferred for an office meeting with the Planning Manager to consider alternatives and the issue relating to the proposed access arrangements. That meeting took place with Dr. Boomer on 25th January 2017 and was attended by the applicant, his agent, planning consultant and roads engineer.

At that meeting the potential for the proposal to be operated as a diversification project in conjunction with the applicant's farm business was discussed. The planning consultant provided a copy of Planning Appeal Statement 2009/E029 in support of the proposal. The PAC took the stance that the farmer does not need to operate the diversification activity as long as the income derived goes towards the upkeep of the farm holding. This is the case being presented in this application. As such the proposal must be considered under PPS 21 – Policy CTY 11 Farm diversification.

Consideration of Policy CTY 11 has a presumption in favour of farm or forestry diversification projects where it has been demonstrated that the proposal will be run in conjunction with the agricultural operations on the farm. The following criteria need to be addressed:-

- The farm business is currently active and is established;
- It is appropriate in terms of character and scale;
- It will not have a detrimental impact on nearby residential properties by way of noise, smell and pollution.

However, proposals will only be acceptable where they involve the reuse or adaptation of existing farm buildings. Although a new building may be acceptable where there are no existing buildings available either because they are required for the existing farm enterprise, are unsuitable for adaptation or reuse or other agency requirements render them unsuitable. Any new building must achieve a suitable degree of integration with existing farm buildings.

The proposal is for a farm diversification project which is to supplement the income of the applicant who is involved in the existing farm business. DAERA have confirmed the

applicants association with the farm business and that it has been active for more than 6 years. Therefore the principle of a diversification project can be accepted.

In terms of the character and scale of the project, the proposal is to be located within an existing building and therefore will not alter the character of the area.

The proposal will not have an adverse impact on natural or built heritage.

The proposed development would involve delivery lorries arriving at the site, which may include articulated vehicles in addition to delivery vehicles also being used to distribute the paint to customers. Given that the entrance to the site is a single carriageway and is shared by four dwellings, this arrangement may cause some inconvenience not only to road users but also to occupants of the dwellings sharing the access lane as the delivery vehicles may disrupt access to these properties.

Consideration of PPS 3 – Additional information was received on 5th March 2018 and included a Road Access Statement which acknowledged that whilst the existing access would be improved, it was not possible to fully meet the required sightlines required by DCAN 15. The visibility splays required for the proposed development, as advised by DfI Roads are 2.4m x 70m in both directions. The Road Access Statement indicates that the maximum splays achievable are 2.4m x 45 to the right hand side existing and 2.4m x 40m left hand side exiting. These are 25m to 30m short of the required standards and when this was considered by DfI Roads they advised that the proposal is not acceptable. Therefore as the proposal cannot provide the access arrangements to the required standards it is contrary to policy.

### **Consideration**

The proposal would now be considered to be acceptable under the principle of diversification, however, the issue relating to the proposed access arrangements still remains to be resolved. Whilst the applicant owns the dwelling at no.52 Ballymoghgan Road which has enabled them to reposition the front boundary further back from the road edge to increase the visibility splay to the right hand side exiting, they have not been able to provide the full splay nor have they been able to achieve any improvement in the splay to the left hand side exiting. Therefore the proposal is unacceptable in that it has not been demonstrated that satisfactory access arrangements can be achieved.

The application is therefore being recommended for refusal for the reasons below:-

### **Refusal Reasons**

1. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse would, if permitted; unduly affect the amenities of nearby residents; the nature and scale of the proposed non-residential use is not appropriate in this countryside location; and access to the public road will prejudice road safety.
2. The proposed development is contrary to PPS 3 - Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

**Signature(s):**

**Date**



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2017/0498/F	<b>Target Date:</b>
<b>Proposal:</b> Extension to existing domestic garage to provide a new machinery store (amended description)	<b>Location:</b> 100m N.E.of 29 Fegarran Road Cookstown
<b>Applicant Name and Address:</b> Granville Carson 29 Fegarran Road Cookstown	<b>Agent name and Address:</b> J Lamont 82 Windsor Crescent Cookstown BT80 8EZ
<b>Summary of Consultee Responses:</b> no objections received.	
<p><b>Characteristics of the Site and Area:</b></p> <p>The proposal site is located on Feegarran Road, Cookstown to the rear of No. 29. There is currently a small shed to the rear of the proposed within a concrete yard, this is accessed via an existing laneway east of No. 29 Feegarran Road while the dwelling No 29 is accessed via a separate entrance NW of the shed access. The site is elevated above the level of the road and is flanked to the rear and sides by agricultural land. There are no immediate neighbours. The proposed third access is to be taken along the edge of the neighbouring agricultural field and the curtilage of the existing shed and yard to be extended into the neighbouring agricultural field.</p>	



**Description of Proposal**

Extension to existing domestic garage to provide a new machinery store (amended description)

**Deferred Consideration:**

This application was deferred at the Dec 2017 Committee for an office meeting.

That office meeting took place on the 14<sup>th</sup> Dec 2017 at which clarification was provided in relation to the intended use of the extended shed. The applicant currently keeps machinery for farm work in his small existing garage and has been doing so for some 17 years. Under I/2003/0770/F Mr Carson gained full planning permission for a Proposed shed & New access to the Rear of 29 Feegarron Road, Cookstown. A condition defining the enlarge to No 29 was attached for the following reason:

'To ensure that the amenities incidental to the enjoyment of the dwelling will not adversely affect the countryside'.

The scope of the application has somewhat changed since its initial submission including the description being amended to remove any 'commercial' element and to revise the design to shift the proposed extension to the opposite side of the yard area. An element of increase yard area is still proposed as well as amended access to the shed and its yard area.

Having examined the case officer's original assessment it was clear that the proposal intended more than just 'domestic' use of the proposed enlarged shed and that this did not accord with relevant planning policy.

In considering the proposal afresh and in light of the amended proposal it appears that the applicant intends the shed to be used only by him in association with his own machinery and that there will be no carrying out of trade or business from it, this can also be secured by a planning condition limiting use of the shed.

Clearly Mr Carson is an agricultural contractor and there is evidence on file by way of a number of invoices which provide evidence of this. I am aware of other relatively recent decisions on other sheds approved for the sole use of the occupants of adjoining dwellings in connection with their business but not for business use. Essentially in Policy terms whilst the proposed shed is in connection with the applicants business it itself will not be used for business, I feel therefore Policy CTY1 (re the increased curtilage) / and the Addendum to PPS7 which provides some guidance on 'domestic extensions and outbuildings'

PPS7 (addendum) The Countryside

Par. A24 states that The impact of an extension or alteration on the visual amenity of the countryside and, in particular, Areas of Outstanding Natural Beauty needs to be considered. Proposals should be in keeping with the character of the existing property and its countryside setting. Through poor design the individual and cumulative effect of extensions and alterations which are disproportionate in size to the existing property, or which require the use of land outside the established curtilage of the property, will result in a detrimental change to rural character.

Par A13 of the addendum also states that:

In the countryside, ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings.

I would agree that the decision on this case must consider carefully the further extension of the curtilage / yard for the extended shed. Having visited the site I find this area to be relatively discreet and located largely to the rear of No 29 itself. Whilst elevated slightly the shed extension which has been amended to more to the rear of No 29 also reduces the impact of its increased height over the existing shed. A new entrance allows safer use of the shed and I note an existing access to the opposite corner of the yard is to be closed up.

All in all I agree that the amended proposal is acceptable subject to the conditions below:

**Conditions:**

1. 5 year time condition.
2. The use of the shed hereby approved shall be limited only to the storage of machinery associated with No 29 Feegarron Road. No manufacturing or engineering works shall take place within the shed or any part of the yard.
3. All proposed planting to be provided during the first available planting season.
4. The vehicular access, including visibility splays of 2.4m x 75m in the Eastern visibility splay and 2.4m x 100m in the Western visibility splay, shall be in place, in accordance with Drawing No. 02 bearing the date stamp 06<sup>th</sup> April 2017, prior to the commencement of any other works or other development hereby permitted.
5. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

**Date** 18<sup>th</sup> May 2018



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2017/0846/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed cattle welfare unit including storage for hay and meal. Proposed yard area for storage of round bales ,farm plant and machinery	<b>Location:</b> 175m South East of 66A Kilnacart Road Dungannon
<b>Applicant Name and Address:</b> Niall McCann 66A Kilnacart Road Dungannon	<b>Agent name and Address:</b> Sam Smyth Architecture Unit 45 Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Summary of Issues:</b>  DAERA, Transport NI, and Rivers Agency were consulted and have made comment on this application. 2 letters of objection have been received and the comments made have been considered. All material considerations, including policy considerations, have been addressed within the determination of this application.	
<b>Summary of Consultee Responses:</b>  DAERA, Transport NI, and Rivers Agency were consulted and responded on this application. No issues have been identified through the consultation process.	
<b>Characteristics of the Site and Area:</b>  The site is situated on the Kilnacart Road, Dungannon, Co. Tyrone. This area is categorised as countryside within the Dungannon & South Tyrone Area Plan 2010. The area surrounding the site exhibits an undulating nature and can be described as a rural area with an element of small scale variation in elevation. This is quite an enclosed area of the countryside with little in terms of wide spanning views or prospects. The application site has a low hedge to the north bound on each of its sides by vegetation and hedgerows. The site is accessed via an existing access which is situated to the north of the site via Kilnacart Road. The site is part of an existing farm holding which includes lands surrounding the site and lands, in a separate parcel, some 250m to the north of the proposal. The lands which surround the application site do not host any farm buildings, however it is noted that the lands to the north of the site include up to nine farm buildings. The red line boundary of the site includes	

an existing hard stand area and agricultural pasture. There are a number of gates in the NW corner that are arranged in a pen. The proposed access to the application site is also in situ. The site is currently being used to store round bales, a digger, a mobile conveyor lift and some aggregates.

In terms of elevation the site area is relatively flat with a small rise in elevation to the south of the site and a gradual reduction in elevation towards a small stream to the west.

### **Description of Proposal**

Members are advised that this application relate to a proposed cattle welfare unit on lands 175m south east of 66A Kilnacart Road, Dungannon, Co. Tyrone.

The proposed shed is sited to the eastern fringe of the application site and is measured at 9.5m in width and 24.5m in length. The maximum ridge height of the proposal is measured at 9.8m. The proposal includes the provision of external cattle pens to the front of the welfare unit in an area measured at 9m in width and 18.2 in length. In addition the applicant seeks permission for a hard stand area, the entire site has been reduced in size to approx.. 2600 sqm. The hard standing area is to be used for turning of vehicles and storage of agricultural materials. Materials to be used on the proposed cattle unit include a shuttered concrete finish to lower walls, dark green coloured double skin cladding to upper walls and dark green coloured double skin cladding to roof.

The proposed cattle welfare unit is to be used for the storage of livestock on the farm holding, as well as storage of hay and meal. The applicant has highlighted that the proposal relates to the provision of a new agricultural shed at this location.

### **Deferred Consideration:**

Members are advised this application was deferred at the Committee Meeting on 9 April 2018, having been presented then and on 2 October 2017 with a recommendation to refuse. At the meeting on 9 April 2018 it was confirmed this a new building on Mr McCanns own holding, he does not have any agricultural buildings of his own and has been farming with his uncle Mr Hughes for a considerable period of time.

Mr McCann was recently allocated a Category 3 business Id and as such he is an active farmer. A letter dated 21 August 1998 from the then DARD, to Mr Hughes and Mr McCann, was for a grant that was being allocated to farmers and their families to encourage diversification from farming. This in itself does not demonstrate that Mr McCann was farming at that time, however Mr McCann has indicated he has been farming with Mr Hughes for a considerable number of years. He advised as a young boy he started helping with milking and this progressed into buying cattle for the herd. This arrangement has been ongoing for a long time, while I accept there are no formal records of Mr McCanns involvement, this type of farming relationship is fairly common and as such the members are asked to make an exception to the policy and set aside the requirement for being an established farmer, ie farming for over 6 years.

Mr McCann has buildings located beside his house, however these are all associated with his haulage business and are all currently being used. I am therefore content there are no existing buildings that can be used for agricultural purposes. Mr McCanns land ownership at his house is not extensive and as such I consider it is not possible to locate this building beside his existing buildings there. As this is the first agricultural building on Mr McCanns holding, he has now indicated a reasonably sized yard area for the agricultural use, he has his own animals and has

advised he will be extending his herd, once the necessary facilities have been provided, I am content that it is necessary for the efficient functioning of the business and it can be allowed under the exceptions policy in CTY12.

The proposed building is located on a roadside location where it will be readily visible, however this is only in close proximity to the building, due to the existing surrounding vegetation and land form. The proposed building will be seen against a backdrop of rising ground in all directions and with other, larger, agricultural and commercial buildings to the north and south. A hedge that is planted along the east side of the site, will assist integration and I consider the additional landscaping shown on the revised plan 02 REV C will further screen the development and assist its longer term integration into the landscape.

As the proposal can now be considered acceptable, members are asked to grant planning permission for this agricultural building and, in line with the requirements within policy CTY12 attach to any permission a condition that the development is for agricultural purposes only.

**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. Within 8 weeks of the date of this decision, the hardcored yard shall be reduced to the area as shown on drawing No 02 Rev D bearing the stamp dated 04MAY2018, the area outside the approved yard shall be re-instated as an agricultural field.

Reason: In the interests of visual amenity and to ensure ancillary development will not have an undue impact on the rural area.

3. The building and yard hereby approved shall be used only for agricultural purposes.

REASON: To prohibit a change to an unacceptable use within the countryside.

4, Within 6 weeks of the date of this decision, the vehicular access, including visibility splays of 2.4m x 90.0m in both directions shall be provided in accordance with drawing No 02 Rev D bearing the stamp dated 04MAY2018. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on Drawing No 02 Rev D bearing the stamp dated 04MAY2018 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the next available planting season following the date of this decision. Any tree, shrub or other plant

identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

6. No vehicles, other than agricultural machinery, shall be parked on the site identified in red on the attached drawing No 02 Rev D bearing the stamp dated 04MAY2018, for any period longer than 3 hours.

Reason: To allow for the delivery of animals, animal feed or animal bedding in association with the approved agricultural use.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2017/1142/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage (infill site)	<b>Location:</b> Approx 5m East of 74 Kinrush Road Ardboe
<b>Applicant Name and Address:</b> Ciara Curran 74 Kinrush Road Ardboe	<b>Agent name and Address:</b> Henry Murray 37c Claggan Road Cookstown BT80 9XJ
<b>Summary of Issues:</b> small size of gap site	
<b>Summary of Consultee Responses:</b> no objections	

**Characteristics of the Site and Area:** rural area with established road frontage development on both sides. Thus small gap site of some 20m sits within a line of 6 dwellings around a curve on Kinrush Road. All vegetation recently cleared from the site leaving defined tree boundary to SE side of site.







**Description of Proposal**

Dwelling and garage (infill site)

**Deferred Consideration:**

This application was deferred by the Planning Committee at its April 2018 meeting for a site visit.

**Record of member's site visit:**

26<sup>th</sup> April 2018

Present:

M.Bowman (Head of Development Management)

Cllr M.Glasgow

- On arrival at the site it was noted that vegetation that once covered the entirety of the site was now removed. This allowed for more appreciation of the size of the gap site available for the proposed dwelling.
- We walked around the frontage and noted the size and frontage area of each dwelling along this part of Kinrush Road
- The site of the recently permitted 'double infill' (I/2014/0104/RM) was noted as being substantial, exacerbated visually by the curve in the road along their frontages.

- Plots at Nos 80 and 82 were examined due to the portion of garden area used by the agent to calculate frontage lengths. It was agreed this really presented No 82 with a frontage to the road of some 34m as opposed to 23m as per the concept plan submitted
- Cllr Glasgow noted that any house on the site would need to be single storey and would be required to have a small footprint due to the confined nature of the sites width. It was also noted that the evergreen hedge currently between No. 74 and the site would be removed.
- I agreed to prepare a deferred consideration report for the next Planning Committee.

The only material change in circumstances which have arisen since my original site visit and the visit of 26<sup>th</sup> April has been the extent of vegetation removal from the site. Whilst allowing a greater appreciation of the size of the plot it nonetheless does not overcome my concerns about the restricted size of this plot for a dwelling, which as a requirement of Policy CTY8 of PPS21, must respect the existing development pattern along the road frontage in terms of size, scale, siting and plot size. Whilst each proposal is assessed on its own individual merits, approval may also lead to an unacceptable precedent being set which may prove difficult for the Council to resist in future similar proposals elsewhere.

Whilst the addition of another dwelling will not erode rural character as such, a dwelling on the site will appear out of keeping with adjoining more generous plot sizes and therefore be at conflict with the existing development pattern, being contrary in my view to Policy CTY8 of PPS21.

**Reasons for Refusal:**

The proposed development is contrary to Policies CTY1 and CTY8 of PPS21 as the proposed gap site is too small and fails to respect the existing development pattern along the road frontage.

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

**Date: 15<sup>th</sup> May 2018.**



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/1205/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for farm dwelling and double domestic garage	<b>Location:</b> 250m (approx.) north of 10 Lecumpher Road Moneymore
<b>Applicant Name and Address:</b> Jonathon and Jayne Smyth 19 Millrace Mews Moneymore	<b>Agent name and Address:</b> R Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
<b>Summary of Issues:</b>  No representations were received.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  The application site is located along Lecumpher Road, Moneymore in the rural countryside as defined within Magherafelt Area Plan 2015. The application site is a small field located along the roadside which is relatively flat and the entire site is bounded by hedging. The associated farm holding is located to the south of the site. The environment surrounding the site is predominantly rural in nature with single dwellings and farm holdings scattered around the wider area.	
<b>Description of Proposal</b>  This application seeks outline planning consent for a dwelling on a farm and double domestic garage.	
<b>Deferred Consideration:</b>  This application was presented before the Planning Committee in January 2018 with a recommendation to refuse based on the following reason:	

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

Following a discussion at that meeting the application was deferred for a meeting with the Planning Manager, Dr Boomer. This meeting took place on 24th January 2018 and was attended by the applicant, Councillor McKinney, R Leonard (the agent), planning officers – R McAllister and M McCrystal. At that meeting the following was discussed:-

The issues relating to the recommendation to refuse and why the proposal was to site a dwelling away from the main farm grouping. Dr Boomer advised that the unavailability to obtain a mortgage was not a consideration which significant weight can be attached to in the assessment of the application.

The applicant was advised to state why they were choosing the proposed site.

RL advised that the site was approved in 2004 but was never started and claimed that at an office meeting with the case officer he was advised to erect a small farm shed on the site which would then create the circumstances for a dwelling to be approved.

The fact is that the small shed was erected, however, it was done without planning approval and it did not have the benefit of a Certificate for Lawful Development (CLUD) as it is not entitled to be erected under agricultural permitted rights. Therefore the shed is an unauthorised development and is of no benefit to the applicant in this application.

There was a discussion around the ownership of the laneway and right of way for a new dwelling on that lane.

Dr Boomer advised that the agent needs to check land registry regarding the applicants right to use the laneway for a new dwelling and to provide a valid reason as to why the laneway could not be used for the intended purpose.

MMC was to check if there were any environmental benefits for choosing the site.

The principle of a dwelling on the farm as assessed under Policy CTY 10 has been accepted, therefore only the siting needs to be agreed.

It was agreed that the applicant would provide the necessary additional information and MMC would inspect the site.

Additional information submitted.

The agent submitted the following additional information;

- A letter from a mortgage company advising that it would be extremely difficult to obtain approval on a mortgage for a site which is accessed via a shared laneway and the proximity to farm buildings;
- Copies of land registry maps indicating ownership of the laneway. this clearly proves that the applicant does not own the laneway albeit at certain points. However, the fact that a third party owns the entire lane between the south-eastern corner of the site for a

distance of approximately 70m, is sufficient to demonstrate the applicants lack of control over the lane in order to provide access to a site adjacent to the existing farm complex.

Given the fact that the applicant does not own nor control the laneway in order to provide a suitable access to a site adjacent to the existing farm complex, some sympathy can be given to the applicant and therefore not insist that they locate a site for a dwelling on the farm at such a location which requires access along that laneway.

The proposed site is a small well enclosed field at the end of the aforementioned laneway. The site is bounded by a 2.5m high conifer hedge along the laneway, with 1.5m high hedge on the remaining three sides. An open drain extends along the front boundary at roadside. On travelling eastwards there are only restricted views of the site due to the mature vegetation and the roadside boundaries. On travelling westwards, again there are only localised views from the access laneway to no.7 Lecumpher Road. However, from this point, a dwelling on the proposed site would be set against the rising ground to the west, with Slieve Gallion providing an acceptable backdrop. As such, the proposed site could accommodate a dwelling with a ridge height of 5.5m above finished floor level with a maximum under-build of 0.45m above existing ground level. As there are no existing buildings in the immediate vicinity of the proposed site, a dwelling on this site would not have a detrimental impact on rural character in terms of build-up.

The unauthorised building which was erected on the site has now been removed.

Although the visual linkage with the existing farm buildings is tenuous and the site is not sited to cluster with a group of buildings on the farm, in this particular case, I would advise that the members can consider setting aside the requirement for the dwelling to be located up the lane next to the farm group, given the high degree of integration achievable by this site and the fact it is located at the end of the entrance lane to the farm group.

Having considered all of this, the proposal is within the spirit of Policy CTY 10 and is considered acceptable. Therefore it is my opinion that the proposal should be recommended for subject to the following conditions:-

**Conditions:**

1. Application for approval of the reserved matters shall be made to Mid Ulster District Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
  - i. the expiration of 5 years from the date of this permission; or
  - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. The dwelling hereby permitted shall have a ridge height of not greater than 5.5 metres above finished floor level, designed and landscaped in accordance with the Department of Environments Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

4. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

5. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

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

6. The existing natural screenings along the northern, southern, eastern and western boundaries of this site, shall be retained at a height of not less than 1.5m, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

7. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

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

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

9. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

10. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/1276/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and domestic garage at a gap site in accordance with policy CTY8	<b>Location:</b> Approx 35m South East of 2d Drumard Lane Draperstown
<b>Applicant Name and Address:</b> Mick and Carmel McKee 3 Drumard Lane Draperstown	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  No representations have been received in respect of this application.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  The proposal site is located on the roadside of Drumard Lane, immediately adjacent on the NW side is a detached dwelling with a detached garage located at the rear of the property and with a frontage to the roadside and then on the SE boundary is a detached dwelling that sits a good distance back from the roadside and the approved curtilage does not come to the roadside thus this property does not have a roadside frontage. The proposal site is currently quite overgrown with mature vegetation to all sides, to the rear of the site is agricultural land. The landform is undulating in nature.	
<b>Description of Proposal</b>  Outline application for 'proposed dwelling and domestic garage at a gap site in accordance with policy CTY 8'.	

**Deferred Consideration:**

This application was presented before the Planning Committee in January 2018 with a recommendation to refuse based on the following reason:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Drumard Lane.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

Following a discussion at that meeting the application was deferred for the Senior Planning Officer to visit the site and assess if the application could be considered as being acceptable.

I visited the site on 9th May 2018 and found that the site in question is a small site largely overgrown by bushes/shrubbery and is located on a plot of land between two dwellings. With regards to the dwelling to the north west ie. 2d, this is a large two storey detached dwelling which has a frontage onto the Drumard Lane. At the northern side of the dwelling is a detached garage which is set to the rear of the dwelling, however, it is still regarded as having a frontage to the Drumard Lane and therefore the garage constitutes a second building.

The dwelling to the south east ie. no.2f, has a long narrow frontage which extends to the Drumard Lane and therefore it has a frontage to the road. However, although the approved site plan for no.2f shows the curtilage restricted to the field boundary which was originally around the house and not extending to the road, that curtilage has been extended and from the aerial photography would appear to have been in place for some time. Therefore giving the benefit of any doubt to the applicant, the situation on the ground at present is one of a site located within a line of three buildings which have frontages onto the Drumard Lane. Therefore the proposal would meet this policy test and is acceptable in that respect.

In terms of integration, a dwelling with a maximum ridge height of 8.0m above finished floor level and a maximum underbuild of 0.45m could achieve an acceptable degree of integration on this site. Furthermore, given the level of vegetation surrounding the site, which provides a sense of enclosure, such a dwelling will not have an adverse impact of visual amenity.

**Conclusion**

Given the above situation, it is my opinion that the proposed site satisfies the policy tests and can be approved subject to the conditions listed below:-

## Conditions

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

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

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

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

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

3. The dwelling hereby permitted shall have a ridge height of not greater than 8.0 metres above finished floor level, designed and landscaped in accordance with the Department of Environments Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

4. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

5. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

6. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

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

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

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

8. The existing natural screenings along the northern, southern, eastern and western boundaries of this site, shall be retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

9. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

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

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

11. A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

Reason: In order for the applicant to create a safe access onto Drummard Lane which meets the standards set out in PPS3 and DCAN15.

**Signature(s):**

**Date**