



02 February 2021

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 02 February 2021 at 19:00 to transact the business noted below.

In accordance with the spirit of the recent COVID restriction, Members are strongly encouraged to join virtually as the preferred option. Should you need to attend in person then provision will be made at the Council Offices, Magherafelt. Please notify Democratic Services in advance if this is the case.

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

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

### Development Management Decisions

4. Receive Planning Applications

7 - 232

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2017/0319/F	Relocation of 2 chimney stacks (approved. M/2011/0126/F) and the retention of 4 further chimney stacks to facilitate spraying within existing approved building.(Amended description)	REFUSE

		(Revised Odour Impact Assessment received) at 70m S of 177 Annagher Road Dungannon, for DMAC Engineering.	
4.2.	LA09/2018/0594/F	Demolition of existing abattoir and erection of new local neighbourhood shop, workshops, forecourt, canopy and crèche at 1 Coalisland Road, Dungannon, for BDJ Management Ltd.	APPROVE
4.3.	LA09/2019/1105/O	Site for a farm dwelling and double garage at 70m W of 25a Corrycroar Road, Pomeroy, for Mr Connor Carberry.	REFUSE
4.4.	LA09/2019/1546/F	No1 pullet rearing poultry shed with feed bin, storage shed and associated site works at land approx. 250m SW of 1 Grillagh Road, Maghera, for Glenshane Eggs.	APPROVE
4.5.	LA09/2020/0263/F	1 detached dwelling and 4 semi detached dwellings with detached garages, Estate Road and Footpaths. 1 dwelling and change of use of existing listed outbuilding from farm building to domestic garage and stores with renovations for domestic purposes ancillary to the proposed dwelling on the former site of 1 Gortagammon Road and lands adjacent to Berkley Mews, Tullyhogue, Cookstown for Mr David Mc Aleece & Shani Flint.	APPROVE
4.6.	LA09/2020/0639/O	2 storey dwelling and garage at site approx. 90m SW of 81 Cullenrammer Road, Dungannon for Miss Natasha Murray.	APPROVE
4.7.	LA09/2020/0695/F	Detached dwelling at lands to the rear of 39-41 Ranfurly Road, Dungannon, (accessed from Gortmerron Avenue), for Mr Patrick McEvoy.	APPROVE
4.8.	LA09/2020/0705/F	Upgrade to an existing household waste recycling centre to include new split level design, site office, weighbridges, concrete yard and	APPROVE

		vehicle parking sheds and upgrading non hazardous waste transfer station, including reinforced concrete internal push walls and reconfiguration of roller doors at Magherafelt Depot and Recycling Centre, Ballyronan Road, Magherafelt, for Mid Ulster District Council.	
4.9.	LA09/2020/0707/F	Infill dwelling and garage 20m E of 15 Lisgorgan Lane, Maghera, for William Drennan.	REFUSE
4.10.	LA09/2020/0798/F	2No. two storey dwellings at site immediately E and adjacent to 5 Frenchmans Lane Castlecaulfield, for Miss Kathy Robinson.	APPROVE
4.11.	LA09/2020/0840/F	Dwelling and garage (infill site) adjacent to 55 and opposite 59 Coole Road, Aughamullan Coalisland for Fionntan Cullen and Niamh Carberry.	REFUSE
4.12.	LA09/2020/0879/O	Dwelling and garage on a farm at 45m NE of No 7 Glenviggan Road, Draperstown, for Mr. Cathal Doyle.	APPROVE
4.13.	LA09/2020/0899/O	Site for a dwelling & domestic garage at pprox 15m N of 69 Anneeter Road, Coagh, for Mr Charles Mallon.	REFUSE
4.14.	LA09/2020/1030/F	Replacement dwelling and garage at 55 Mullaghboy Road, Bellaghy for Miss Clodagh McPeake.	APPROVE
4.15.	LA09/2020/1119/O	Dwelling and garage in a cluster 10m W of 44 Ballyscullion Road, Bellaghy, for Mr Brian Milne.	REFUSE
4.16.	LA09/2020/1169/F	Alterations and extensions to existing dwelling including new access gates, pillars & walls at 81a Glen Road, Maghera for Mr & Mrs Gareth Campbell.	APPROVE
4.17.	LA09/2020/1191/F	New access to existing dwelling at 28 Ballymaguigan Road, Magherafelt, for Martin Mclvor.	APPROVE
4.18.	LA09/2020/1192/O	Dwelling on a farm at 70m NW of 90 Moneysharvan Road, Maghera, for Ronan Bradley.	REFUSE

4.19.	LA09/2020/1225/O	Infill dwelling at lands adjacent to 214 Hillhead Road, Castledawson, for Jim McPherson.	REFUSE
4.20.	LA09/2020/1317/O	Site for dwelling and garage at lands between 17-19a Drumrot Road, Moneymore for Miss Z McClintock.	REFUSE
4.21.	LA09/2020/1523/F	Installation of Floodlights to MUGA a Maghera Leisure Centre, Coleraine Road, Maghera, for Mid Ulster District Council.	APPROVE

## 5. Receive Deferred Applications

233 - 330

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2016/1693/O	Farm dwelling and garage, 195m SW of 146 Gulladuff Road, Bellaghy for Seamus McCorry.	APPROVE
5.2.	LA09/2019/0050/O	Site for a dwelling and garage at 37m NE of 9 Annaghmore Lane, Annaghmore, Cookstown for Mr Noel Devlin.	APPROVE
5.3.	LA09/2019/1008/F	Retention of dwelling under construction at 7 Tobermesson Road, Dungannon, for Mr Conor Curran.	REFUSE
5.4.	LA09/2019/1157/F	Retrospective domestic storage shed with extension of curtilage 5 Jacksons Drive, Gulladuff, for Paul McGarvey	APPROVE
5.5.	LA09/2020/0315/O	2 storey dwelling and garage on a farm adjacent to 182 Mountjoy Road, Brockagh, Dungannon for Mr Paul Mulholland.	APPROVE
5.6.	LA09/2020/0862/F	Replacement dwelling and garage at site 400m E of Fairview, 221 Hillhead Road, Castledawson, for Jason Thompson and Julie Espie.	APPROVE
5.7.	LA09/2020/1027/F	Infill site for 2 dwellings and garages between 11B and 11E Hillside Road, Upperlands for Mr Danny McMaster.	REFUSE



Matters for Information

- 6 Minutes of Planning Committee held on 11 January 2021 331 - 348
- 7 Receive report on lodgement of Non-determination Appeal 349 - 352

**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 Updated Planning Office authorisation List
- 9. Receive Enforcement Report

Matters for Information

- 10. Confidential Minutes of Planning Committee held on 11 January 2021
- 11. Enforcement Cases Opened
- 12. Enforcement Cases Closed





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> Feb 2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0319/F	<b>Target Date:</b>
<b>Proposal:</b> The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)	<b>Location:</b> 70m South of 177 Annagher Road Dungannon
<b>Referral Route:</b> Application recommended for refusal and objections received.	
<b>Recommendation:</b> Refusal.	
<b>Applicant Name and Address:</b> DMAC Engineering 204 Washing Bay Road Dungannon	<b>Agent Name and Address:</b> CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
<b>Executive Summary:</b> Proposal fails to comply with policy in relation impacts on neighbouring amenity.	
<b>Signature(s):</b> M.Bowman	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	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** – failure to demonstrate that neighbouring amenity is protected from unacceptable levels of odour nuisance.

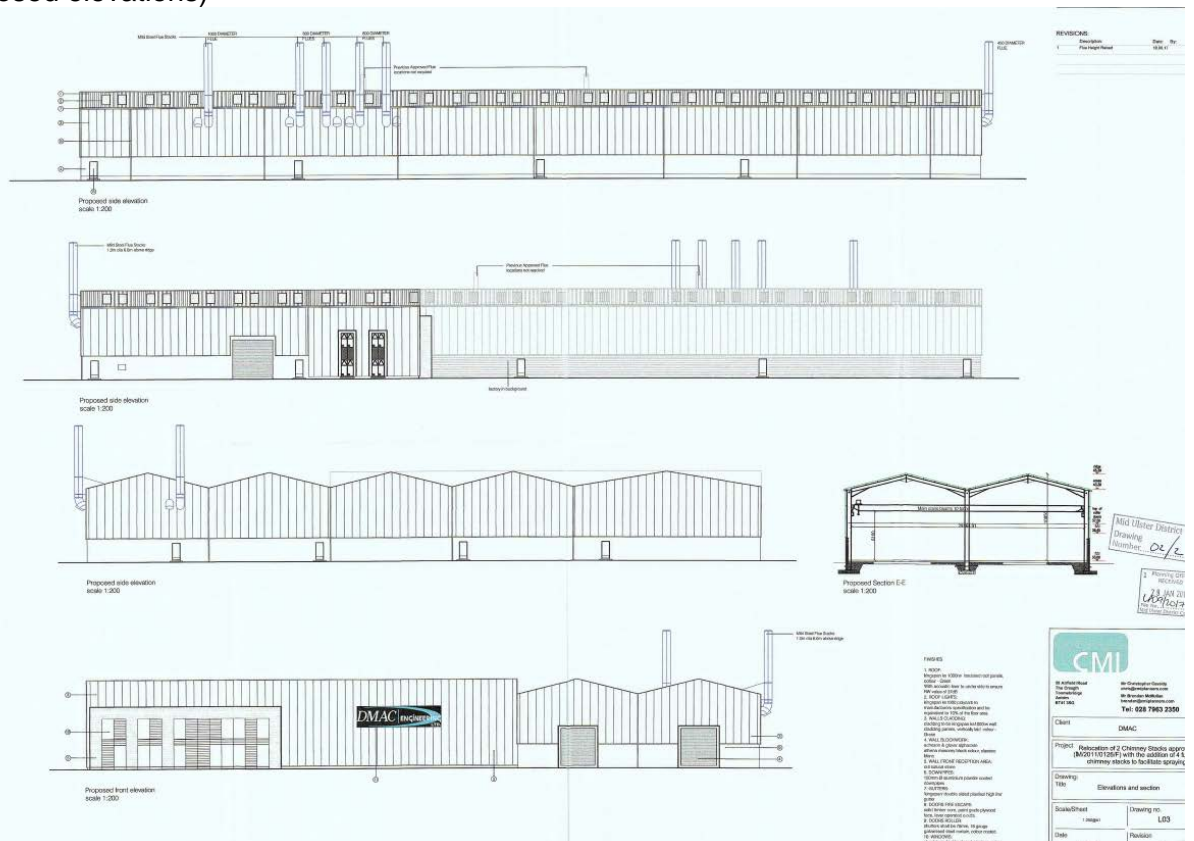
## Characteristics of the Site and Area

Existing DMAC engineering site located on outskirts of Coalisland at Annagher Road. Rural area as defined by the Dungannon Area Plan with residential dwellings dispersed on all sides. Significant topographical differences with the DMAC facility being located well below Annagher Road but at a level where there are other private dwellings to the southern and SE boundaries of the site.

### Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)

(proposed elevations)

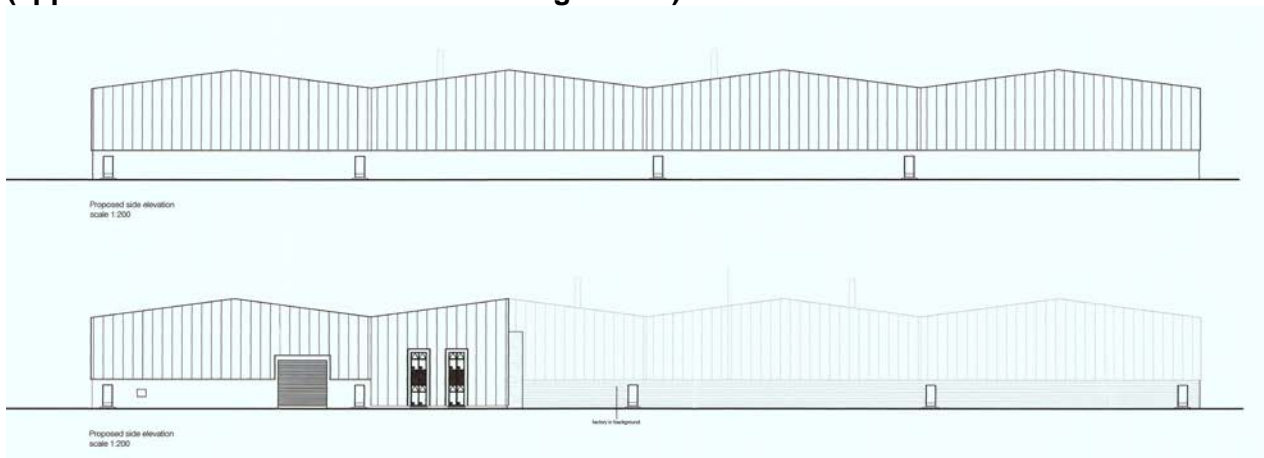


## Planning Assessment of Policy and Other Material Considerations

The original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15<sup>th</sup> April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

### (approved elevations for DMAC showing 2 flues)



An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

This application was originally submitted on the 3 Mar 2017 and was a being to relocate 2 chimney stacks under planning reference M/2011/0126/F with the addition of 2 further chimney stacks to facilitate spraying. The agents supporting statement described this as being necessary for the most efficient system to be installed on site. This original spec for the extraction system incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

A consultation was issued to Environmental Heath (EHO) who returned a reply on the 3<sup>RD</sup> May 2017 seeking an odour assessment given a number of complaints which had already been received by the EHO department relating to odour and fumes. CMI planning indicated to the Council that this would be prepared by Irwin Carr and be submitted within 2 weeks.

A reminder was issued in Aug 2017 given the absence of the promised report. The report was received by the Council on the 14<sup>th</sup> Aug 2017 and issued to EHO for comments, as well as local objectors to the proposal. On the 18<sup>th</sup> Aug 2017 the case alerted CMI Planning that the flues were now extended and may not accord with the submitted application. CMI responded on the same day to state that the flues had indeed been extended to 3m above the ridge as opposed to 3m above the eaves of the building. CMI were further asked if this would have any bearing on



the recently submitted odour assessment report. In a reply on the 18<sup>th</sup> Aug 2017 CMI stated that the increased height would have no bearing on the results as 'it is the diameter of the pipe that gives the calculations. The increased height actually will reduce the area of turbulence'. Amended plans were uploaded to the portal on the 18<sup>th</sup> Aug 2017.

The EHO response to the above indicated that there may be anomalies between the inputs to the model and what is actually occurring on site. The response also indicated that odour complaints had been verified on site by members of EHO. In addition 2 further stacks had been identified on the building associated with an alleged additional spray booth.

In Jan 2018 CMI responded to amend the Odour assessment and alter the description of the proposal to refer to its present description, ie, proposing the retention of 4 additional stacks and the relocation of 2 originally approved with these discharging 6m above the buildings ridge line. A series of notification, further objection and re-consultation followed. I will go into detail on the nature of local objections later in this report. The EHO reply on 15/3/18 stated the odour report still indicates that the odour detected at the closest sensitive dwellings will be significantly below the 3ou/m<sup>3</sup> target value set out in H4 Odour management. It also predicts that if the stacks were increased to 6m that this would lead to a decrease in odour levels from 0.93ou/m<sup>3</sup> to 0.72. However, in continuing to receive complaints from spraying several officers from EHO are stated as having made visits and witnessed odour to be very strong on numerous occasions and that investigations have been carried out to eliminate any other source of odour (as claimed by CMI Planning), these investigations concluding that DMAC is the source of the odour. The EHO response concludes that as the odour model submitted predicts no odour impacts, and that given this is not the agreed on-site observation, that there are reservations as to the beneficial impact of only 3m in the stack heights. The applicant may therefore need to consider alternative means of odour abatement.

It is at this point the application has hit somewhat of a standstill. CMI planning it appears continues to question the EHO on-site observations and consequently the accuracy of their consultation replies. In early 2019, by which it is understood that the stack heights had been further extended to 6m, CMI was again asked to response to the outstanding position outlined by EHO. In April and May 2019 CMI wrote asking EHO to provide their site visits records for the purposes of cross-checking. On the 16 May 2019 CMI again indicated that they required a full explanation from EHO on their visit and observation dates.

A further EHO consultation (see below) issued on the 15<sup>th</sup> Oct 2019 is again challenged by CMI and refers to a later Odour report sent to them in Aug 2019 but which it is claimed has not been considered. In engaging with EHO it appears the Aug 2019 odour report is unknown to them and I do not see a record of it on file. What the agent is referring to is possibly a stack monitoring report submitted to EHO which the DMAC company are required to do to satisfy the Council under the PPC regime. Whilst these 2019 results show higher discharge velocities than the 2018 results, the Council have not been presented with an odour assessment with updated odour assessment with the figures requested (as per the 2018 report) which were considerably lower than 15 m/s.

#### Comments on Planning Application

15<sup>th</sup> October 2019

**Proposal:** The relocation of 2 chimney stacks approved under ref.M/2011/0126/F and the addition of 4 further chimney stacks To facilitate spraying within existing approved building

**Location:** 70m South of 177 Annagher Road, Dungannon

This application for relocation of 2 chimney stacks and the addition of an additional 2 stacks has been considered along with the submitted Irwin Carr Odour Impact Assessment dated 16<sup>th</sup> January 2018.

The Irwin Carr report uses AERMOD dispersion modelling to predict overall average impact of emissions from the existing facility using site specific inputs on odour emission rates, stack diameter, exit velocities etc. along with meteorological data and considers the impact at nearby residential properties over the previous 5 years. They concluded that the odour levels at all nearby receptors were significantly below the 3 ou/m<sup>3</sup> whilst an increase of stack height by 3 metres (to 6 metres in total above ridge height) resulting in a 13.5 -23.5% reduction in odour levels at these receptors.

It is our understanding that the current stack heights are 6 metres above ridge height. Planners should satisfy themselves that this is the case.

The Environmental Health Department continue to receive odour complaints from nearby residential properties and officers have clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, we request that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3<sup>rd</sup> party receptors.

We would also request that new or additional mitigation measures be considered which will reduce the odour impact at nearby residential properties to further progress this application.

#### Policy Considerations.

The site is located in the countryside, on the edge of the settlement of Coalisland as defined by the current Dungannon Area Plan. The DMAC engineering business is now established here. My consideration of this proposal is therefore only concerned with the reposition and addition of the chimney stacks now on the building retrospectively. I don't see this proposal so much as an expansion of the premises in Policy PPS4 PED3 terms, but rather more a Policy PED9 test.

The SPPS in referring to Economic Development, Industry and Commerce, whilst recognising that economic development in the countryside, states:

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.

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.



Policy PED9 of PPS4.

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet a number of criteria. Amongst these are 2 in particular which I feel require specific consideration not, namely:

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

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

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

The Justification and Amplification of this Policy recognises that in making provision for economic development, and in considering proposals, the Department will seek to minimise adverse effects on the amenities of adjacent properties, particularly dwellings, and on natural and built heritage resources. Particular care will be taken to safeguard local, national and international natural heritage designations.

It is my view that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appear well below the required standards which would assist with adequate dispersal. In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I don't not share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I do not feel that these are excessive in relation to wider public aspect. On this basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

Consideration local objections.

There have been 8 objections received from properties at No 36 Washingbay Road, 181 Annagher Road, 160 Annagher Road, issues raised include:

1. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
2. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
3. The stacks have introduced a further visual impact and deterioration of rural character
4. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.
5. NI HSE are currently investigating the impacts and it is requested that the views of statutory bodies is sought.
6. That noise nuisance has increased from the factory
7. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
8. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
9. The stacks have introduced a further visual impact and deterioration of rural character

10. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.

11. The overall enjoyment of property is being effected on occasion by fumes by not being able to use my garden / relatives being unable to visit.

12. That to rely on computer generated modelling is of limited value. The presence of the 6 chimneys provides ample opportunity to use real air quality monitoring. A PAC decision, 2017/A0043 supports this view in terms of the weighting to be afforded to air dispersion modelling as opposed to real air samples.

I recognise and concur with many of the issues raised by residents. In reaching my recommendation I attach determining weight to these concerns when considered in conjunction with the on-site observations of EHO colleagues. The matter of noise concerns I feel relates to wider claimed issues associated with DMAC operations and not this specific proposal. I note that the HSENI in May 2017 advised the Council of an investigation into alleged paint fumes from the plant following a complaint from a member of the public and asked that the Council planning enforcement team further investigate and consider.

I fully appreciate that DMAC need a means of discharging emissions in the interests of the efficient and safe undertaking of the business, as stated within the agents supporting statement, this cannot however be at what appears to be the expense of the quality of residential amenity being experienced in the locality of the factory and as observed by EHO.

I refer back to the earlier promised means by which the company stated they would deal with emissions contained in the original approval for DMAC which it seems has not been incorporated into the factory. Given that the Council have not been presented with any other obvious alternative design solution or other means of demonstrating satisfactory compliance, and in considering the clear objections from EHO and local residents, my recommendation is to refuse permission for the reason set out below.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation: Refusal.**

**Reasons for Refusal:** The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

**Signature(s) M.Bowman**

**Date: 19<sup>th</sup> Jan 2021**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd March 2017
<b>Date First Advertised</b>	16th March 2017
<b>Date Last Advertised</b>	15th February 2018
<b>Details of Neighbour Notification</b> (all addresses) E Campbell 160 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 4NF The Owner/Occupier, 177 Annagher Road Annagher Coalisland Martin and Kathleen Dooey 181 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin and Kathleen Dooey 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin Dooey 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA J Campbell 183 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA The Owner/Occupier, 185 Annagher Road Dernagh Coalisland Orlagh Campbell 197 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU	
<b>Date of Last Neighbour Notification</b>	2nd February 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2016/1761/NMC Proposal: Relocation of previously approved flue stacks Address: 70m South of 177 Annagher Road, Coalisland, Decision: CR Decision Date:  Ref ID: LA09/2015/1278/NMC	

Proposal: Minor change to planning approval M/2011/0126/F: change of exterior cladding colour of the unit to green and change of roof pitch to accommodate overhead cranes

Address: 70m South of 177 Annagher Road, Coalisland,

Decision: CG

Decision Date:

Ref ID: LA09/2017/0319/F

Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the addition of 2 further chimney stacks to facilitate spraying within existing approved building

Address: 70m South of 177 Annagher Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2014/0027/LDE

Proposal: The continued use of the land for the storage of industrial machinery, steel. portacabins and general industrial equipment

Address: Lands south of 177 Annagher Road, Coalisland,

Decision: PR

Decision Date:

Ref ID: M/2010/0631/Q

Proposal: Zoning of Industrial Lands

Address: Lands South of 177 Annagher Road, Coalisland

Decision:

Decision Date:

Ref ID: M/2011/0126/F

Proposal: Small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland.

Address: 70m South of 177, Annagher Road, Coalisland,

Decision: PG

Decision Date: 29.04.2015

Ref ID: M/1986/0582

Proposal: EXTRACTION OF SAND

Address: ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1987/0421

Proposal: SAND EXTRACTION

Address: ANNAGHER ROAD, ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1989/0159

Proposal: Extraction of sand

Address: BEHIND 177 ANNAGHER ROAD ANNAGHER COALISLAND

Decision:

Decision Date:

Ref ID: M/2013/0464/LDE

Proposal: Works which were subject to conditions have not been carried out

Address: Lands south of 177 annagher Road, Coalisland,

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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Status: Submitted

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Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 02

Type: Proposed Elevations

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0594/F	<b>Target Date:</b>
<b>Proposal:</b> Demolition of existing abattoir and erection of new local neighbourhood shop, workshops, forecourt and canopy and crèche.	<b>Location:</b> 1 Coalisland Road, Dungannon, BT71 6JT.
<b>Referral Route:</b>  This is a major planning application	
<b>Recommendation:</b> Approve with conditions	
<b>Applicant Name and Address:</b>  BDJ Management Ltd, Unit 10, A45 Complex Ballynakilly Road, Dungannon.	<b>Agent Name and Address:</b>  Clarman & Co, Unit 1, 33 Dungannon Road, Coalisland, BT71 4HP.
<b>Executive Summary:</b>  This application is located outside the town centre of Dungannon. It is located in an area of mixed use development, including retail, commercial, light industrial and residential.  The local neighbourhood shop is associated with the petrol filling station and is not considered to have a detrimental impact on the retail uses located in the town centre of Dungannon.	
<b>Signature(s):</b>	



**Case Officer Report****Site Location Plan****Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NIEA	Advice
Non Statutory	NI Water - Multi Units West - Planning Consultations	Consulted in Error
Non Statutory	DETI - Geological Survey (NI)	No Objection
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	NIEA	Standing Advice

Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	NIEA	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

**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**21 August 2018 from Inaultus

Holding letter of objection pending further objections to be submitted

5 December 2018 Inaultus

- The application is unclear and the assessment of the proposal by the applicant is confused.
- The description of the proposal is for a new neighbourhood shop but the supporting reports refer to a new local community shop.
- There is a duplication of facilities that are already provided inside the protected Oaks District Centre immediately abutting the application site;
- The retail statement has failed to include some relevant information;
- The applicant has failed to provide a proposed sequential test assessment. The SPPS does not favour District Centres over other out of town locations but it does recognise District Centres should be retained and consolidated. The Oaks centre is the sole District Centre identified in the Dungannon Area Plan. A proper sequential test would set out that the proposal is only for a small petrol filling station shop, with an associated crèche and café. The decision to ignore the Oaks in the sequential test is a matter that the Council should carefully consider and determine if it is the correct policy approach;
- The applicant has failed to demonstrate that there is a qualitative need for the proposal;
- The applicant has failed to demonstrate that there is any quantitative need for the proposal and any quantitative need that might exist is for an area that is different to the proposal's core catchment location and focused on main food shopping rather than the local top up shopping that the proposal seeks to attract;
- The proposal is in conflict with PPS 4 and the associated Pre Application Notice (PAN). The applicant states the former use as an abattoir is incompatible with surrounding land uses yet the proposed workshops are being offered as suitable

uses. The applicant states the existing buildings are unsuitable in terms of height and internal layout for conversion to workshop use which the objector disagrees with. There are no grounds in PPS 4 to allow for retail employment to replace economic development use.

- The proposal is in conflict with DCAN 13 as it is not clear there will be no detrimental impact on residential amenity. The submitted noise assessment addresses noise from the petrol filling station and workshops but has not addressed noise from the crèche. A full traffic assessment is required to demonstrate the proposal can be developed without adverse harm to the safety and convenience of road users.

#### 15 December 2018 from WYG

- There are significant inadequacies with the layout as proposed, not least that refuse and delivery vehicle movements have not been considered. There do not appear to be any service delivery or bin store areas.
- There are inconsistencies in the description of the development between the application form and the supporting analyses.
- The analyses contains errors e.g. it is assumed that 30% of the crèche traffic will not also visit the supermarket twice a day, every day of the week but this is the applicant's assumption;
- A TAF has been submitted but a Transport Assessment has not been submitted.

#### 20 March 2019 from Inaultus:

- Question the reliability of the retail statement in particular the identified turnover levels of existing shops and the scale of difference between available spend and available turnover in this case;
- The site is not centrally located between schools, with only one school within a 5 minute walk of the site which is Sperrinview. The other schools are beyond a 5 minute walk to the site. Those visiting the proposed application site will have to pass the Oaks District Centre;
- Appendix 8 of the retail statement fails to identify the coffee shops and hot food restaurants at the Oaks Centre;
- The reasons for the site selection stated do not stand up to scrutiny;

#### 8 July 2019 Inaultus:

- There is some confusion as to what is being applied for and what the amendments are confusing as not all documents have been amended to show the latest proposal.
- The objector questions the implications of an amended proposal on the Pre-Application Community Consultation Exercise.

#### 16 July 2019 from WYG:

- The information has not been uploaded properly;
- The application form is incorrect and misleading as it directs the reader to the Transport Assessment Form as the place to find information on the number of vehicles, however the TAF was produced in May 2018 and so it does not contain the applicant's latest information in relation to trip rates. Moreover it relates to the original floor spaces and proposals and so it is inaccurate in terms of the currently proposed use;

- A Service Management Plan (SMP) has been submitted but it says nothing of how units and the crèche at the east of the site can be reached by servicing or refuse vehicles;
- There are no bin stores or delivery areas for those uses;
- The reversing of refuse and delivery vehicles through a tight nursery and retail car park is not acceptable;
- Appendix B of the SMP shows larger vehicles entering the site but only proceeding as far as the forecourt area;
- Plan D-0003 shows a HGV leaving the site turning left will sweep across both the inbound proposed ghost island lane and also the inbound ghost island lane for the Enterprise Centre opposite and there will be conflicts with cars in those lanes. The plan also shows how a HGV entering the site does not fit within the proposed right turn ghost island lane, so if it has to wait it will block the road. Once the HGV is on site it's turning manoeuvre touches the ends of parking bays, footways and even the petrol pumps;
- The proposed access is also inadequate in terms of the Design Manual for Roads and Bridges (DMRB) geometric standards for ghost islands and in terms of junction separation;
- DMRB requires a turning length of 10 metres and a deceleration length within the right turn land of 25 metres i.e. a total of 35 metres. The design shows a deceleration length of just 9.6 metres;
- The applicant's roads consultant has confirmed their access design is substandard and that other compliant options may be available but this would cost the client more money and this is not an acceptable justification for providing a substandard access to a private development to the benefit of a private developer and to the detriment of traffic on the public highway;
- The applicant has reduced the linked trip level from 30% to 20%. However with the removal of the coffee shop it is highly unlikely that 20% of all trips to the petrol station/local shop will also visit the workshop and vice versa. It is unlikely there will be any material level of shared trips and consequently traffic generation will be higher than either the TAF or the Transport Assessment forecast.

19 July 2019 Inaultus:

- The proposal has the potential to negatively impact and undermine the performance of the Sainsbury's petrol filling station located at the Oaks District Centre and as the main anchor of the Oaks, any impact or diversion of trade from this facility has potential to further reduce trade in the Sainsbury's store and reduce footfall and trade in the Oaks;
- The petrol filling station, shop and crèche does not benefit from any community support and is not compatible with neighbouring land uses. Nothing in PPS 4: PED 4 permits retail and petrol filling station uses. The proposal is not of a scale, nature and form appropriate to this location. The PFS sits at the front of the development and occupies 50% of the site, dominating the site's visual prominence which illustrates the PFS is out of scale and out of nature with the proposed industrial workshops. There is no demand presented for the proposed workshops and it is uncertain if these will in fact be constructed;
- Disagree with TSA report that retailing is an ancillary element and the reference to the policy exception of PED 7 is wrong as it refers to zoned land and not unzoned land. The first part of PED 7 does not apply to this proposal;

- References by TSA to PPS 5 are inappropriate as this policy has been superseded by the SPPS and as such the Council must apply the tests of the SPPS to the proposal;
- TSA are incorrect to suggest that the impact on the Oak District Centre is not sustainable. The Council are required to consider whether there is a need for the proposal under the SPPS. The factors to be considered in assessing the need for the proposal are set out at SPPS para 6.290;
- TSA have amended the catchment from that previously asserted by RPS and now stands at 512 dwellings, 130 workers and 52 school staff and this is dramatically reduced and cannot be justified in terms of need;
- There is no convincing evidence this proposal meets an unmet need in the catchment. TSA fail to note the Home Bargains Store, Poundstretcher, Boots and Post Office located at the Oaks centre and the proposal cannot provide any convenience not already being provided by some of the largest UK retailers within 400m of the site;
- Stretching the catchment to 1200m as suggested by TSA includes butchers, grocery stores, pharmacists, post office and newsagents, Poundland and Lidl and therefore it is not deficient in anyway;
- The replacement of a coffee shop for a workshop has a potential impact on residential amenity;
- The applicant has not made a sequential assessment nor a quantitative need for the proposal;
- There are no special circumstances that would allow the Council to grant this proposal against the general presumption to retain these lands for economic development use;

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

The application site is located in what can be described as a mixed use area.

The site itself has a mix of single and two storey industrial buildings and associated car parking areas with room for the turning of vehicles within the site. The site is currently bounded by green palisade fencing and although the site is relatively flat it does rise gently towards the eastern boundary of the site.

To the south east is a Council depot site. To the north of the site are residential dwellings. To the west is an enterprise centre. To the south west are residential dwellings. To the south of the site are retail units, a cinema, McDonald's, a petrol filling station and the Oaks district shopping centre with the anchor tenant being Sainsbury's with other smaller retail units in the centre.

### **Description of Proposal**

The proposal is for the demolition of an existing abattoir and the erection of new local neighbourhood shop, workshops, forecourt and canopy and crèche.

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

Regional Development Strategy 2035  
 Strategic Planning Policy Statement  
 Dungannon and South Tyrone Area Plan 2010  
 MUDC Local Development Plan 2030 - Draft Plan Strategy  
 Planning Policy Statement 3: Access, Movement and Parking  
 Planning Policy Statement 4: Planning and Economic Development  
 Planning Policy Statement 15 (Revised) Flooding

A planning application was received 2 May 2019 for the demolition of the existing abattoir and the erection of a new local neighbourhood shop, workshops, forecourt and canopy, coffee house and crèche. This was then amended on 26 June 2019 and the applicant removed the proposed coffee shop from the proposed description. The application was advertised in the local press and neighbours were notified. A total of 7 letters of objection have been received to the proposed development, 5 of those from Inaultus Ltd on behalf of Sainsbury's Plc and 2 from White Young Green, also on behalf of Sainsbury's Plc based on traffic concerns. The issues of concern noted in the letters of objection have been set out above and these will be addressed in detail later in this report.

The application site was formerly used as an abattoir and consists of a mix of single and two storey industrial buildings.

The site is located within the development limits of Dungannon as identified in the Dungannon and South Tyrone Area Plan 2010 and is identified as white land.

### Sewage

NI Water had raised an issue with connection to the receiving WWTW at Dungannon which has capacity issues. The agent has confirmed they propose to use the existing public foul connections already on site. I contacted the agent as the Pre-Development Enquiry which was issued by NIW had expired during the course of the planning application being processed. Following a further Pre-Development Enquiry on behalf of the applicant to NI Water a response was received which confirmed the applicant has indicated a reduction in foul flow from the existing levels to a lower level and provided this can be achieved a foul connection can be granted.

Water Management Unit is concerned that the sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Dungannon waste water treatment works WWTW due to the lack of receiving capacity. If NIW indicate that the WWTW is able to accept the additional load, with no adverse effect on the operation of the WWTW or its ability to comply with its consent to discharge, then Water Management Unit would have no objection to the proposal.

### Flooding

With regards to PPS 15 Rivers Agency has confirmed the site does not lie within the 1 in 100 year fluvial flood plain. The site is unaffected by any watercourse known to DfI Rivers, however if a watercourse is discovered during any development works then DfI Rivers should be contacted and FLD 2 will apply to the site. The Drainage Assessment lacks a PDE response from NIW confirming capacity in their system.

### Roads

The proposed access to the application site will utilise the existing access point previously used for the abattoir off the Coalisland Road. There is also a second access proposed off the Dunlea Vale. A new right turn lane is proposed off the Coalisland Road. Previous layouts showed a bus layby which has now been withdrawn as it is not required by Translink. There is an existing right turn lane to Dunlea Vale.

There have been a number of issues with regards to Roads and access for the proposed development. Negotiations have been ongoing with DfI Roads. A Scheme Design Overview was submitted by the agent in June 2019. The proposal has also been amended which has resulted in a slightly smaller floor space area from that initially proposed.

There are a total of 81 car parking spaces shown and the agent argues the development car parking provision is therefore considered to be in line with parking standards. The agent further contends there is a likely level of shared use between the various uses on site. On 28 September 2020 DfI Roads stated that parking is the remit of Mid Ulster District Council. If MUDC is content with the parking provision they are seeking a suitably worded condition relating to a Delivery Plan alluded to in a letter from the agent on 12 August 2020. Other conditions and informatives have been suggested by DfI Roads should planning permission be granted for the proposal.

### Regional Planning Policy

The RDS 2035, whilst is not an operational policy, it does provide the overarching framework for NI, from which planning policies are derived. The vision of the RDS is supported by eight aims:

- Support strong, sustainable growth for the benefit of all parts of NI;
- Strengthen Belfast as the regional economic driver and Londonderry as the principal city of the North West;
- Support NI's towns, villages and rural communities to maximise their potential;
- Promote development which improves the health and well-being of communities;
- Improve connectivity to enhance the movement of people, goods, energy and information between places;
- Protect and enhance the environment for its own sake;
- Take actions to reduce Northern Ireland's carbon footprint and facilitate adaptation to climate change; and
- Strengthen links between north and south, east and west, with Europe and the rest of the world.

The RDS identifies the settlement of Dungannon as a "Main Hub" and states at Para 3.75 that it is well situated on the South Western Transport Corridor. It is recognised there is specialist retail provision within the Linen Green complex at Moygashel which draws some 30% of its customer base from across the border. Para 3.77 of the RDS states that Cookstown, Dungannon and Magherafelt have the potential to form a cluster. Each of the towns act as important centres for retailing, commerce and business and serves a substantial number of dispersed smaller settlements.

The SPSS is a statement of the Department's policy on important planning matters that should be addressed across Northern Ireland. The provisions of the SPSS are material



to all decisions on individual planning applications and appeals. The SPPS states that objective of the planning system is to secure the orderly and consistent development of land whilst furthering sustainable development and improving well-being. The SPPS goes on to state the planning system should positively and proactively facilitate development that contributes to a more socially economically and environmentally sustainable Northern Ireland. Para 2.2 of the SPPS identifies a key dimension of sustainable development for NI is economic growth. Para 4.19 states planning authorities should therefore take a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. Appropriate weight must also be given to both the public interest of local communities and the wider region when planning authorities are processing relevant planning applications.

Para 6.81 of the SPPS states the planning system has a key role in achieving a vibrant economy. In this regard, the aim of the 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.

The regional strategic objectives for facilitating economic development through the planning system include:

- Promote sustainable economic development in an environmentally sensitive manner;
- 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.

Within larger settlements such as cities and towns, planning decisions must, to a large extent, be informed by the provisions made for economic development through the LDP process. The SPPS states at para 6.89 it is important that economic development land and buildings which are well located and suited to such purposes are retained so as to ensure a sufficient ongoing supply. Accordingly, planning permission should not normally be granted for proposals that would result in the loss of land zoned for economic development use. Any decision to reallocate such zoned land to other uses ought to be made through the LDP process. While the same principle should also apply generally to unzoned land in settlements in current economic development use (or last used for these purposes); councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use.

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.

Para 6.97 states that planning authorities should generally adopt a positive and constructive approach to determining applications for appropriate sustainable economic development informed by the provisions of the LDP, the SPPS and all other material planning considerations.



Para 6.282 of the SPPS states that in the absence of a current and up-to-date Local Development Plan, 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 to the local town and take account of committed development proposals and allocated sites.

Para 6.283 states that all applications for retail or town centre type developments above a threshold of 1,000 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. Where appropriate the planning authority may choose to apply a lower threshold taking into local account circumstances such as the size, role and function of their town centres.

A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Planning Authorities will require applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment):

- Primary retail core;
- Town centres;
- Edge of centre; and
- Out of centre locations, only where sites are accessible by a choice of good public transport modes.

This current Petrol Filling Station contains c.555.7 square metres of floor space within the petrol filling station which can be further broken down into the following uses:

- Net retail floor space (Class A1): 232 square metres
- Deli counter with seating (sui generis): 99 square metres
- Customer toilets: 31.6 square metres
- Ancillary: 193.1 square metres.

Given the proposal does not propose in excess of 1,000 square metres it is not considered that a full retail impact statement is required to demonstrate the need for the proposed retail element of the proposal. It is not the purpose of a Planning Authority to prevent competition between existing and proposed retail operations in cases such as this. The site is outside the town centre and is not classed as an edge of centre location. There is a bus stop in close proximity to the proposed application site and thus the application site can be deemed as being served by public transport, the choice in towns such as Dungannon is restricted which is not in control by the applicant.

### **Economic Development**

Policy PED 1 - Economic Development in Settlements states that a development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial / employment area provided it is of a scale, nature and form appropriate to the location. Elsewhere in cities and towns such proposals will be determined on their individual merits.

The previous use of this site was an abattoir which falls under Class B3 General Industrial in the Planning (Use Classes) Order (NI) 2015 - General Industrial. Policy PED 7 addresses unzoned land where a development proposal would result in the loss of an existing Class B2, B3 or B4 use, or land last used for these purposes, will only be permitted where it is demonstrated that:

- Redevelopment for a Class B1 business use or other suitable employment use would make a significant contribution to the local economy; or
- The proposal is a specific mixed-use regeneration initiative which contains a significant element of economic development use and may also include residential or community use, and which will bring substantial community benefits that outweigh the loss of land for economic development use; or
- The proposal is for the development of a compatible sui generis employment use of a scale, nature and form appropriate to the location; or
- The present use has a significant adverse impact on the character or amenities of the surrounding area; or
- The site is unsuitable for modern industrial, storage or distribution purposes; or
- An alternative use would secure the long-term future of a building or buildings of architectural or historical interest or importance, whether statutorily listed or not; or
- There is a firm proposal to replicate existing economic benefits on an alternative site in the vicinity.

With regards to the above the proposed development is for the redevelopment of a brownfield site on whiteland. There will be a mix of uses including retail, a sui generis petrol filling station, light industrial business units and a community use of a crèche/after schools facility. Although the area is a mixed use area it is my opinion the former use of an abattoir is unsuitable at this location given the proximity to residential dwellings.

Policy PED 9 - General Criteria for Economic Development lists the criteria that a proposal for economic development uses must meet and these will be addressed in turn.

- *It is compatible with surrounding land uses;*  
The proposal is for a mixed use development comprising light industrial workshops, a petrol filling station and associated convenience shop and crèche. This area is currently a mixed use area with residential, retail, industrial and office uses, a cinema and drive thru McDonald's restaurant. I consider the proposal is compatible with the surrounding land uses.
- *It does not harm the amenities of nearby residents;*  
There are no issues of concern raised by Environmental Health. There are no objections from local residents to the proposed development. An acoustic fence is proposed along the boundary to the site where it abuts residential dwellings.
- *It does not adversely affect features of the natural or built heritage;*  
There are no features of natural or built heritage at this location.
- *It is not located in an area at flood risk and will not cause or exacerbate flooding;*  
Rivers Agency has confirmed the site is not affected by a watercourse and is not in a fluvial floodplain.
- *It does not create a noise nuisance;*

EHO have been consulted and have not raised any issues of concerns on this matter and have also suggested conditions to be included should planning permission be granted.

- *It is capable of dealing satisfactorily with any emission or effluent;*  
Following a concern raised by Water Management Unit the agent submitted information for clarification along with a conceptual drainage layout and drainage assessment. The proposed storm and foul layout and proposed petrol interceptor has been indicated on the drawing. It is proposed to use the existing public foul connections already on site. A new storm drainage layout is proposed to discharge to an existing undesignated watercourse culvert as indicated on the drawings. There will be no car wash facilities on this site. Following reconsultation with Water Management Unit they have advised the applicant to adhere to the Standing Advice which contains conditions and informatives relevant to this proposal. In addition to adhering to the Standing Advice WMU have advised any kitchens associated with this development from the proposed neighbourhood shop must have suitable, properly maintained grease traps on their effluent pipes.
- *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;*
- *Adequate access arrangements, parking and manoeuvring areas are provided;*
- *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;*  
There are two bus stops in close proximity to the application site. There are three dedicated bicycle parks proposed within the layout of the site. There are dedicated disabled parking spaces and access to the buildings will have to comply with building regulations. There are no known existing rights of way affected by the proposed development.
- *The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*  
The site layout is acceptable and there are proposed areas of landscaping throughout the proposed layout.
- *Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;*  
Appropriate boundary treatment is being shown around the site together with buffer landscaping where necessary.
- *Is designed to deter crime and promote personal safety;*  
Adequate lighting is being proposed throughout the site. The compound areas which will provide access to the rear of the properties will be gated to deter crime. Appropriate boundary walls and fences are being proposed around the site to also deter crime.

and

- *In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.*

This application is located within the settlement limits of Dungannon and therefore satisfactory integration in a rural area is not a requirement.

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

The site is located within the development limits of Dungannon, outside the town centre and on whiteland as identified in the area plan. The proposal comprises a number of elements including retail, light industrial and community uses.

The site is located in an area of mixed zonings. To the south is land zoned for a District Shopping Centre in accordance with Policy RSO 4 of the Area Plan. There is existing zoned industrial land to the west and the Area Plan refers to the policies contained within PPS 4 as it was and as now revised which has been addressed above in this report.

### **DCAN 13 Crèches, Day Nurseries and Pre-School Playgroups**

In areas of predominantly commercial land uses or areas of mixed commercial and residential uses, the provision of a crèche, day nursery or pre-school playgroup would normally be acceptable subject to the consideration that such a use would not be allowed to break up an otherwise continuous shopping frontage. In some instances, it may be possible for the use to locate on the upper floors of a building thus overcoming this objection. In areas of mixed land use, the effects of the proposal on any residential properties will be considered in the same way as proposals in wholly residential areas.

DCAN 13 advises that in considering the impact of a proposed crèche particular regard must be had to the scale of operation, potential nuisance and disturbance and the visual impact of the proposal.

The proposed crèche/after schools facility will be in close proximity to a small number of residential dwellings at Lurgaboy Lane. In a planning statement submitted with the application the agent stated there will be 20-24 children aged 3-5 years (plus after schools), 3-4 staff and it will be open from 7:30am to 6pm Monday to Friday.

Parking for the proposed crèche is to the front of the building and if open early in the morning may have the potential to cause a noise nuisance to the occupants of the dwelling houses. There is an acoustic fence proposed along the western boundary of the site to minimise the noise impact and no issues of concern have been raised by EHO on this matter. No issues of concern have been raised on the proximity of the outdoor play area to the dwellings on Lurgaboy Lane by EHO and no letters of objection have been received.

With regards to the visual impact of the proposal I do not consider there are any issues with regards to the impact of the visual amenity in the immediate area. This is in the context of the existing land use of the application site, the mix of land uses in the vicinity

of the site and the single storey design of the proposed crèche that will not overlook the residential dwellings to the north of the application site.

### **Potential Nuisance and Disturbance**

The main source of disturbance is noise generated either by additional traffic attracted to the site, or by the outdoor playing of the children. In considering a proposal the Council will wish to be satisfied that traffic arrangements are satisfactory and adequate outdoor play space is available. Such play space should not be located in close proximity to habitable rooms of any adjacent residential properties. The Department will consider the impact that the proposed hours of operation may have on residential amenity.

### **Objections**

The objections have been outlined at the top of this report and Members should consider all the objections in light of the following observations on the issues raised as follows:

#### *Roads Issues*

On 28 September 2020 DfI Roads noted the revised internal site layout shown on drawings 18/1 and 19 for parking and servicing arrangements and auto tracking, with the applicant confirming swept path movements for various vehicle types are achievable within the confines of the internal site road. Car parking is the remit of MUDC Planning Department and should car parking be deemed acceptable a suitable worded condition relating to a Delivery Plan alluded to in a letter from the agent dated 12 August 2020 should be included on a decision notice should planning permission be granted.

The objector raised a concern the TAF refers to the original floor spaces and proposals and so it is inaccurate in terms of the current proposal. Through an exchange of emails between MUDC Planning Department, the applicant's advisors and DfI Roads an amended table was submitted for the Transport Assessment and DfI Roads have considered this to be acceptable. The requirement for car parking reduced in numbers during the course of the application. Should planning permission be granted, the workshops will be conditioned to B2 Light Industrial use which requires less parking spaces than retail units. No retailing will be permitted from the proposed workshops.

The objector has raised a concern the access is not to DMRB standards. DfI Roads have signed off on a Private Streets drawing for this application.

#### *Impact of proposal on the Oaks District Centre*

The application initially proposed more retail space than the current layout. The only retail element now being proposed is that of the shop associated with the petrol filling station and it is considered to be an ancillary element to the overall proposal, with a net retail sales area of 232 sq. and should this application be approved the area for retail sales will be conditioned.

Policy RSO 4 of the Area Plan states that future development will be determined in accordance with the provisions of prevailing regional planning policy and the Area Plan

wishes to ensure that any future development does not have an adverse impact on the vitality and viability of Dungannon town centre.

The objector is concerned with the potential negative impact of the application both on the existing PFS and the Sainsbury's store as the main anchor of the Oaks centre. The SPPS at paragraph 6.276 states the planning authorities should retain and consolidate existing district and local centres as a focus for local everyday shopping and ensure their role is complementary to the role and function of the town centre. I do not consider that a small shop which is ancillary to a PFS of 232 sq. m will meet the needs of a local everyday shop. The goods on offer will be limited in both quantity and variety given the limited space.

The objector, I feel has wrongly referred to Policy PED 4 of PPS 4, I am going to assume he meant to refer to Policy PED 7 of PPS when he states that nothing in the policy permits retail and petrol filling station uses. The Planning (Use Classes) Order (NI) 2015 states that a sui generis use includes at Schedule 3 (4) (g) *"use for the sale of fuel for motor vehicles"*. The objector states that TSA fails to note the word "compatible" and the words "of a scale, nature and form appropriate to the location" as stated in PED 7 which must be demonstrated for a proposal that would result in the loss of an existing Class B2, B3 or B4 on unzoned land in settlements.

It is my opinion the proposed PFS does offer a compatible sui generis employment use of a scale, nature and form appropriate to the location. I have already detailed the area comprises of a mix of land uses and these include residential, commercial, industrial and retail including another PFS in the immediate vicinity of the site and owned by Sainsbury's, whom the objector is representing.

The role of the Planning Authority is not to protect the private interests of one person against the activities of another which is stated at para 2.3 of the SPPS. Para 2.3 further states that the basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. It is not considered this current proposal requires a need to be demonstrated by the applicant for the proposal as it currently stands.

The objector states that TSA wrongly refers to the first part of PED 7 for an exception on zoned land within a settlement and TSA does not complete this argument but rather proceeds to list the criteria in PED 7 on unzoned land where the loss of land being used or last used for B2, B3 or B4 use.

For clarity, PPS 5 has been superseded by the policies listed in the SPPS and it is on the basis of the SPPS this application is being considered. The objector has stated MUDC must consider whether there is a need for the proposal under the SPPS and refers to the factors to be considered in assessing that need.

However, I will refer to para 6.282 which states "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 (my emphasis) incorporate a quantitative and qualitative assessment of need taking account of the sustainability and

objectively assessed needs of the local town and take account of committed development proposals and allocated sites”.

The applicant has submitted a “Supporting Planning Statement” in June 2019 and a supplementary report in November 2019 following a request from the case officer. This request asked the applicant to demonstrate if there will be an adverse impact on the Oaks centre but it did not require the applicant to submit a full retail statement with trading figures etc. The applicant was asked to detail the amount of trade to be generated in the retail store and how this is competition for Sainsbury’s rather than detracting trade from the Sainsbury’s PFS and store.

The objector states that TSA have amended the catchment from that previously asserted by RPS and now stands at 512 dwellings, 130 workers and 52 school staff which, he argues, cannot be justified in terms of need. What TSA have actually referred to is a catchment area of broadly 1,200m distance of the site but also includes additional areas outside of the 1,200m such as the settlement of Edendork to the north east, as there is no PFS provision located in this settlement. TSA go on to state the primary catchment area for pedestrian users are those numbers listed at the top of this paragraph.

In the supplementary document provided by TSA the totality of the retailers operating in the Oaks Centre are listed, the previous omission of which was an objection raised by the objector.

The objector has stated the replacement of the proposed coffee shop with a workshop has a potential impact on residential amenity. The existing use of an abattoir would have a much greater impact on residential amenity than that of a workshop restricted to a Class B2 Light Industrial use. EHO have not raised any issues of concern.

The Justification and Amplification of Policy PED 7 clearly states there are exceptional circumstances which allow for the loss of unzoned sites or premises in settlements used, or last used, for industrial and storage or distribution purposes as listed in PED 7 and I have referred to these above.

Any objections raised above pertaining to retail information submitted prior to the amended description are not being addressed in this report given the amended description and subsequent amended information submitted by the applicant’s representatives. The description of the application is now also currently accurate and reflects in an accurate manner what is shown on the associated drawings.

#### *Bin stores and delivery areas*

The objector has stated there are no areas for bin storage. Drawing 18/1 identifies an area between the crèche and workshop 2 for bin storage. There are three compound areas identified on the same drawing, and with each workshop having either a rear of side roller shutter door, deliveries can be taken away from the front of the workshops. Provision has also been made for the shop associated with the petrol filling station to take deliveries away from the front door.

#### **Conclusion**

In looking at the relevant policies and other material considerations, I do not see any conflict with planning policy. I consider all the points in the letters of objection have been addressed satisfactorily. I therefore recommend an approval of this planning application to the Planning Committee.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

**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 permitted retail sales use shall not take place other than within the building identified on drawing no 06/2. The net retail sales area shall be restricted to a total of 232 square metres.

Reason: To protect the character and amenities of the neighbouring area.

3. The workshops identified as workshops 1-4 on drawing no 08/2 and workshop 5 on drawing no 17/1 hereby approved shall be used only for Class B2 Light Industrial and for no other purpose in the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change of use to an unacceptable use at this location.

4. Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revising, revoking and re-enacting that Order, with or without modification, no change of use from use class B2 shall take place to those buildings identified as Workshops 1-4 on drawing no 08/2 and Workshop 5 on drawing no 17/1.

Reason: To allow the Planning Authority to retain control over the development in order to prohibit a change of use to an unacceptable use at this location.

5. All fuel storage tanks (and associated infrastructure) must be fully decommissioned and removed in line with current Guidance for Pollution Prevention (GPP 2) and the Pollution Prevention Guidance (PPG 27) and the quality of surrounding soils and groundwater verified. Should contamination be identified during this process Conditions 7 and 8 will apply.

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



6. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR 11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

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

7. After completing the remediation works under Conditions 6 and 7; and prior to occupation of the development, a Verification Report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR 11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

8. The premises shall not be open for business, nor shall supplies of fuel be delivered thereto, outside the hours of 7am to 11pm.

Reason: To safeguard the living conditions of residents in adjoining and nearby properties.

9. The kitchen extraction system stacks shall have a maximum noise level of 60dB(A) at 1m

Reason: In the interests of residential amenity

10. The air conditioning units shall have a maximum noise level of 51dB (A) at 1m for each unit.

Reason: In the interests of residential amenity

11. An acoustic barrier at 2.2m high shall be erected as presented in the Noise Impact Assessment, dated April 2018 by Envest and on stamped approved drawing 03/2. The barrier shall be constructed of either masonry, closed timber panelling with no gaps or of earth and shall have a minimum self-weight of 20.2kg/sq. m

Reason: In the interests of residential amenity

12. Suitable ventilation and filtration equipment shall be installed to suppress and disperse odours created from operations in the shop and deli. The outlet from any extract ventilation ducting shall terminate at a height not less than 1 metre

above the ridge eaves height (of the main building or nearest building) and it should be directed away from sensitive properties.

Reason: In the interests of residential amenity

13. The limitations on the exterior lighting detailed in the table below shall apply at the following dwellings: 1-6 Lurgaboy Lane with the curfew being at 2300hrs.

Reason: In the interests of residential amenity

Environmental Zone	Light Intrusion (into Windows) Ev (lux)	
	Pre-Curfew	Post-Curfew
E3	10	2

Curfew being 23:00 hours

14. The vehicular accesses, including visibility splays of 4.5 metres by 90.0 metres in both directions at the access on to Coalisland Road and 2.4m by 33.0 to the East direction and 2.4m by tangent to the West direction at the access on to Dunlea Vale, shall be provided in accordance with Drawing No 6163898-ATK-100-ZZ-DR-D-0001 P03 bearing the date 29/04/20, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

15. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

16. 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.

17. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.  
Mid Ulster District Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 6163898-ATK-100-ZZ-DR-D-0001 P03 bearing the date 29/04/20.

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

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

The development hereby permitted shall not become operational until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 6163898-ATK-100-ZZ-DR-D-0001 P03 bearing the date 29/04/20. Mid Ulster District Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

19. No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 6163898-ATK-100-ZZ-DR-D-0001 P03 bearing the date 29/04/20 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

20. Within 1 month of the road works becoming operational, Mid Ulster District Council shall be notified and a Stage 3 Road Safety Audit shall be carried out and recommendations addressed / implemented within 1 month of the road works becoming operational and a Stage 4 Safety Audit completed as required in accordance with DMRB GG199 Road Safety Audit standard.

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	3rd May 2018
<b>Date First Advertised</b>	17th May 2018
<b>Date Last Advertised</b>	26th November 2019
<b>Details of Neighbour Notification</b> (all addresses)  The Owner/Occupier, 1 Altmore Drive, Dungannon, Tyrone The Owner/Occupier, 1 Lurgaboy Lane, Dungannon, Tyrone, BT71 6JU Eamonn Loughrey, 15 Cleaver Park, Belfast, Antrim, Northern Ireland, BT9 5HX The Owner/Occupier, 1:2:1 Tutoring Services, Unit 30 Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT The Owner/Occupier, 2 Lurgaboy Lane Dungannon Tyrone The Owner/Occupier, Associated Tyre Specialists (NI), Ltd 51 Oaks Road Dungannon The Owner/Occupier, Civic Amenity Site, 4 Coalisland Road, Dungannon, Tyrone, BT71 6JT The Owner/Occupier, Dungannon Enterprise Centre Ltd, Administration Area, Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT The Owner/Occupier, Dungannon Enterprise Centre Ltd, Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT The Owner/Occupier, G M C, Unit 32 Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT Eamonn Loughrey, INAULTUS Ltd, 15 Cleaver Park, Belfast, Northern Ireland, BT9 5HX Eamonn Loughrey, INAULTUS Ltd, 15 Cleaver Park, Belfast, Northern Ireland, BT9 5HX Eamonn Loughrey, INAULTUS Ltd, 15 Cleaver Park, Belfast, Northern Ireland, BT9 5HX Eamonn Loughrey, INAULTUS Ltd, 15 Cleaver Park, Malone Road, Belfast, BT9 5HX Eamonn Loughrey, Inaultus LTD, 15 Cleaver Park, Belfast, Northern Ireland, BT9 5HX The Owner/Occupier, Mid Ulster District Council, Council Offices, 15 Circular Road, Dungannon, BT71 6DT The Owner/Occupier, Sainsburys Petrol Station, 49 Oaks Road, Dungannon, Tyrone, BT71 4AS The Owner/Occupier, Summer Garden, Unit 28 Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT The Owner/Occupier, Unit 27 Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT The Owner/Occupier, Unit 29 Dungannon Enterprise Centre, 2 Coalisland Road, Dungannon, Tyrone, BT71 6JT Peter Blair, WYG EPT Ltd, Quay West At MediaCityUK, Trafford Wharf Road, Trafford Park, MANCHESTER, M17 1HH Peter Blair, WYG, Quay West ,Trafford Wharf Road,Manchester, M17 1HH	
<b>Date of Last Neighbour Notification</b>	12 <sup>th</sup> November 2019

<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<p><b>Planning History:</b></p> <p>Ref ID: M/1977/0274          Proposal: Meat Wholesalers Offices, Cattle Pens and Crush as extension to abattoir.          Address: Oaks Road, Dungannon.          Decision:          Decision Date:</p> <p>Ref ID: M/1993/0228          Proposal: Alterations and improvements to existing meat plant          Address: Oakdale Meats Abattoir, Oaks Road, Dungannon.          Decision:          Decision Date:</p> <p>Ref ID: M/2014/0131/F          Proposal: Extension to storage shed and concrete yard, Erection of 2.4m high weld mesh boundary fence and provide of additional security lighting for yard.          Address: Approx. 45m south of 8 Lurgaboy Lane, Dungannon,          Decision: PG          Decision Date: 03.07.2014</p> <p>Ref ID: LA09/2018/0036/PAN          Proposal: Demolition of existing abattoir and erection of new local community shop, workshops, forecourt and canopy, coffee house and crèche.          Address: Former abattoir premises at 1 Coalisland Road, Dungannon,          Decision:          Decision Date:</p> <p>Ref ID: LA09/2018/0594/F          Proposal: Demolition of existing abattoir and erection of new neighbourhood shop, workshops, forecourt and canopy, coffee house and crèche.          Address: 1 Coalisland Road, Dungannon, BT71 6JT.,          Decision:          Decision Date:</p>	
<p><b>Summary of Consultee Responses</b></p> <p><u>Water Management Unit:</u>          Water Management Unit has considered the impacts of the proposal on the water environment and would advise the proposal has the potential to adversely affect the surface water environment. However, should the application be given approval the recommended conditions and informatives are set out in DAERA Standing Advice on Commercial and Industrial Developments.</p>	

Water Management Unit is concerned that the sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Dungannon waste water treatment works WWTW. Water Management Unit would therefore recommend that Planning consult with NIW to determine if the WWTW will be able to cope with the additional load or whether the existing WWTW would need to be upgraded. If NIW indicate that the WWTW is able to accept the additional load, with no adverse effect on the operation of the WWTW or its ability to comply with its consent to discharge, then Water Management Unit would have no objection to the proposal.

#### Environmental Health Department:

The Noise Impact Report dated April 2018 has been considered and on the basis that

- There will be no night time operations on site;
- There will be no car was on the developed site;
- There will be no forecourt radio/music speakers installed;
- There will be no externally located fans or motors.

There are no Environmental Heath objections based on the noise assessment provided but would suggest the planning department should consider adding a number of conditions should planning permission be granted.

#### Northern Ireland Water

On 2 February 2018 NIW responded to a Pre Development Enquiry regarding this proposed development. It was noted that receiving Waste Water Treatment Works is not available to serve this proposal. The applicant will not be permitted to make connection to the public foul drainage network until appropriate upgrading works have been completed. The applicant may also be required to construct a temporary WwTW with the prior consent of Northern Ireland Environment Agency.

#### Rivers Agency

The site does not lie within the 1 in 100 year fluvial flood plain. The site is unaffected by any watercourse known to DfI Rivers, however if a watercourse is discovered during any development works then DfI Rivers should be contacted and FLD 2 will apply to the site.

The submitted Drainage Assessment (DA) states in section 7.3 that the issue of out-of-sewer flood risk could be addressed by attenuating the 1 in 100 year event within the proposed drainage network. If this was achieved it would satisfy the requirement under PPS 15, FLD 3 to provide adequate measures to mitigate the flood risk from the development to elsewhere. DfI Rivers advises the Planning Authority that the applicant will be responsible for the design, construction and maintenance of the drainage network, and managing the flood risk associated with this network. DfI Rivers advises that, as a minimum requirement, the drainage network should be designed and constructed in accordance with Sewers for Adoption (NI).

It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. Rivers Agency have requested a condition which will seek the submission of a final drainage assessment with a detailed drainage network design prior to any works commencing on site.

**GSNI**

A search of the GSNI "Shafts and Audits Database" indicates that the proposed site is not in the vicinity of any known abandoned mine workings. It is acknowledged that GSNI databases may not be comprehensive and that in certain circumstances the precise location of features and boundaries cannot be guaranteed as being accurate. Users must satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, that the ground conditions are suitable for any particular use or developments.

**DAERA Land, Soil and Air**

The Land and Groundwater Team within the Regulation Unit would have no objections to the development provided conditions and informatives are placed on any planning decision notice as recommended and these conditions have been provided.

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:




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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1105/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a farm dwelling and double domestic garage	<b>Location:</b> 70 metres (Approx.) West of 25a Corrycroar Road Pomeroy
<b>Referral Route:</b>  Proposal fails to comply with criteria c contained within Policy CTY 10 of PPS 21, no third party representations received and all other material considerations have been taken into consideration.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Connor Carberry 22 Shanroy Park Pomeroy BT70 2RP	<b>Agent Name and Address:</b> R. Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



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	Content
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content
<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>		
<b>Characteristics of the Site and Area</b>		
<p>The application site is located approximately 70m west of No 25a Corrycroar Road, Pomeroy in County Tyrone, which is in the countryside as designated within the Cookstown Area Plan 2010. The proposed site lies within a fairly enclosed area of the countryside consisting of steep elevations with a high degree of vegetation and mature trees bounding the site.</p> <p>In terms of surrounding topography there is a gradual rise from the road towards the north, west and east, which contributes to the enclosed nature of the site. The surrounding land raises quite substantially and is generally best described as hilly landscape with steep elevations especially the south-western and south eastern boundaries. Views of this site are limited until passing its frontage onto Corrycroar Road. This is due to its location between two bends in Corrycroar road; the topography of the area; and existing vegetation along its boundaries and within the wider vicinity.</p>		

The main farm complex comprising several farm buildings and includes the main farm dwelling is located approximately 180m south east of the proposed site. The site is adjacent to two small farm sheds used for wintering livestock and keeping feedstuff.

The closest neighbouring property to the proposal is noted as being No. 25a Corrycroar Road, which is a single-storey dwelling situated approx. 70m to the west of the proposed site.

### Description of Proposal

The applicant is seeking outline planning permission for a farm dwelling and double garage 70m west of No 25a Corrycroar Road.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves alterations to an existing lane that accesses.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

### Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 02/09/2019 (publication date 03/09/2019. Two (2) neighbouring properties were notified on 30/08/2019; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

EIA Determination. The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.

### Relevant Planning Histories

Reference	Location	Proposal/Complaint	Status	Date
LA09/2019/1105/O	70 metres (Approx.) West of 25a Corrycroar Road	Proposed site for a farm dwelling and double domestic garage	VALID APPLICATION RECEIVED	
I/2004/0909/O	Approx 30m N.W. of 25a Corrycroar Road	Erection of dwelling & domestic garage	PERMISSION REFUSED	16.12.2004
I/1990/0367	60M NW OF 25 CORRYCROAR ROAD	Dwelling	PERMISSION GRANTED	
I/1974/0307	CORRYCROAR, POMEROY	ERECTION OF SUBSIDY BUNGALOW	PERMISSION GRANTED	

### Consultations.

DAERA: Ni issues confirmation of active farming activities;  
 DFI Roads no objection subject to standard condition  
 NIW: No objections standard Informatives.

## Planning Assessment of Policy and Other Material Considerations

1. Strategic Planning Policy Statement (SPPS).
2. Cookstown Area Plan 2010.
3. PPS 21 Sustainable Development in the Countryside.
4. PPS 3 Access, Movement and Parking.

Supplementary Planning Guidance: Building on Tradition: A Rural Design Guide for NI.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Cookstown Area Plan 2010 (CAP) operates as the statutory local plan for the area the site lies in furthermore, the CAP does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by PPS 21 and the SPPS.

As outlined above the site lies outside any designated settlement development limit identified in the Cookstown Area Plan 2010; therefore the relevant planning policy context is provided in Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). PPS 21 is identified by the Strategic Planning Policy Statement for Northern Ireland (SPPS) as retained policy documents.

The SPPS points out that provision should be made for a dwelling house on an active and established farm business. Furthermore, the farm business must be currently active and have been established for a minimum of 6 years. Policy CTY of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. This includes a dwelling house on a farm in accordance with Policy CTY10. This policy states that planning permission will be granted where the following criteria are met.

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 have been made on the lands. I am content the farm holding has been established for at least 6 years and is currently active.

With respect to (b) there are no records indicating that any dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With respect to (c), the proposal is not located in proximity to established farm buildings. The agent has confirmed that the two sheds adjacent to the application site are used for out wintering livestock and sometimes used as an isolation sheds.

The agent submitted two letters (23/03/2020 and 16/11/2020) in support of the applicant's preferred choice of site also sets out reasons why fields close to the main farm group not considered suitable for a dwelling. Fields Nos 1 and 8 according to the applicant's father-in-law raised concerns that a dwelling would be close to the busy farm yard with continuous movement of machinery and livestock and the inevitable dangerous would constitute a health and safety concerns. The agent also highlighted the topography of the site would limit the sitting of a new dwelling would impact on current expansion of the farm business which is ongoing around the main existing farm grouping.

Policy CTY 10 states exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building groups. Evidence to warrant an exceptional case was therefore requested from the agent and the Technical Note dated 29/06/20 has been considered. The Technical Report contends that the proposal “meets the actual policy in part and the intent of policy in part and it is an exception to policy in terms of health and safety reasons”.

As stated on Page 2 of the Technical Note, it is accepted that the provisions of policy will prevail unless there are other overriding reasons or material considerations that outweigh them and justify a contrary decision. Therefore, I am do not consider that the Technical Report has presented overriding reasons or material considerations which would outweigh the policy criteria of CTY10.

I note the English Courts found that the issue of permanence should be construed in 'planning terms' rather than merely being permanently secured to the ground. I note that in a recent Planning Appeals Commission decision Reference 2019/A0105 sanctioned a similar view with regards to Permanence.

I am not persuaded by the argument that field Nos 1 and 8 are unsuitable for a dwelling and whilst I acknowledge the topography is challengeable nonetheless I feel that field No 1 has capacity for a dwelling sited to the front of the field facing onto the public Road.

In terms of the application site the agent has relied that the presence of two farm sheds adjacent to the site that they should be considered as an existing farm building. I accept these structures do appear to be associated with livestock and from my observations on site I noted one the buildings contained hay. However, as explained in my report the two structures in themselves do not satisfy the policy test for a new dwelling to visually linked with or be sited to cluster with an established group of farm buildings. That said, the applicant was advised that he submit a CLUD to determine their lawfulness, which if successful would be assessed as a material consideration in this application.



**Fig. 1 Small structures adjacent to the application site**

The above structures are constructed from corrugated metal sheeting with mono pitch roof. It has been fabricated from timber posts and corrugated metal sheeting. It appears to have been used for housing animals and storing animal feed. There is no hardstanding surrounding them and the floor consists of clay / earth.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I considered the site is well integrated to accommodate a dwelling given the topography and existing, established vegetation along all boundaries. However, CTY13 states a new building will be unacceptable in the case of a proposed dwelling on a farm where it is not visually linked or sited to cluster with an established group of buildings on a farm. Therefore, I consider the proposal is contrary to Policy CTY 13.

In terms of policy CTY14, planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and the surrounding environment is suitable for absorbing a dwelling without significantly impacting on rural character and therefore complies with Policy CTY14.

**The Mid Ulster District Council Local Development Plan 2030- Draft Plan.**

The Mid Ulster District Council Local Development Plan 2030- Draft Plan. The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation is due to close at 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

**Other Material Considerations.**

I am content that this proposal will not cause any detrimental impact on neighbouring 3rd party amenity. DfI Roads were consulted and have objected to this proposal, stating that the result in the alteration of an existing access onto a public road thereby prejudicing the free flow of traffic and conditions of general safety.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and no health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	20th August 2019
<b>Date First Advertised</b>	3rd September 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 25 Corrycroar Road Pomeroy Tyrone The Owner/Occupier, 25a Corrycroar Road Pomeroy	
<b>Date of Last Neighbour Notification</b>	30th August 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1105/O Proposal: Proposed site for a farm dwelling and double domestic garage Address: 70 metres (Approx.) West of 25a Corrycroar Road, Pomeroy, Decision: Decision Date:  Ref ID: I/2004/0909/O Proposal: Erection of dwelling & domestic garage Address: Approx 30m N.W. of 25a Corrycroar Road, Pomeroy Decision: Decision Date: 16.12.2004  Ref ID: I/1990/0367 Proposal: Dwelling Address: 60M NW OF 25 CORRYCROAR ROAD POMEROY Decision: Decision Date:  Ref ID: I/1974/0307 Proposal: ERECTION OF SUBSIDY BUNGALOW Address: CORRYCROAR, POMEROY Decision: Decision Date:	

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:



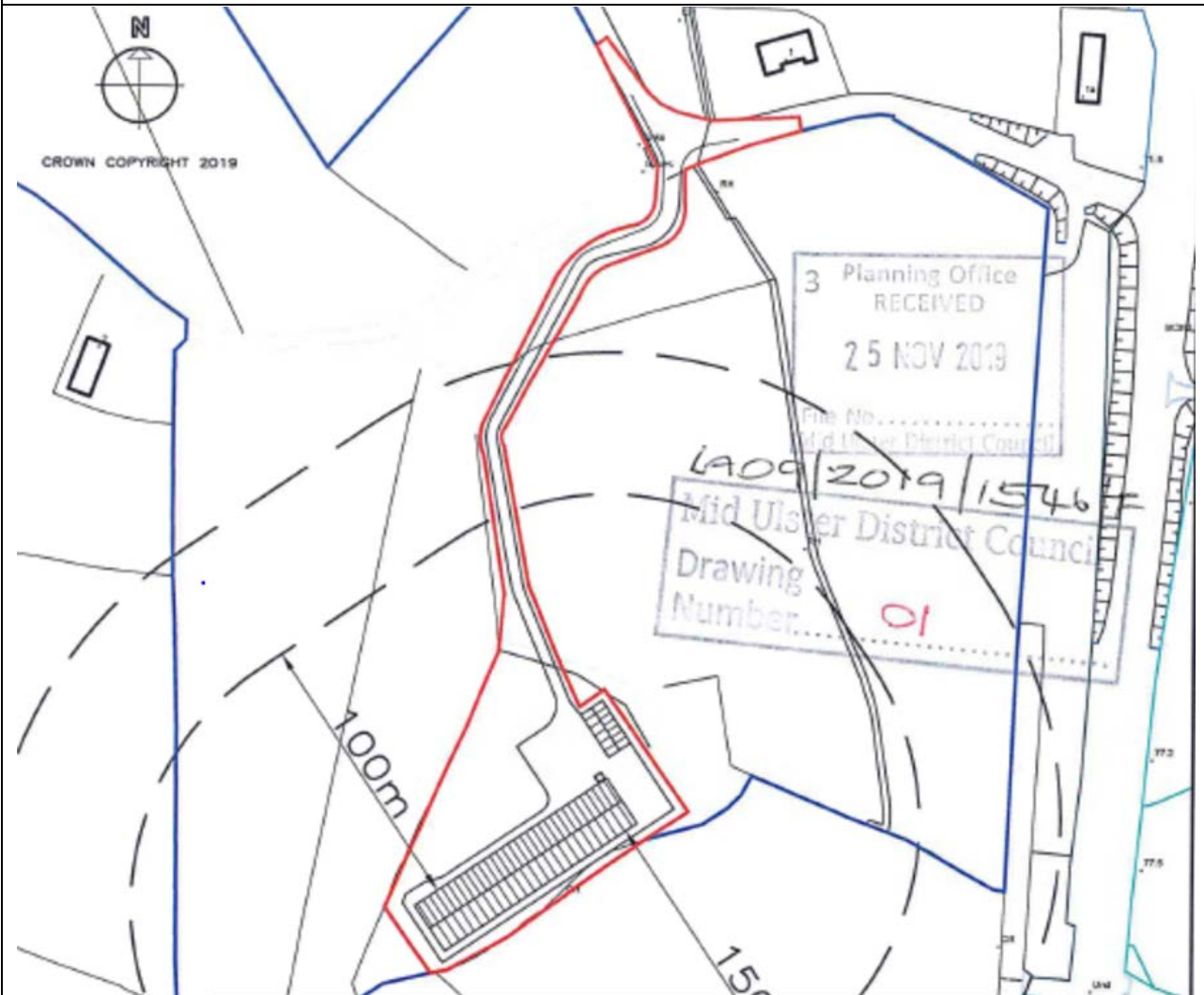


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> Feb 2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1546/F	<b>Target Date:</b> 9/3/20
<b>Proposal:</b> Proposed No.1 pullet rearing poultry shed with 1No. feed bin a storage shed and associated site works (Poultry shed to contain 32000 Pullets)	<b>Location:</b> Land approx. 250m South West of 1 Grillagh Road, Maghera
<b>Referral Route:</b> 1 no. objection received	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Glenshane Eggs 15 Tullyheran Road Maghera	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  This proposal complies with all relevant policy for this type of development in a rural location - the MAP, SPPS, PPS 2, PPS 3, PPS 15 and PPS 21. There has been 1 no. objection to the application raising concerns about the impact the proposal will have on residential amenity as well as the potential impacts from traffic. These issues have been fully considered and do not merit the refusal of the application. Approval is recommended subject to the inclusion of conditions on any favourable committee decision.	

## Case Officer Report

### Site Location Plan



### Consultations:

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

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

**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**

In line with Statutory Neighbour Notification Procedures, 1 neighbouring property was notified of this application - number 1 Grillagh Road. The application has also been advertised in local press. To date, there has been 1 no. letter of objection received from the occupant of 1 Grillagh Road and the issues raised in this letter are summarised and considered below:

- Smell - Concern has been raised about the smell coming from the poultry house especially in the summer and how this would impact on residential amenity.
- Traffic- increase in the number of vehicles generated from this development and the impact of this on the road and grass verges at the front of the property at 1 Grillagh Road.

EH have been consulted with this application and the odour information submitted by the applicant. They have no objections to the proposal in terms of nuisance.

DFI Roads have been consulted with this application and have advised that based on the information provided on the P1 Form and the Traffic Assessment Form regarding traffic intensification they are content that this development will not significantly increase traffic movements on Grillagh Road. They have recommended an Informative regarding the developers responsibilities as regards mud and debris spills onto the road during the construction phase.

On the basis of this consultation advice it is my opinion that the issues raised in the objection letter do not merit the refusal of this application.

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

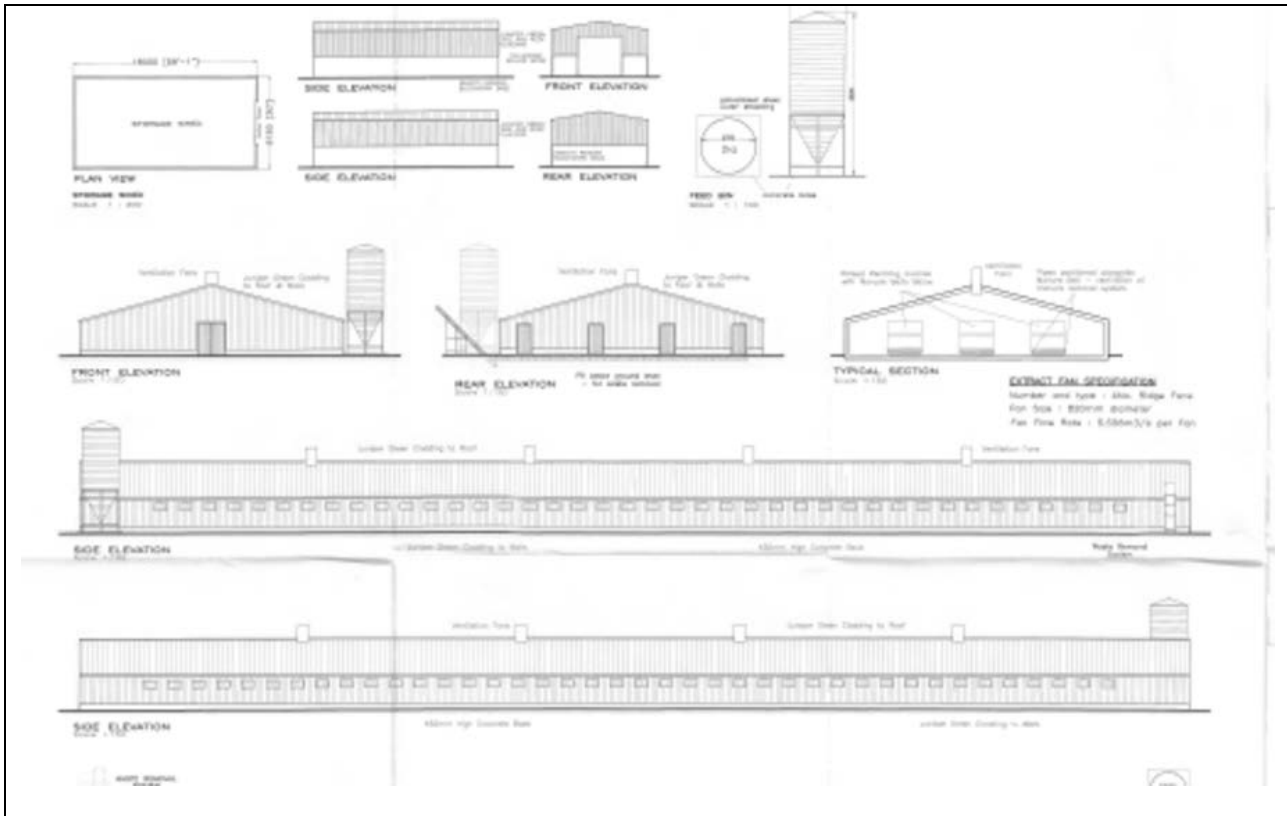
The application site is a 0.94 hectare parcel of agricultural land located approximately 250m SW of number 1 Grillagh Road, Maghera. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site will be accessed via a new hardcore laneway which will come directly off the Grillagh Road. This new access will also run adjacent to another laneway coming off the Grillagh Road, which is used to access 2 dwellings and a farm complex. The main Moneysharven Road runs to the East of the application site. The landform rises slightly from where the new access will be created to where the poultry house will be sited. There is a band of thick vegetation defining the NE boundary of the site, the remaining boundaries are defined by thick gorse hedgerow.

This area is rural in character and has a dispersed settlement pattern. The predominant form of development is either single dwellings or farm buildings. The closest development to the site is a dwelling located 200m to the NW (number 2 Grillagh Road). There is another dwelling located 230m to the North of the site (number 1 Grillagh Road). The site is not within an archaeological buffer zone, however to the immediate North of the site is an area of archaeological importance. There is a small stream flowing to the East of the site in a N/S direction. This site is also within 7.5km of Ballyknock ASSI, Ballynahone Bog ASSI/SAC, Carn/Glenshane Pass ASSI/SAC, Curran Bog ASSI/SAC and Tamnyrankin ASSI.

### **Description of Proposal**

This is a full application for 1 no. pullet rearing poultry shed with a feed bin, a storage shed and associated site works. The Poultry shed will contain 32000 Pullets. The poultry shed will measure 81.2m in length and 19.2m in width, generating a floorspace of 1559m<sup>2</sup>. It will be finished in green roof and wall cladding and there will be ventilation fans extending from the ridge line of the roof. There will be a pit below ground level which will facilitate waste removal. The proposal also includes a standard feed bin 8m in height and 2.7m in diameter and will be finished in galvanised steel. The storage shed will measure 18m in length and 9.1m in width. It will be finished in a mix of cladding and render.





## Planning Assessment of Policy and Other Material Considerations

### Relevant Planning History

There are no relevant planning histories on or adjacent to this site to be considered in this assessment

### Policy Consideration

The following policies will be considered in this assessment:

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 2 - Natural Heritage
- PPS 3 - Access, Movement and Parking
- PPS 15 - Planning and Flood Risk
- PPS 21 - Sustainable Development in the Countryside

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

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. As such, existing relevant policies will be applied in this assessment.

### Magherafelt Area Plan 2015 (MAP)

The MAP 2015 acknowledges that agriculture is the main land use in Magherafelt District and the single most important local industry. It does not contain any specific policies in relation to this type of development but it identifies the site within the rural area where PPS 21 applies.

## **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 February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan

### **PPS 2 - Natural Heritage**

This site is within 7.5km of Ballyknock ASSI, Ballynahone Bog ASSI/SAC, Carn/Glenishane Pass ASSI/SAC, Curran Bog ASSI/SAC and Tamnyrankin ASSI. All of which are sites of international and national importance and protected by the Conservation (Natural Habitats) Regulations (Northern Ireland) 1995. The proposed nature of this development gives rise to ammonia emissions and as such consultation has been carried out with NIEA (NED). It is also noted that a single outlier badger sett is located within the application site.

Following the submission of supporting information NED have advised MUDC that the proposal is in line with DAERA operational protocol. They have also stated that the adjacent designated sites have critical loads which, bar one, have all been exceeded and that the operational protocol is currently under review. In respect of other natural heritage interests NED are content that all areas of priority habitats assessed are in line with current DAERA operational protocol.

NED have recommended conditions to be attached to any favourable decision. These include capping the number of pullets at 32,000, provision of protection zones around any adger setts and the provision of a buffer zone along the tributary of the Grillagh River and pond feature. I have no objections to the inclusion of these conditions to ensure the protection of natural heritage features and designated sites. They will also ensure the proposal is compliance with the provisions of PPS 2.

Shared Environmental Service have also been consulted and it is they who carry out the Habitats Regulation Assessment on behalf of MUDC. They have carried out their assessment and have responded to MUDC and advised that subject to conditions capping the number of pullets at 32000, proper installation of an industry approved manure belt and assurance that there will be no deviation from the approved litter disposal route, they are satisfied that the proposal will have no adverse effect on any European Designated Site.

NIEA (Drainage and Water) have also been consulted with this application and are content with the proposal subject to a condition ensuring the applicant does not deviate from all the mitigation and disposal methods for poultry litter as detailed in the poultry litter disposal agreement (ie) The system being used for this house is one using ventilated manure belts, non leaking drinkers and fan ventilation. The manure is removed dry, weekly on a covered conveyor belt directly into a covered lorry and transferred to Donegal. At no time is manure stored on site. Surface water runoff from the development will be collected and discharged into a swale. This is common for this type of development and will be subject to NAP regulations.

### **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 alteration of an existing access onto the Grillagh Road. DFI Roads have been consulted and are satisfied with the proposal from a roads perspective subject to the provision of 2.4m x 33m splays in both

directions. This can be a condition of approval. Adequate in-curtilage space exists within the site for parking and manoeuvring of vehicles.

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

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

DAERA have confirmed that the farm business as identified on the P1C form has been in existence for more than 6 years and that no claims have been made in the last 6 years. They have also advised that the site is located with another farm business. Correspondence has been provided by the applicant which details that the site is on lands that is claimed by another active and established farmer - Kim Bradley.

On the basis of this information I am satisfied that the farm business is established and the farm lands are been actively farmed (through letting out to another farmer) for the purpose of assessment under CTY 12.

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

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

(c) Visually Integrate - The proposed poultry house and ancillary development will be set back of the Grilagh Road and benefits from mature boundary treatment which will help integrate it into the local landscape.

(d) No adverse impact on natural and built heritage - This site is not in an area of archaeological importance, nor is it adjacent to any Listed Buildings. I therefore have no built heritage concerns. Natural Heritage impacts were considered in detail earlier in this report.

(e) No adverse impacts on residential amenity - EH have been consulted and have no objections to the proposal in terms of nuisance and impact on residential amenity.

Where new agricultural buildings are proposed, Policy CTY 12 requires them to be sited beside existing farm buildings. The proposed poultry house is not sited at the main farm holding and there are no farm buildings adjacent to the site. As this application is for a poultry house where cross contamination is a major concern, the siting of the house away from the main farm grouping is acceptable.

Policies CTY 13 Design and Integration and CTY 14 Rural Character of PPS 21 are also applicable to this type of development in the Countryside. The proposal is typical of the type of poultry house you find throughout the district. I have no concerns with its design or finishes. It will not appear overly prominent in the local landscape and I have no concern regarding integration. It will not result in an unacceptable suburban type build up of development in this rural location



nor will it create or add to ribbon development. On the whole it will not detract from the rural character of this area.

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

The site is not within any designated flood plain. A drainage assessment (DA) was submitted with the application and Rivers Agency have advised that they have no reason to disagree with its conclusions. They have made comment that the proposed swale has no outlet and that percolation will be through the soil strata and that this is outside Rivers Agency area of expertise. In my opinion the applicant should be advised through an informative that it is his responsibility to ensure the effectiveness and efficiency of this swale and to have a long term maintenance programme in place to ensure its ongoing function.

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

### **Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

Approve with conditions

### **Conditions**

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

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

2. The maximum number and type of poultry housed within the unit shall not exceed 32000 pullets per crop cycle.

Reason: To ensure no adverse effects on any European Sites

3. An industry approved manure belt removal system must be installed and operational prior to stocking the unit.

Reason: To ensure no adverse effects on any European site.

4. The applicant shall not deviate from the approved litter disposal route without the prior written consent of the Council.

Reason: To ensure no adverse effects on any European Sites

5. No development activity, including ground preparation or vegetation clearance, shall take place until a protection zone(s), clearly marked with posts joined with hazard warning tape, has been provided around each badger sett entrance at a radius of 25 metres (as identified within the Assessment of Badger Activity document, dated October 2019). No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zone(s) without the consent of the Planning Authority/unless an appropriate Wildlife Licence has been obtained from NIEA. The protection zone(s) shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts on the site.

6. A suitable buffer of at least 5m must 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 the tributary of the Grillagh River, and separate pond feature.

Reason: To protect natural heritage features worthy of protection.

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

Reason: In the interests of visual amenity.

8. The swale and field drain must be located in the position as indicated on drawing number 02, bearing date stamp 25th November 2019.

Reason: To prevent contaminated run-off entering into adjacent watercourses

9. The vehicular access including visibility splays 2.4 X 33 metres and any forward sight distance, shall be provided in accordance with Drawing No 2 bearing the date stamp 25 Nov 2019 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### 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, vibration and odours to nearby premises.

The applicant is also advised that in order to protect nuisance conditions arising from flies, that adequate systems are in place to manage and control flying insects.

2. Please refer to informatives recommended by NIEA in attached documentation.

3.It should be brought to the attention of the applicant that the responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15).

The effectiveness and function of the proposed attenuation method is reliant on the system being designed and constructed in accordance with the correct industry specifications and having a long-term maintenance programme in place to ensure its ongoing function.

4. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Loughrey Campus, 49 Tullywiggan Road, Cookstown, 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 planning approval does not give authority to discharge any drainage into a DfI Roads drainage system

The applicant is advised that under Article 11 of the Roads Order (Northern Ireland) Order 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 as a result of extraordinary traffic generated by the proposed development.

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	25th November 2019
<b>Date First Advertised</b>	10th December 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Grillagh Road Maghera Londonderry Robert Paul 1, Grillagh Road, Maghera, Londonderry, Northern Ireland, BT46 5HU	
<b>Date of Last Neighbour Notification</b>	23rd September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1546/F Proposal: Proposed No1 pullet rearing poultry shed with 1No. feed bin a storage shed and associated site works (Poultry shed to contain 32000 Pullets) Address: Land approx. 250m South West of 1 Grillagh Road, Maghera, Decision: Decision Date:  Ref ID: H/1991/0342 Proposal: 11KVOH LINE Address: MAGHERA TO UPPERLANDS Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  SES - Conditions recommended NIEA - Conditions and informatives recommended DFI Roads - No objections subject to standard conditions EH - No objections Rivers - No objections DAERA - Standard comments NIW - Standard comments	

<b>Drawing Numbers and Title</b>
<p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 03 Type: Proposed Plans Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p>
<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> 2nd Feb 2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0263/F	<b>Target Date:</b> 9th June 2020
<b>Proposal:</b> 1 no. detached dwelling and 4 no. semi detached dwellings with detached garages, Estate Road and Footpaths, 1 no. dwelling and change of use of existing listed outbuilding from farm building to domestic garage and stores with renovations for domestic purposes ancillary to the proposed dwelling on the former site of 1 Gortagammon Road.	<b>Location:</b> 1 Gortagammon Road and lands adjacent to Berkley Mews, Tullyhogue Cookstown
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr David Mc Aleece & Shani Flint Twixt Thorns Saw Pit Lane Apperley Gloucester GL19 4DW	<b>Agent Name and Address:</b> Rodney Henry Architceture 2 Liscoole Cookstown BT80 8RG
<b>Executive Summary:</b> This proposal complies with all relevant policy and guidance for this type of development within a settlement - SPPS, Cookstown Area Plan 2010, PPS 2, PPS 3, PPS 6, PPS 7, Addendum to PPS 7, and Creating Places. The issues raised in the objection petition have been fully considered and do not merit the refusal of the application. Approval is recommended subject to standard planning conditions.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	Historic Environment Division (HED)	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	Shared Environmental Services	
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Shared Environmental Services	
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

In line with Statutory Neighbour Notification Procedures, 24 neighbouring properties were notified of this application and it was advertised in local press. To date, there has been 1 no. petition of objection received, signed by 4 third parties.

The issues raised in this petition of objection are summarised and considered below:

- No notification of application given to occupants of 2 and 4 Gortagammon Road and 6 Berkley Mews.
- Impact of the development on their sight lines
- Proper protocol not followed

The NN letters for Number 2 and 4 Gortagammon Road were sent to number 2 and 4 Kings Park, in error. New NN letters have went out. These occupants have not been prejudiced as they are aware of the application and have had the opportunity to comment on the proposal and amended plans. Number 6 Berkley Mews was notified on the 6th March 2020, prior to the submission of the objection petition. Again, this occupant has not been prejudiced for the same reason.

DFI Roads have been consulted with the application and have not raised any road safety concerns with regards to sight lines.

This application has been advertised and all relevant third parties have now been notified in line with statutory requirements.

The issues raised have been fully considered and do not merit the refusal of the application.

### Characteristics of the Site and Area

The application site is a 0.65 hectare parcel of undeveloped white land, located towards the Southern section of the small village of Tullyhogue which is approximately 3km South of Cookstown. The SW section of the site sits just outside the defined settlement limit with the remainder of the site being within the defined limit. In the SE portion of the site, closest to the Gortagammon Road is a Grade B2 Listed Agricultural Building. It is a well preserved and rare example of a small 19th Century rustic farm building which at a time was used as a piggery, byre and stable. It is long and rectangular in plan and is divided into 3 bays, which step down in height from the roadside with the slope of the host field. It sits perpendicular with the Gortagammon Road. The NE boundary of the site which abuts the Gortagammon Road is defined by a low set natural species hedgerow. The NW boundary abuts Berkley Mews, a small housing development of 8 dwellings. The SW boundary which sits at a lower level than the NE boundary is defined by a small



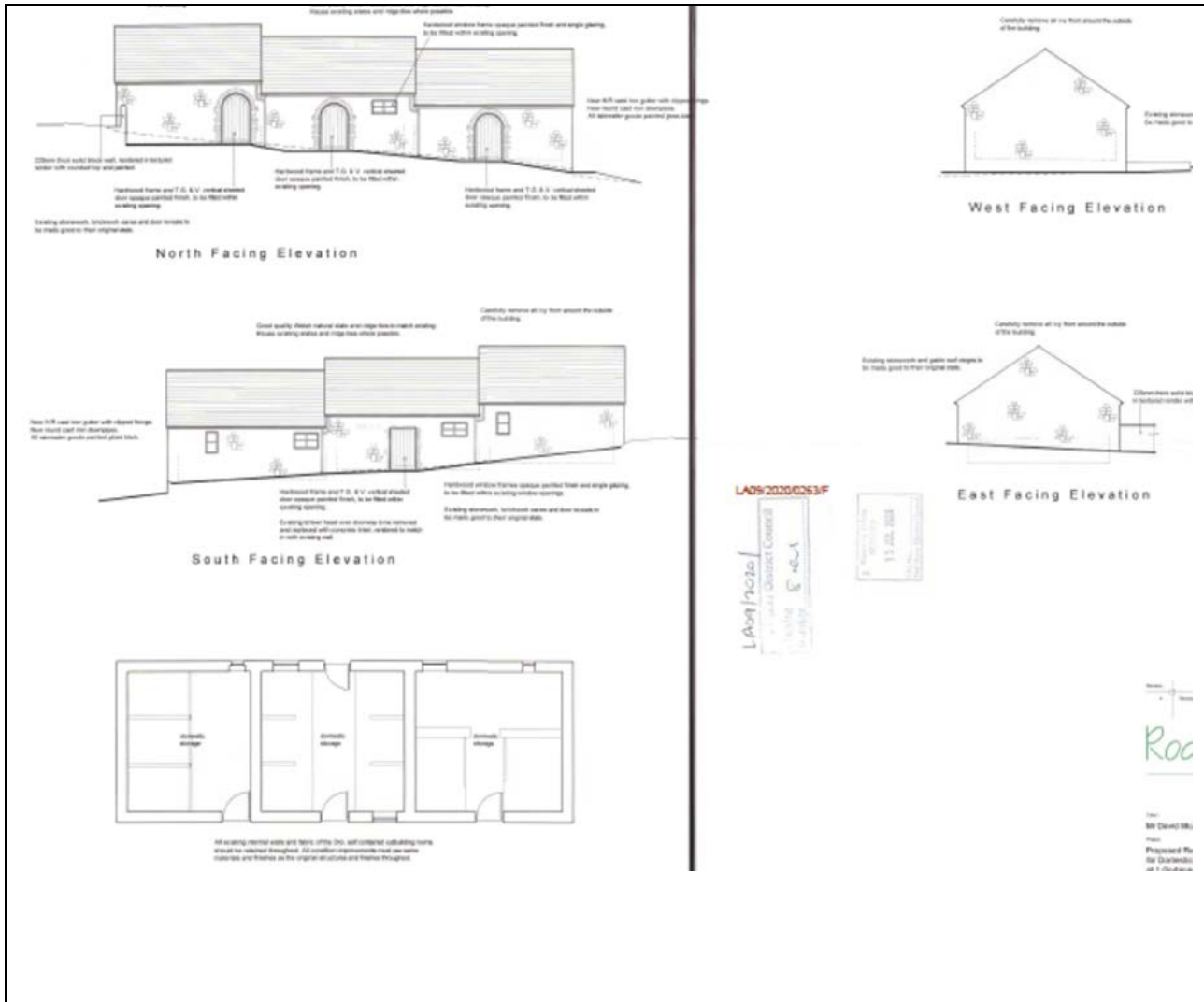
stream and gorse hedgerow. The Southern boundary is void of any vegetative boundary treatment.

The site is in an area of the village which is characterised primarily by residential development. As referred to earlier, Berkley Mews is located to the NW of the site. Further to the NW is Berkley Square a cul de sac of 8 dwellings. To the NW of the site and fronting directly on the Gortagammon Road is O'Neill Park, a development of two storey terraced NIHE dwellings. To the immediate East of the site there are also 3 detached dwellings fronting onto the public road. To the South of the site and outside the settlement is agricultural land.

**Description of Proposal**

This is a full application for a proposed estate road and footpaths to serve 1 detached dwelling and 4 semi detached dwellings with detached garages. It also includes the erection of 1 dwelling and the change of use of an existing listed outbuilding from a farm building to a domestic garage and stores with renovations for domestic purposes ancillary to the proposed dwelling on former site of 1 Gortagammon Road.





## Planning Assessment of Policy and Other Material Considerations

### Planning History

LA09/2020/0271/LBC - 1 Gortagammon Road, Tullyhogue, Cookstown. Proposed change of use, alterations and renovations of existing farm outbuilding to domestic garage and stores ancillary to the dwelling proposed on site. Currently under consideration by MUDC.

The relevant policies and guidance under consideration in this assessment are:

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010 (MAP)
- Mid Ulster District Council Local Development 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 7 - Quality Residential Environments.
- Planning Policy Statement 7 (Addendum) - Safe Guarding the Character of Established Residential Areas
- Creating Places

- Parking Standards

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

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 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 proposed built development will be located within the development limits of the village of Tullyhogue on undeveloped white land. It is not subject to any key site requirements. Part of the site extends beyond the development limit however there will be no built development in this area and as such, can be considered acceptable.

The CAP acknowledges that the village is small and well nucleated. It provides a range of services and community facilities. Tullyhogue Fort dominates the setting of the village.

The CAP recognises that there are sewage capacity constraints within the village. NIW have been consulted with this application and have advised that WWTW are presently available to serve this development.

Comprehensive development within the village will normally be permitted provided the scale, layout and detailed design are compatible with the scale and character of the village. Developments in excess of 10 units will not normally be permitted. This development of 6 dwellings - 1 two storey detached, 1 bungalow and 4 two storey semis is acceptable in terms of its scale, layout and design. The density is reflective of the residential densities in the immediate area and it is not considered to be an overdevelopment of the site. The scheme contains a good mix of dwelling types and designs and the bungalow respects the architectural features and finishes of the adjacent listed building. The overall layout will not impact on the residential amenity of those living in Berkley Mews given the back to back separation distances involved.

This site is not within the LLPA in the village, in which the CAP limits development to minor works. The site is also outside the designated Area of Townscape Character within the village centre and sits outside the buffer zone connected to Tullyhogue Fort. The CAP states that development that would adversely affect the Fort or the integrity of its setting will not be permitted unless there are exceptional circumstances. Historic Environment Division have been consulted and have not provided any comment in respect of the impact of the development on the Fort. Given the distance between the site and the fort, the low lying topography of the site as well as the existing development in the village I am satisfied this proposal will not impact on its setting.

I am satisfied that the proposed development is not at conflict with the CAP and there are no Area Plan reasons that would merit the refusal of the application.

### **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 February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

### **PPS 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 construction of a new estate access coming off the Gortagammon Road. DFI Roads were consulted with this proposal and have no objections in terms of road safety or traffic flow. They have recommended standard PSD conditions to be attached to any favourable decision.

Regarding parking, each dwelling will have in-curtilage parking for at least 2 vehicles. This is in line with Parking Standards

### **PPS 7 - Quality Residential Environments**

PPS 7 is a material planning policy for this type of development. All proposals for residential development will be expected to conform to a number of criteria laid out in Policy QD 1 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 residential development, of various densities are prevalent, so I am content that it respects the surrounding context. The site slopes gently from the level of the Gortagammon Road in a SW direction. This will result in the stepping down of dwellings sited along the NW boundary. Retaining walls will be erected to accommodate this change in levels but they will not dominate the proposal and are minor in scale. The layout is generally acceptable. Two detached feature dwellings are located closest to the road and the remainder of dwellings are semi's. This gives a good variety to the development. All dwellings are of an acceptable scale and massing with none over dominant. Adequate back to back separation distances exist between the proposed dwellings and the nearest properties in Berkley Mews. The Listed Agricultural Building will be re-instated appropriately and incorporated well into the overall scheme. The development is not dominated by hard surfaces and an adequate buffer of planting is being provided along the edge of the settlement limit.

**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 just outside the area of archaeological importance (buffer zone), connected to Tullyhogue Fort. Historic Environment Division have been consulted with the application and have provided Council with no comment in respect of the impact on the Fort. The proposal involves the change of use of an existing Listed Agricultural Building to a domestic store ancillary to the bungalow on plot 6. Historic Environment Division have been consulted and following the submission of amended plans, have advised Council that they are content with the proposed works to the Listed Building. They have recommended a condition relating to the style, arrangement and finishes of this building to be attached to any approval which will ensure compliance with PPS 6. There are no important landscape features within the site that require to be protected or integrated into the development. There is a small watercourse running along the Western Boundary of the site. Consultation was carried out with Shared Environmental Service (SES) as there is potential that designated sites may be impacted upon as a result of this hydrological link. SES have carried out a HRA in which they have identified that this stream forms a distant link between the site and Lough Neagh and Lough Beg SPA/Ramsar via the Ballinderry and Killymoon Rivers. They have concluded that the upstream location of the Upper Ballinderry SAC and the magnitude of dilution due to the distance between the site and Lough Neagh and Lough Beg SPA/Ramsar means there can be no conceivable effects.

**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 density of this development does not trigger the requirement to provide an area of public open space. Each dwelling will benefit from their own area of private amenity space to the rear which is in excess of the 40m<sup>2</sup> minimum recommended in Creating Places.

**Adequate provision shall be made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development** - The site is within the development limits of Tullyhogue and there are existing neighbourhood facilities already available in the locality (eg) shops etc and the village is less than 4 miles from Cookstown where there is a wide range of neighbourhood facilities available. The scale of this proposal does not merit standalone provision of such facilities.

**A movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures** - The site is within a settlement where 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** - Parking provision has been considered in detail earlier in this report.

**The design of the development must draw upon the best local traditions of form, materials and detailing** - I have no concern about the design of the development in terms of form, material and detailing. The change of use and alteration to the Listed Building has been considered and HED have advised that it is acceptable in terms of form, material and detailing.

**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 closest 3rd party dwellings to the site are 2, 4, 5 and 6 Berkley Mews. The boundaries of these dwellings will have at a minimum a 15m separation distance from the rear walls of units 2 - 5. This is in excess of the 10m recommended in Creating Places. Number 2 Berkley Mews will be gable onto unit 1 and there is a 14m separation distance between each gable. On the basis of these distances I am content that the proposed dwellings will not impact on the residential amenity of the existing properties in terms of overlooking, loss or privacy, loss of light or overshadowing. Given the low density residential nature of the proposal I have no concerns with other nuisances such as noise, fumes or odours. EH have been consulted and have raised no concerns in this regard.

**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. In-curtilage parking is provided and street lighting exists along the adjacent public roads.

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

I am satisfied that, in principle, this proposal complies with Policy LC 1, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal for 6 dwellings will not result in a significantly higher residential density in this locality where there are a mix of dwelling types including terraced dwellings, semis and detached dwellings. In terms of keeping with the established character of the area, the proposal is residential in nature which is in keeping with the area. The size of the dwellings are in keeping with Annex A of the document.

#### **Neighbour Notification Checked**

**Yes**

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

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 10 rev 1 bearing the date stamp 16 November 2020

Reason: To ensure there is a safe and convenient road system within the development and to comply with the provisions of the Private Streets (Northern Ireland) Order 1980.

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

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road including footway improvements along the Gortagammon Road have been completed in accordance with the details outlined blue on Drawing No 10 rev 1 bearing the date stamp 16 November 2020

The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

4. The visibility splays of 2.4 metres by 70 metres at the junction of the proposed residential access road with the Gortagammon Road, shall be provided in accordance with Drawing No 10 rev 1 bearing the date stamp 16 November 2020, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5. 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.

6. No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the

final wearing course shall be applied on the completion of (each phase / the development.)

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

7. The style, arrangement and external finishes for the works proposed to the listed structure, shall be as that detailed on drawing 02 (rev 2); 05 & 08 (rev 1)

Reason: To ensure that the detailed design respects the character of the listed building in terms of scale, height, massing, the use of appropriate materials and that the detailed design is compliant with Policy BH 7 (Change of Use of a Listed Building), Policy BH 8 (Extension or Alteration of a Listed Building) and Policy BH11 (Development affecting the Setting of a Listed Building) of the Departments Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

8. All planting comprised on drawing 02 rev 2, bearing date stamp 22nd July 2020 shall be carried out in the first planting season following the commencement of the building and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

### **Informatives**

1. The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the DfI Roads to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

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



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

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

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

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

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

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

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

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	25th February 2020
<b>Date First Advertised</b>	10th March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Berkley Mews Tullyhogue Cookstown The Owner/Occupier, 14 O'Neill Park, Cookstown, Tyrone, BT80 8UE The Owner/Occupier, 16 O'Neill Park, Cookstown, Tyrone, BT80 8UE The Owner/Occupier, 18 O'Neill Park, Cookstown, Tyrone, BT80 8UE The Owner/Occupier, 2 Berkley Mews Tullyhogue Cookstown Andrew Elliott 2 Gortagammon Road Tullyhogue Cookstown The Owner/Occupier, 2 Kings Park Tullyhogue Cookstown The Owner/Occupier, 20 O'Neill Park, Cookstown, Tyrone, BT80 8UE The Owner/Occupier, 22 O'Neill Park Cookstown Tyrone The Owner/Occupier, 24 O'Neill Park Tullyhogue Cookstown The Owner/Occupier, 26 O'Neill Park Tullyhogue Cookstown The Owner/Occupier, 28 O'Neill Park Cookstown Tyrone The Owner/Occupier, 3 Berkley Mews Tullyhogue Cookstown The Owner/Occupier, 30 O'Neill Park Tullyhogue Cookstown The Owner/Occupier, 32 O'Neill Park Tullyhogue Cookstown The Owner/Occupier, 34 O'Neill Park Cookstown Tyrone The Owner/Occupier, 4 Berkley Mews Tullyhogue Cookstown The Owner/Occupier, 4 Gortagammon Road, Tullyhogue, Cookstown, Tyrone, BT80 8XD The Owner/Occupier, 4 Kings Park Tullyhogue Cookstown The Owner/Occupier, 5 Berkley Mews Tullyhogue Cookstown	

The Owner/Occupier, 6 Berkley Mews Tullyhogue Cookstown The Owner/Occupier, 6 Berkley Square, Tullyhogue, Cookstown, Tyrone, BT80 8TP The Owner/Occupier, 6 Gortagammon Road, Tullyhogue, Cookstown, Tyrone, BT80 8XD The Owner/Occupier, 6 Kings Park Tullyhogue Cookstown	
<b>Date of Last Neighbour Notification</b>	5th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0263/F Proposal: Proposed estate road and footpaths to serve 1 detached dwelling and 4 semi detached dwellings with detached garages, 1 dwelling and change of use existing listed outbuilding from farm building to Domestic Garage and stores with renovations for Domestic puposes ancillary to the proposed dwelling on former site of 1 Gortagammon Road Address: 1 Gortagammon Road, and lands adjacent to Berkley Mews, Tullyhogue, Cookstown, Decision: Decision Date:  Ref ID: LA09/2020/0271/LBC Proposal: Proposed change of use , alterations and renovations of existing farm outbuilding to domestic garage and stores ancillary to the dwelling proposed on site Address: 1 Gortagammon Road, Tullyhogue, Cookstown, Decision: Decision Date:  Ref ID: LA09/2019/0287/PAD Proposal: Proposed residential development for 7 dwellings and estate road located within the settlement Address: Lands at 1 Gortagammon Road and adjacent to Berkley Mews, Tullyhogue, Cookstown, Decision: Decision Date:  Ref ID: LA09/2019/1427/F	

Proposal: Proposed 2 storey rear extension to dwelling to provide kitchen extension on ground floor and en-suite and dressing area at first floor. Proposed 1 dormer window to rear and 1 dormer window to front of dwelling

Address: 2 Berkley Mews, Tullyhogue,

Decision: PG

Decision Date: 20.12.2019

Ref ID: I/2007/0702/F

Proposal: Proposed shed to rear of dwelling

Address: 2 Berkley Mews, Tullyhogue, Cookstown

Decision:

Decision Date: 18.02.2009

Ref ID: I/2007/0079/F

Proposal: Proposed extension to rear of dwelling and roof alterations to front of dwelling to accomodate new window opening.

Address: 2 Berkley Mews, Tullyhogue, Cookstown, BT80 8TP

Decision:

Decision Date: 16.07.2007

Ref ID: I/2000/0024/O

Proposal: Dwelling and Garage

Address: To the rear of 1 Gortagammon Road, Tullyhogue, Cookstown.

Decision:

Decision Date: 02.03.2001

### Summary of Consultee Responses

NIW - No capacity issues

DFI Roads - No objections

EH - No objections

SES - No objections

HED - No objections

### Drawing Numbers and Title

Drawing No. 08 rev 1  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 02 rev 2  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

Drawing No. 07  
Type: Proposed Plans  
Status: Submitted

Drawing No. 06  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



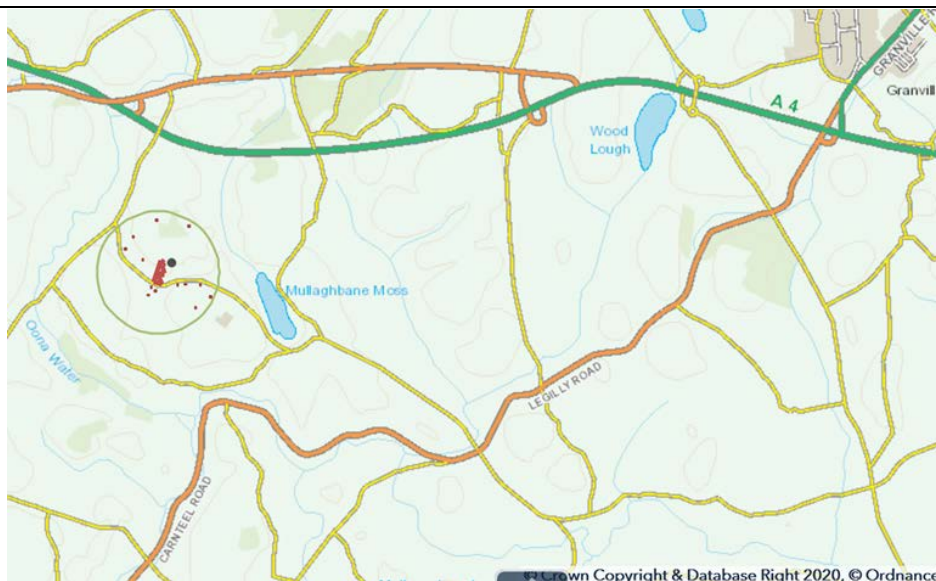
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0639/O	<b>Target Date:</b>
<b>Proposal:</b> 2 storey dwelling and garage on an infill site in a cluster with a focal point (foundry) .	<b>Location:</b> Site approx. 90m S.W. of 81 Cullenrammer Road Dungannon
<b>Referral Route: Exception to policy</b>	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Miss Natasha Murray 81a Cullenrammer Road Dungannon	<b>Agent Name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site lies in the open countryside outside all other areas of constraint. It is located just South of the Main A4 and a short distance to the south west of the settlement limits of Granville.

The site is an irregular shaped field which nestles in between the dwelling at number 81a Cullenrammer road to the east and a number of large industrial buildings to the west. The site is currently used for agricultural grazing and slopes up gradually from the roadside south to the rear north.



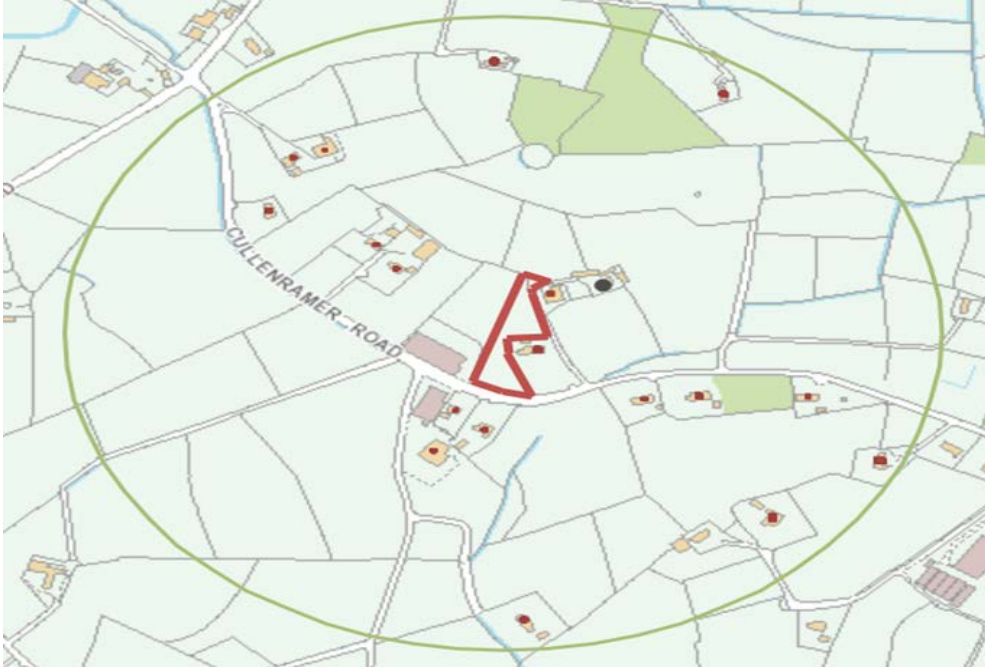


The site is bounded on three sides, north, east and west by a mature native species hedgerow and to the south by a mix of hedgerow and timber D rail type fencing. There is also a deep grass verge between the site and roadside. The access to the site is via an agricultural gate in the middle of the site frontage.



## Description of Proposal

The proposal seeks outline planning permission for a 2 storey dwelling and garage on an infill site in a cluster with a focal point (foundry).



## Planning Assessment of Policy and Other Material Considerations

PPS 1 General Principles

PPS 3 Access, Movement and Parking

PPS 21 Sustainable Development in the Countryside

SPPS

CTY 1 - Development in the Countryside

CTY2a - New dwellings in existing clusters.

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

To the West of number 81a Cullenrammer road, there is a gap of approx. 50 metres building to building and 50 metres plot frontage. The red line of the site for this application includes the whole gap.

To the east of the site there are two dwellings and an outbuilding, however, only one dwelling can be considered to have a frontage on to the Cullenrammer road, the other dwelling and out build are set back from the road behind a considerable field. To the West there is a large industrial building known locally as the Foundry. In my opinion this row therefore does not constitutes the definition of a substantially built up frontage.



The proposal does not comply with policy CTY8 of PPS21.

The applicant has described the proposal as an infill site in a cluster with a focal point (foundry), therefore, consideration under CTY 2a - new dwellings in a cluster is also necessary.

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

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

Whilst the site may comply with 5 of the above 6 criteria, It is my opinion that the cluster is not associated with a focal point such as a social/community building/facility, or is located at a cross-roads.

The applicant is suggesting that the engineering buildings located to the west, known locally as the foundry is a focal point, however, I do not consider this is a social or community building or facility, nor is it located at a cross roads. Therefore, the site fails the tests of CTY2a.

After discussion at group it was agreed that the application should be presented to committee as an exception to policy. The group concluded that the Foundry could be described as a



destination or place where people would know and congregate frequently and therefore could be considered as a focal point. It was also agreed at group that a dwelling in the front portion of the site would not affect the character of the area or have any impact on neighbouring amenity.

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. Furthermore as the site has existing buildings on both sides and decent boundary vegetation it is considered that the site has the capacity to absorb a dwelling of a suitable size and scale. I have no concerns regarding integration.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. I would recommend imposing a height (8m) to the application site. (The applicant seeks a two storey dwelling therefore to avoid impact on neighbouring amenity site to the front portion of the site is necessary)

Consultation was carried out with DFI Roads and Environmental Health and have both responded with no objections subject to conditions.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues being faced with COVID19, this period has been extended and will now close at 5pm on 24th September 2020.

In light of this the draft plan cannot currently be given any determining weight.

Recommendation Approval.

#### **Neighbour Notification Checked**

**Yes**

#### **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.The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

4.The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

5.The proposed dwelling shall be sited in the area shaded yellow on the approved plan 01 date stamped 08 June 2020.

Reason: To preserve the amenity and privacy of the neighbouring dwelling.

6.Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70m to Factory and 60 away from factory, 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.

7.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; details of a native species hedge to be planted to the rear of the visibility splays and along all new boundaries. 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: To ensure the provision, establishment and maintenance of a high standard of landscape.

#### 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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	8th June 2020
<b>Date First Advertised</b>	23rd June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 81 Cullenramer Road Dungannon Tyrone The Owner/Occupier, 81a Cullenramer Road Dungannon The Owner/Occupier, 81a ,Cullenramer Road,Dungannon,Tyrone,BT70 1SD The Owner/Occupier, 82 Cullenramer Road Dungannon Tyrone The Owner/Occupier, 83 Cullenramer Road Dungannon Tyrone The Owner/Occupier, 83 Cullenramer Road,Dungannon,Tyrone,BT70 1SD The Owner/Occupier, 84 Cullenramer Road Dungannon Tyrone The Owner/Occupier, 88 Cullenramer Road Dungannon Tyrone The Owner/Occupier, 88 Cullenramer Road,Dungannon,Tyrone,BT70 1SD	
<b>Date of Last Neighbour Notification</b>	23rd July 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0639/O Proposal: Proposed 2 storey dwelling and domestic garage on an infill site in a cluster with a focal point (foundry) to meet planning policy CTY2a Address: Site approx. 90m S.W. of 81 Cullenrammer Road, Dungannon, Decision: Decision Date:  Ref ID: M/1990/0555 Proposal: Erection of dwelling Address: APPROX 100M NORTH EAST OF NO 84 CULLENRAMER ROAD DUNGANNON	

Decision:  
Decision Date:

Ref ID: M/2005/0213/F  
Proposal: Sun Lounge Extension  
Address: 81 Cullenramer Road, Dungannon  
Decision:  
Decision Date: 17.06.2005

Ref ID: M/1991/0023  
Proposal: Erection of dwelling  
Address: 120M N EAST OF 84 CULLENRAMER ROAD DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1991/0023B  
Proposal: Erection of bungalow  
Address: 120 METRES NORTH EAST OF 84 CULLENRAMER ROAD DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1998/4087  
Proposal: Improvements to Dwelling  
Address: 81 CULLENRAMER ROAD CASTLECAULFIELD DUNGANNON  
Decision:  
Decision Date:

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

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

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

Date of Notification to Department:  
Response of Department:





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date: Feb 2021</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0695/F	<b>Target Date: 01/10/2020</b>
<b>Proposal:</b> New build 3 bedroom detached dwelling with in-curtilage car parking, front and rear gardens (Preliminary Ecological Appraisal and drawing No. 02 rev1)	<b>Location:</b> Lands to the rear of 39-41 Ranfurly Road Dungannon BT71 6EF (Site to be accessed from Gortmerron Avenue BT71 7AJ)
<b>Referral Route: Third Party Objections</b>	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Patrick McEvoy Dean Swift Building Suite 12 Armagh BT60 1HW	<b>Agent Name and Address:</b> MMAS 2nd Floor New Mill Conway Mill 5-7 Conway Street Belfast BT13 2DE
<b>Executive Summary: That planning permission is granted subject to conditions.</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	1 Petition Received, 13 signatures

### Summary of Issues

A summary of the objections received are as follows;

- loss of privacy / impacts on private amenity / overlooking / overshadowing / loss of light;
- loss of trees/nature conservation;
- long term appearance of the property;
- intended use of the property (HMO);
- traffic generation.

Some procedural issues have also been raised.

These objections will be considered in more detail in the main body of my report.

### Characteristics of the Site and Area

This site incorporates the western half of existing rear garden space to properties No. 39 and 41 Ranfurly Road, Dungannon. Along the northern boundary is a 2m high vertical timber fence and concrete post fence which is shared with No. 37 to the north. A 2.5m high wire mesh security fence defines the southern boundary which is shared with Gortmerron Tennis Club adjacent and south of the site. The eastern boundary is not clearly defined. To the west, the boundary adjacent to Gortmerron Avenue is defined by a 1m wide grass verge behind which is a hedgerow and two pedestrian access gates to the rear of both 39 and 41. A low concrete post and wire fence runs through the site

dividing the rear gardens of 39 and 41. Levels within the site rise very gently from Gortmerron Avenue towards properties to the east.

No. 39 and 41 are included within Blue land and are in control of the applicant. These dwelling are a pair of 2 storey semi-detached properties, which front onto Ranfurly Road, and form part of a wider row of semi detached dwellings onto Ranfurly Road some of which have elongated rear gardens.

Other dwellings to the west and a Pentecostal Church access from Gortmerron Avenue in a somewhat ad hoc manner. Adjacent and south of the site is an existing Tennis Club.

Landuse in the area is mostly residential in nature.

### **Description of Proposal**

This is a full planning application for a new build 3 bedroom detached dwelling with in-curtilage car parking, front and rear gardens.

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

#### **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.

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Dungannon on white land with no zoning. Policy SETT1 states that favourable consideration will be given to development proposals within settlement limits including zoned sites subject to criteria being met, including prevailing regional planning policy.

#### **Key Planning Policy**

Strategic Planning Policy Statement

PPS7 Quality Residential Development

Addendum to PPS7 Safeguarding the Character of Established Residential Areas

PPS3 Access, Movement and Parking

PPS2- Natural Heritage

Design Guidance- Creating Places

Relevant Planning History

There is no relevant planning history on this site

### Third Party Representations

A number of objections have been received on this proposal. These will be summarised and include;

Mr Gareth McLaughlin, 37 Ranfurly Road (adjoining neighbouring property to site)

- Loss of light/overshadowing. Over the years the occupant has invested a lot of time and money creating a nice garden for his children to play in and is concerned that the proposed dwelling will block light and overshadow their garden;
- Loss of privacy. The proposed dwelling would overlook their property, resulting in a total loss of privacy.;
- Loss of trees/nature conservation. There will be loss of trees and vegetation which will impact upon existing wildlife and will impact their view from their property. The objector also raises concern that bats, birds and hedgehogs will be impacted by the proposal.
- Long term appearance of the property. The objector is concerned over the long term upkeep of the proposed property.
- Other issues have been raised by Gareth but which relate to activities and issues at existing properties and are not material to the consideration of this proposed development, such as HMO issues and public health breaches. This proposal is not for a HMO development and therefore these issues, which relate to a separate property, cannot be given any determining weight in the processing of this application. Should the property be used as a HMO then this will be subject to separate enforcement proceedings for breach of Planning Laws. It is also my understanding that the HMO breach at the offending properties are being investigated by HMO Team in Belfast. Public Health breaches, while unpleasant when you live close to them, are not dealt with by the Planning Department of Mid Ulster Council. These offences are addressed by Environmental Health or other public health agencies/bodies with enforcement responsibilities to address the same, therefore, I cannot attach any weight to this particular point of objection.

Gortmerron Tennis Club. The Chairman of Gortmerron Tennis Club has objected, and this is summarised below;

- Given the character of other properties along Gortmerron Avenue, if this proposal was allowed what would stop the remaining properties from developing their rear gardens, this would lead to an increase in vehicular traffic which the existing road network could not handle;
- Concern that the southern wall is tight against the boundary of the tennis court, that this needs to be at least two meters;
- Other procedural matters have been raise, including neighbour notification. I am satisfied that neighbour notification has been carried out in accordance with Council's statutory duties.

Mr Grahame Mc Keown, 35 Ranfurly Road

- The area is built up enough;
- Another dwelling will add to traffic and hinder access to other dwellings/drives/places of work;
- Block light to existing properties;
- overlook properties;
- Lead to a loss of privacy

Mr Philip Hughes, 5 Gortmerron Avenue and Margaret Jackson 7 Gortmerron Avenue. Both these objections are the same and raise issues raised by other objectors including loss of privacy, loss of trees/nature conservation, long term appearance of the property, intended use of the property (HMO), traffic generation. Some of these issues have been addressed above, with other issues being addressed later in my report.

A Petition against the proposal has also been received and is signed by 13 objectors. Issues raised in this petition have been listed above and will be addressed later in my report, where they have not been already.

#### Consideration

SPPS does not affect the policy content of PPS7.

Policy QD1 of PPS7 states that 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;

When accessing Gortmerron Avenue from the north from Ranfurly Road, properties to the east back onto Gortmerron, front Ranfurly Road and are defined by two storey semi-detached dwellings with narrow rear gardens that increase in length the further south you travel along this road. Some of these properties have vehicular and pedestrian gates and access points. Along part of the Avenue is a grass or stone verge on either side.

On the opposite side of the road is a mix of detached and semi-detached dwellings on more generous plots, with access to the front of their dwellings from Gortmerron Ave. There is also a Pentecostal Church and Hall on a larger site with in-curtilage parking.

To the bottom of Gortmerron Ave is a tennis court with wire mesh fence surrounding it and associated tennis club.

Therefore, there is a mix of plot sizes, garden sizes, property types, building types and land uses along this Avenue.

The proposed plot size of this property is not unlike the plot sizes which are found to the north of Gortmerron, or the plots along Ranfurly Road that back onto the tennis court. The site is also relatively flat. While the design of the building is different to other buildings along Gortmerron, given that you look at the rear of properties that face onto Ranfurly Road which have a mixture of rear returns, out shots, sun rooms and out houses, it is my view that this proposal and design will not have a detrimental impact on the existing character of this area given the diversity found in this area at present.

The proposed dwelling is comprised of an elongated two storey element with gable fronting onto Gortmerron Avenue. The two storey element is 4.5m wide, 15m long and 6m high. To the rear of the property is a single storey, flat roofed outshot measuring 2.75m wide, approx.. 5.5m long and ridge height of 3m. The walls and roof are corrugated fibre cement sheet, with windows and rainwater goods of black pvc. The site

is relatively flat and the building will not look out of place or dominant in the area and will not have a detrimental impact on the character of this area.

There is room along the side of the two storey element for the provision of two car parking spaces. From the rear of the dwelling to the proposed rear fence line separating the proposal and No.s 39 and 41 Ranfurly Road is approx. 7m, and a separation distance between the rear of properties of almost 20m. The rear private garden area is approx. 100m<sup>2</sup>.

Given this variety of development along this particular area, I am satisfied that the proposal 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.

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 known sites of archaeological or built heritage nearby that the site will impact.

Some vegetation within the site can be retained and this has been indicated on drawing No. 02 rev2. One tree will be removed to facilitate the proposed development. The agent has proposed additional landscaping along the rear boundary including a pear tree and hedgerow. The objectors have raised concern that this development will have a detrimental impact on the biodiversity of the site, that the site is important of birds, badgers and bats and that the development will remove this important habitat. No additional information or evidence was provided by the objectors. I requested the applicant/agent to provide a Preliminary Ecological Appraisal (PEA) which would consider the impact of the development on natural heritage. I then consulted with NIEA Natural Environment Division (NED) who stated ;

'NED notes that the PEA has confirmed that the site contains grassland, hardstanding and immature trees.

NED notes that no protected and or priority species or suitable habitat was identified in the PEA. The site and immediate area appears to be limited in in suitability for protected/priority species other than birds. We note that the ecologist has assessed the site as negligible in terms of roosting opportunities for bats however it may be used to some extent by commuting/foraging bats. NED recommend that trees and or vegetation is retained where possible.

NED notes that the site is suitable for breeding birds and advise that vegetation is retained where possible, any necessary vegetation clearance must be undertaken outside of the bird

breeding season (1 March to 31 August) or subject to pre-inspection for active nests by a suitably qualified ecologist.

If planning permission is granted for the proposed development NED recommends that the following informatives are included in a decision notice.'

These informatives relate to birds, bats and badgers and can be attached to any permission.

It is clear from NIEA comments that they have no concern with development on this site, subject to trees and or vegetation is retained *where possible* (my emphasis). As the agent has shown the retention of trees and hedges where possible, and augments landscaping on the site with the provision of a new tree and hedgerow, I am satisfied that biodiversity on this site will not suffer detriment and the proposal can proceed on this basis without any further mitigation. NED notes that no protected and or priority species or suitable habitat was identified in the PEA by the ecologist. NED do not dispute the findings of the PEA and without any other evidence to prove otherwise I am satisfied to proceed on the basis of retaining existing vegetation and carrying out additional planting as shown on drawing No. 02 rev2. Objectors concerns in relation to detrimental impact on biodiversity from this development are not sustained in this case.

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.

A development of this size does not require provision of public open space. In my view there is sufficient private amenity to the rear of the property. Creating Places suggest that dwellings within towns should have a private amenity area of approx.. 70m<sup>2</sup>. This figure is only a guide with lesser space allowed in more tight urban areas, such as this. The proposed amenity is approx.. 110m<sup>2</sup>, well above the guide figure. The amenity space of No.s 39 and 41 are significantly reduced, however this part of their gardens, where the development is to be sited did not seem to be in use as it is overgrown and somewhat neglected. The new amenity space for No. 39 is approx. 68m<sup>2</sup>, while No. 41 is approx. 65m squared. While below the guide figure, given the character and context of the area I find these to be acceptable in this case, and sufficient for the privacy and enjoyment of existing and proposed dwellings.

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

The site is located within Dungannon close to existing shops, services, education, employment and public transport links. Additional facilities are not required for a development of this size and scale.

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;

DfI Roads were consulted on this proposal and raise no objection subject to the inclusion of informatives to any permission. No concern has been raised over traffic generation, or other road safety issues. Occupants of the dwelling can access the public road and footpath network. There is space within the property for parking of bicycles. The proposal will not impact on existing rights of way. The site is flat and can be accessed by people whose mobility is impaired. Public transport provision can be accessed safely nearby. DfI Roads did not raise any need for traffic calming measures for this proposal to proceed. Given the nature of this Avenue, speeds of vehicles are very low. Objectors concerns on increases in traffic movement and impacts on the road network are not determining in this case.

f) adequate and appropriate provision is made for parking;

Creating Places indicate a dwelling of this size should have two parking spaces. Two spaces can be achieved within the curtilage of the property. There is also some opportunity for on street parking nearby. DfI Roads do not raise any concern over parking provision. I am satisfied that there is sufficient provision for parking for this proposal. Objectors had raised some concerns over increased traffic and parking, their concerns are not determining in this case.

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

While not of traditional building materials, the form is acceptable for the site and locality. In this case the building materials do not offend in this built up and compact urban 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;

Within Creating Places there is advice that there should be a separation of 20m from first floor windows of properties that back onto each other, that this is sufficient to ensure there will be no unacceptable overlooking of neighbouring property. There is a separation distance of approx.. 19m between properties that back onto each other. I am satisfied that there will be no impacts of overlooking. There is a first floor bedroom window to the rear of the proposed dwelling. It is my view this will not cause overlooking problems for neighbouring properties. There are no first floor overlooking windows located on the elevation that faces the boundary fence and rear garden area of No. 37, therefore there will be no unacceptable impacts of overlooking or loss of privacy. Part of the proposed dwelling is two storey, but this is approx.. 3.5m from the boundary fence of No. 37. There is a single storey element closer to this boundary fence, but given the ridge is flat roof and at a height of 2.75m (approx.. 0.75m higher than the existing privacy fence, that this will not cause significant detrimental impacts overshadowing to the garden area of No. 37, or any other property. In my view there will be no unacceptable loss of light or detrimental impacts of overshadowing experienced at No. 37 or any other property.



There is sufficient distance between properties, and provision of private amenity space for there to be any detrimental impacts of noise, nuisance or general disturbance. Some properties along this row of development in Gortmerron have converted part of their rear garden area for parking provision, not unlike the relationship of new parking provision at this property to the rear of No. 37. It is my view that there will be no detrimental impacts of noise, nuisance or general disturbance of this dwelling on neighbouring amenity over and above what is currently experienced in this area. Cars already park to the rear of gardens along Gortmerron.

Some impacts on private amenity may be experienced from time to time by the occupants of the new dwelling from the adjacent tennis courts, when tennis matches are being played. This will only be from time to time, and will not be of a frequency that will cause detrimental impacts to an unacceptable degree on private amenity.

Objectors have raised concern that this proposal will have a detrimental impact in terms of overlooking, overshadowing and loss of light. Through my assessment it is my view that the design and siting of the proposal will respect privacy and amenity of nearby residents to an acceptable degree in this urban location.

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

In my view the property will be secure, and will promote personal safety.

#### Addendum to PPS7

#### Addendum to PPS7- Safeguarding the Character of Established Residential Areas

This addendum to PPS 7 was introduced by the Department of the Environment in 2010 in a response to ensure that the existing characters of established residential areas were being respected.

Policy LC1 Protecting the Character, Environmental Quality and Residential Amenity of this addendum also sets criteria for the redevelopment of existing buildings. Criteria a) and b) of this policy have been covered above. I do not feel that this proposal will result in an unacceptable density significantly higher than that found in this area. The pattern of development is in keeping with the overall character and environmental quality of the surrounding area.

Criteria c) of LC1 sets a requirement for all dwellings and apartments to be built to a size not less than those set out in Annex A.

I am satisfied that the space standards in Annex A are met.

#### PPS2 Natural Heritage

As assessed above, I am of the view that this proposal will not have a detrimental impact on nature conservation or wildlife. NIEA NED have provided comment on a PEA and raise no objections to the development of this site on natural environment interests.

#### Other Material Considerations

Concern has been raised by objectors that a dwelling in the rear garden area of properties No. 39 and 41 Ranfurly Road will not be in keeping with the character of the area and will set a poor precedent for development along this part of Gortmerron Avenue in other rear gardens. It is a commonly rehearsed parlance in planning that every site

should be judged on its merits and this site is of no exception. Should other land owners wish to develop their rear gardens for residential development then these applications will be assessed on their merit, in accordance with the relevant area plan, planning policies and other material considerations, as this proposal has been. I do not feel that a poor precedent is being set in this case for the reasons stated above.

No land contamination issues have been identified.

NIW indicate that Dungannon Waste Water Treatment Works has currently no sewage capacity for this dwelling to connect. However in a Pre Development Enquiry response from NIW (dated 20/09/2020 and can be viewed on the portal) it is stated that as this is a single residential unit a foul connection will be approved to the 225mm within Gortmerron Avenue. I am satisfied that sewage produced at this site can be satisfactorily dealt with.

No privacy boundary fencing has been indicated on plans, this can be conditioned to a 2m high close boarded privacy fence to protect adjacent amenity.

The site is not subject to flooding and is not within a flood plain.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That permission is granted subject to the following conditions;

**Conditions**

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

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

2. Prior to the occupation of the dwelling hereby approved, a 2m high close boarded privacy fence or similar shall be provided within the area indicated in yellow on drawing No. 02 rev2 date stamp received 20th January 2021, and shall be permanently retained and maintained thereafter, unless otherwise agreed by Council.

Reason: To assist in the provision of a quality residential environment and to safeguard existing and proposed residential amenity.

3. The existing natural screenings of this site, as indicated on drawing No 02 rev2 date stamp received 20/01/2021, shall be permanently retained, otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity and to safeguard existing biodiversity.

4. During the first available planting season after the commencement of development on site, all trees and hedges indicated in drawing No 02 rev2 date stamp received 20/01/2021, shall be planted as shown and be permanently retained thereafter.

Reason: In the interest of visual amenity and to safeguard and improve biodiversity.

5. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of 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 and to safeguard and promote biodiversity.

#### Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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

3. This permission 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. NIEA NED advise the following;

#### Birds

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

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

It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

#### Bats

The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;

- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to;
  - (i) affect the local distribution or abundance of the species to which it belongs;
  - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
  - (iii) Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works must cease immediately and further advice must be sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605

#### Badgers

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly damage or destroy or obstruct access to, any structure or place which badgers use for shelter or protection; damage or destroys anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which is uses for shelter or protection.

If there is further evidence of badger activity on the site, all works must cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605.

#### 5. DfI Roads advise the following;

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

Notwithstanding the terms and conditions of the Councils 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 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. 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.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	18th June 2020
<b>Date First Advertised</b>	30th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 25 Ranfurly Road,Dungannon,Tyrone,BT71 6EF Clive Smylie 26 Eglish Road, Dungannon, Tyrone, BT70 1UD The Owner/Occupier, 27 Ranfurly Road,Dungannon,Tyrone,BT71 6EF The Owner/Occupier, 29 Ranfurly Road,Dungannon,Tyrone,BT71 6EF The Owner/Occupier, 3 Gortmerron Avenue,Dungannon,Tyrone,BT71 7AJ The Owner/Occupier, 31 Ranfurly Road,Dungannon,Tyrone,BT71 6EF The Owner/Occupier, 33 Ranfurly Road,Dungannon,Tyrone,BT71 6EF Grahame Mckeown 35 Ranfurly Road,Dungannon,Tyrone,BT71 6EF G McLaughlin 37 Ranfurly Road, Dungannon, BT71 6EF The Owner/Occupier, 37 Ranfurly Road,Dungannon,Tyrone,BT71 6EF The Owner/Occupier, 39 Ranfurly Road,Dungannon,Tyrone,BT71 6EF The Owner/Occupier, 41 Ranfurly Road,Dungannon,Tyrone,BT71 6EF Phillip Hughes 5 Gortmerron Avenue, Dungannon, Tyrone, BT71 7AJ The Owner/Occupier, 5 Gortmerron Avenue,Dungannon,Tyrone,BT71 7AJ Margaret Jackson 7 Gortmerron Avenue, Dungannon, BT71 7AJ Margaret Jackson 7 Gortmerron Road, Dungannon,Tyrone,BT71 7AJ The Owner/Occupier, Dungannon Pentecostal Church,Gortmerron Avenue,Dungannon,Tyrone,BT71 7AJ Gareth McLaughlin Email	
<b>Date of Last Neighbour Notification</b>	4th December 2020

<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No screening required, not Schedule 2 development.



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

## Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0705/F	Target Date:
<b>Proposal:</b> Upgrading to an existing household waste recycling centre to include new split level design, site office, weighbridges, concrete yard and vehicle parking sheds and upgrading non hazardous waste transfer station, including reinforced concrete internal push walls and reconfiguration of roller doors	<b>Location:</b> Magherafelt Depot and Recycling Centre Ballyronan Road Magherafelt
<b>Referral Route:</b>  This application is being presented to Committee as the applicant is Mid Ulster District Council.	
<b>Recommendation:</b>	APPROVAL
<b>Applicant Name and Address:</b> Mid Ulster District Council Ballyronan Road Magherafelt	<b>Agent Name and Address:</b> WDR and RT Taggart Ltd Russell Business Centre 40-42 Lisburn Road Belfast BT9 6AA
<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	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Strategic Applications	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



<p>Summary of Issues</p> <p>No representations have been received in respect of this proposed development.</p>
<p>Characteristics of the Site and Area</p> <p>The site is situated to the rear of the Mid Ulster District Council offices in Magherafelt and is bounded as follows:-</p> <p>Northern boundary by fields and a service yard which extends along the eastern boundary;</p> <p>South and West by Mid Ulster District Council offices and Kilronan School;</p> <p>Access to the site is via the existing entrance to the Mid Ulster District Council offices and associated yard, Depot, Household Waste Recycling Centre and Waste Transfer Station. The existing site includes a large industrial type building which accommodates the household waste, with a smaller open fronted shed positioned to the northern corner and used to accommodate the brown bin waste. A number of large industrial skips are positioned within the centre of the existing site and are available for public use. The site also accepts waste oils and waste electronic and electrical equipment.</p> <p>A small portion of the proposed site is within the adjacent site of the former concrete works and is currently occupied by a hard standing sitting above the rest of the former concrete works. This area is separated from the existing MUDC site by a 4-5m high conifer hedgerow. The remainder of the MUDC site is enclosed by a 2.5m high palisade security fence.</p> <p>Characteristics of Area</p> <p>The site is predominantly located on white land as identified within the Magherafelt Area Plan 2015 with the remainder of the site being located in a major area of existing industry.</p>
<p>Description of Proposal</p> <p>The proposal is for the 'Upgrading to an existing household waste recycling centre to include new split level design, site office, weighbridges, concrete yard and vehicle parking sheds and upgrading non hazardous waste transfer station, including reinforced concrete internal push walls and reconfiguration of roller doors.'</p>
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>The proposal is in accordance with the Magherafelt Area Plan 2015 insofar as it is sited within an area of existing use similar to the proposed use.</p> <p>The proposal is assessed under Policies WM1 Environmental Impact of a Waste Management Facility and WM2 Waste Collection and Treatment Facilities of Planning Policy Statement 11 Planning and Waste Management.</p> <p>Policy WM1 requires that proposals will only be permitted where it is considered that the facility would not cause demonstrable harm to the environment including air, water, soil, water resources, nature conservation and archaeological/built heritage and where harm to these interests cannot be prevented or controlled by mitigating measures. Further to this, development will not be permitted where it is not compatible with the surrounding landscape or where it will have an unacceptable visual impact on any area designated for its landscape quality. In addition the proposals would not be acceptable where it is considered that the access to the site and the nature and frequency of associated traffic movements would prejudice the safety and convenience of road users.</p>

- the proposal will not cause demonstrable harm to human health or result in an unacceptable adverse impact on the environment;

The proposed development is simply to upgrade the existing recycling centre, depot and transfer station to ensure more efficient operations within the Council Area. The developed areas will be constructed with appropriate impermeable surfaces and sealed drainage. Wastes that have the potential to give rise to amenity issues will be stored for no longer than 48 hours. Further management practices have been proposed to control any potential human health or environmental impact. The facility will be regulated under a waste management licence issued by NIEA. The WML will ensure the control of any potential environmental or human health impacts.

- the proposal is designed to be compatible with the character of the surrounding area and adjacent land uses;

The development is located within the existing recycling centre and Council Operations Depot. The use of this land for waste management purposes has therefore already been established. In addition, the additional buildings have been designed to be in keeping with the surrounding industrial buildings and character of the area.

- the visual impact of the waste management facility, including the final landform of landfilling or land raising operations, is acceptable in the landscape and the development will not have an unacceptable visual impact on any area designated for its landscape quality;

The proposed upgrades to the HWRC involve the creation of a lower yard, whereby the skips containing waste will be at a level approximately 1.245m below the rest of the site. The proposed buildings and sheds will not be at a height higher than the existing WTS on site.

- the access to the site and the nature and frequency of associated traffic movements will not prejudice the safety and convenience of road users or constitute a nuisance to neighbouring residents by virtue of noise, dirt and dust;

The site will be accessed via the existing entrance off the Ballyronan Road. The majority of the traffic accessing the new site already utilises the existing entrance road to access the existing facility. The existing long site access road allows space for vehicles to queue without causing an obstruction on the private road. All roads will be reinforced concrete or tarmac therefore prevent the generation of noise, dirt and dust and no road upgrades are required to facilitate the development. Appropriate radius and visibility splays are maintained throughout the development.

- the public road network can satisfactorily accommodate, or can be upgraded to accommodate, the traffic generated;

The traffic movements associated with the proposed development will be largely similar to existing movements. The proposed development will include a new structure for the Council's RCV's to park within the proposed sheds. The HWRC element is an upgrade to the current site. Therefore, there will be no change in the volume of traffic associated with this operation. It is anticipated that there will be a minimal increase in vehicle numbers, with an average of two HGV's per day, resulting in up to one HGV movement per hour. It is considered that the current public road network can accommodate this small increase in vehicle numbers.

- adequate arrangements shall be provided within the site for the parking, servicing and circulation of vehicles;

On both the WTS and HWRC there is ample space for movement and circulation of vehicles. In addition, a dedicated public access road to the HWRC has been created. This dedicated access road ensures that the public and HGV's are separated therefore greatly improving the health and safety of the operation over the current situation. The public route has a long access road. This, combined with set down areas on both sides of the internal circulation road, will ensure the efficient use of the site and prevent public queueing on the road. The existing site has ample parking for staff and visitors where necessary. The proposed upgrades involve the construction of new sheds for parking RCV's.

- wherever practicable the use of alternative transport modes, in particular, rail and water, has been considered;

As the proposed development is an upgrade of an existing facility, alternative transport modes are not applicable.

- the development will not have an unacceptable adverse impact on nature conservation or archaeological/built heritage interests.

There are no archaeological features or built heritage on the site. Therefore, the development is considered to have no nature conservation or archaeological impact.

- the types of waste to be deposited or treated and the proposed method of disposal or treatment will not pose a serious environmental risk to air, water or soil resources that cannot be prevented or appropriately controlled by mitigating measures;

No treatment or disposal of waste will take place on site. All waste operations will take place within a purposely constructed building and recycling centre, therefore mitigating emissions to air. Waste will not be stored for a period longer than 48 hours, therefore mitigating odour emissions. The waste will be stored on impermeable concrete paving with a sealed drainage for contaminated runoff. Prior to discharge, storm water will pass through a silt trap/oil interceptor to ensure its compliance with the drainage consent required for the site.

- the proposed site is not at risk from flooding and the proposal will not cause or exacerbate flooding elsewhere;

A review of DfI River's flood maps indicate there is no risk of fluvial or pluvial flooding. With the proposed resulting in little or no increase in surface water runoff, the development will not cause flooding elsewhere. There is no change to the current permitted storm water discharge location.

- the proposal avoids (as far as is practicable) the permanent loss of the best and most versatile agricultural land;

The land for the proposed upgrade to the HWRC is hardstanding and contains no grass land. The proposed location of the facility will ensure that the required proposal is developed at an existing waste management facility and not a greenfield site.

- In the case of landfilling the proposal includes suitable, detailed and practical restoration and aftercare proposals for the site.

The proposed development does not involve landfilling.

Policy WM2 requires that proposals will only be permitted where it is considered that there is a need for the facility, it is the Best Practicable Environmental Option, it complies with the preferred locational criteria in addition to satisfying other criteria.

#### Policy WM 2 - Waste Collection and Treatment Facilities

Proposals for the development of a waste collection or treatment facility will be permitted where:

- a) there is a need for the facility as established through the WMS and the relevant WMP;

The proposed facility will assist in the Council's compliance with the current Waste Management Strategy (WMS). The proposed development is supported by the current Waste Management Plan (WMP). The WMP outlines the need for HWRC's and WTS's to allow the effective segregation and recycling of waste.

- b) the proposed facility is the BPEO;

The development is the Best Practicable Environmental Option as it will allow for the increase in the potential for recycling in the area and minimise the volume of waste going for disposal.

- c) the proposed facility complies with one or more of the following locational criteria:

- it is located within an industrial or port area of a character appropriate to the development;

The proposed development is an upgrade to the existing HWRC and WTS. Other land uses in the area include other industrial/commercial premises. Therefore, the proposed development is situated in an appropriate character area.

- it is suitably located within an active or worked out hard rock quarry or on the site of an existing or former waste management facility including a landfill site;

The site is an existing waste management facility.

- it brings previously developed, derelict or contaminated land back into productive use or makes use of existing or redundant buildings;

The proposed location of the upgrades is to take place on land both currently used as a waste management facility in addition to an area previously used as a storage yard.

- in the case of a civic amenity and similar neighbourhood facilities the site is conveniently located in terms of access to service a neighbourhood or settlement whilst avoiding unacceptable adverse impact on the character, environmental quality and amenities of the local area;

The proposed development is on the site of an existing waste management facility which is within the settlement development limits of Magherafelt and is therefore convenient to the entire local area.

Furthermore, the proposed development will not have an unacceptable adverse impact on the character, environmental quality and amenities of the local area

- where the proposal is in the countryside, it involves the reuse of existing buildings or is on land within or adjacent to existing building groups. Alternatively where it is demonstrated that new buildings/plant are needed these must have an acceptable visual and environmental impact;

The proposal is not within the rural area.

The site will not have any significant additional effect on the surrounding area. No significant environmental impact has been identified by any of the consultees.

Environmental Health had no objections.

DfI Roads had no objections.

#### Conclusion

The proposal is for the upgrading to an existing household waste recycling centre to include new split level design, site office, weighbridges, concrete yard and vehicle parking sheds and upgrading non-hazardous waste transfer station, including reinforced concrete internal push walls and reconfiguration of roller doors. EHD have not raised any issues of noise, odour, contamination or run-off and therefore these are not issues of concern. DfI Roads did not raise an issues regarding access, turning, parking, loading or unloading.

In my opinion, in light of the above planning considerations and consultee responses, the proposal is acceptable and is capable of approval.

Recommendation – Approve subject to the conditions listed below:

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Approve subject to the conditions listed below:-	
Conditions	
1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.	
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.	
Signature(s)	
Date:	

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ANNEX	
Date Valid	16th June 2020
Date First Advertised	7th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, Kilronan School 46 Ballyronan Road Magherafelt The Owner/Occupier, MC Car Sales, Ronan Valley Business Park, 58 Ballyronan Road, Magherafelt, Londonderry, BT45 6EW	
Date of Last Neighbour Notification	31st July 2020
Date of EIA Determination	
ES Requested	No
Planning History  Ref ID: LA09/2017/1105/PAN Proposal: Site for residential development (outline planning permission) with open space, access and landscaping Address: Lands to the rear of 40 Ballyroanan Road, adjoining Kilronan School and to the rear of No's 35 - 37 & 65 - 75 Killowen Drive Magherafelt, Decision: PANACC Decision Date:  Ref ID: LA09/2017/1102/PAD Proposal: Application proposed for outline planning permission for residential development of lands owned by Acheson and Glover Ltd Address: Lands to the rear of 40 Ballyronan Road, adjoining Kilronan School and to the rear of No's 35-37 and 65-75 Killowen Drive, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2015/0982/PAD Proposal: Access at Ballyronan Road Address: 40 Ballyronan Road, Magherafelt, Decision: Decision Date:  Ref ID: H/1993/0454 Proposal: COUNCIL DEPOT INCLUDING STORAGE OF VEHICLES; GARAGE; ASSOC OFFICES AND STORES	

Address: ADJ TO 50 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: LA09/2018/0246/O

Proposal: Outline Planning Permission for residential development, with open space, access, landscaping, new roundabout and associated site works.

Address: Lands to the rear of 40 Ballyronan Road, adjoining Kilronan School and to the rear of No's 35-57 & 65-75 Killowen Drive, Magherafelt BT45 6EW.,

Decision: PG

Decision Date: 05.12.2018

Ref ID: LA09/2020/0705/F

Proposal: Upgrading to an existing household waste recycling centre to include new split level design, site office, weighbridges, concrete yard and vehicle parking sheds and upgrading non hazardous waste transfer station, including reinforced concrete internal push walls and reconfiguration of roller doors

Address: Magherafelt Depot and Recycling Centre, Ballyronan Road, Magherafelt,

Decision:

Decision Date:

Ref ID: H/1994/0538

Proposal: MIX BATCHING PLANT FOR PRODUCTION OF CONCRETE BLOCKS

Address: 58-60 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0366

Proposal: BUILDING FOR THE MANUFACTURE OF PRECAST CONCRETE FLOORING

Address: 58 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2002/0897/F

Proposal: Portal frame buildings and extended yard to provide recycling facility and stores.

Address: Adjacent to existing Council Depot, 50 Ballyronan Road, Magherafelt.

Decision:

Decision Date: 06.06.2003

Ref ID: H/1994/0087

Proposal: ENTRANCE GATES, BOUNDARY FENCE AND RETAINING WALL AND NON-ADOPTION OF ACCESS ROAD

Address: 50 BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2006/0116/F

Proposal: Addition of 2 new Vertical Compost Units with associated access stairs and amendments to previous planning permission (H/2004/1558/F) to include repositioning of Vertical Compost Units and leachate collection facility and biofilter details.

Address: Council Depot Recycling Centre 50 Ballyronan Road Magherafelt

Decision:

Decision Date: 25.07.2007

Ref ID: H/1989/0277

Proposal: SITE OF HOUSING DEVELOPMENT

Address: BALLYRONAN ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2004/1558/F

Proposal: Vertical Composting Unit (VCU) with in-house loading area.

Address: Council depot & recycling centre, 50 Ballyronan Road, Magherafelt.

Decision:

Decision Date: 13.05.2005

Ref ID: H/2002/0623/F

Proposal: 2/3 Storey Office Block Extension To Existing Council Offices

Address: Council Offices, 50 Ballyronan Road, Magherafelt

Decision:

Decision Date: 19.08.2002

Ref ID: H/2002/1102/F

Proposal: Office block extension to existing council offices.

Address: Council Offices, 50 Ballyronan Road, Magherafelt.

Decision:

Decision Date: 21.01.2003

Ref ID: H/1986/0178

Proposal: H V O/H LINE (BM 7766)

Address: DUNAMONEY, TOWNPARKS, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2013/0395/F

Proposal: Roofing of existing green waste storage bay

Address: Recycling yard, 50 Ballyronan Road, Magherafelt,

Decision: PG

Decision Date: 19.02.2014

#### Summary of Consultee Responses

All consultees responded positively.

#### Drawing Numbers and Title



Drawing No. 06  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 07  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 08  
Type: Elevations and Floor Plans  
Status: Submitted

Drawing No. 09  
Type: Road Access Plan  
Status: Submitted

Drawing No. 10  
Type: Road Access Plan  
Status: Submitted

Drawing No. 11  
Type: Road Access Plan  
Status: Submitted

Drawing No. 12  
Type: Road Access Plan  
Status: Submitted

Drawing No. 13  
Type: Road Access Plan  
Status: Submitted

Drawing No. 14  
Type: Proposed Plans  
Status: Submitted

Drawing No. 15  
Type: Miscellaneous  
Status: Submitted

Drawing No. 16  
Type: Technical Specification  
Status: Submitted

Drawing No. 17  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 18  
Type: Proposed Plans  
Status: Submitted

Drawing No. 05  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 04  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 03  
Type: Proposed Elevations  
Status: Submitted

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

Drawing No. 02  
Type: Cross Sections  
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> LA09/2020/0707/F	<b>Target Date:</b>
<b>Proposal:</b> New infill dwelling and garage	<b>Location:</b> 20m East of 15 Lisgorgan Lane Maghera
<b>Referral Route:</b>  Recommended for refusal Objections received	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> William Drennan 24 Lisgorgan Lane Upperlands Maghera	<b>Agent Name and Address:</b> OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
<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	NIEA	Substantive Response Received
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

Objections have been received regarding the access to the site and the extent of the location of the dwelling proposed on the site. The objections have been considered as part of this planning report.

### Characteristics of the Site and Area

The site is located within the open countryside as per the Magherafelt Area Plan 2015. The red line of the site runs along a shared laneway, identified as a public right of way and includes a small portion of an agricultural field located adjacent to 15 Lisgorgan Lane, Kilrea. The area is mainly agricultural however, there is a high number of dwellings for a rural location with a cluster of development visible.

## Description of Proposal

This is a full planning application for a new infill dwelling and garage on lands 20m East of Lisgorgan Lane, Maghera.



Image 1: Site block plan

## Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

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

Strategic Planning Policy Statement (SPPS)

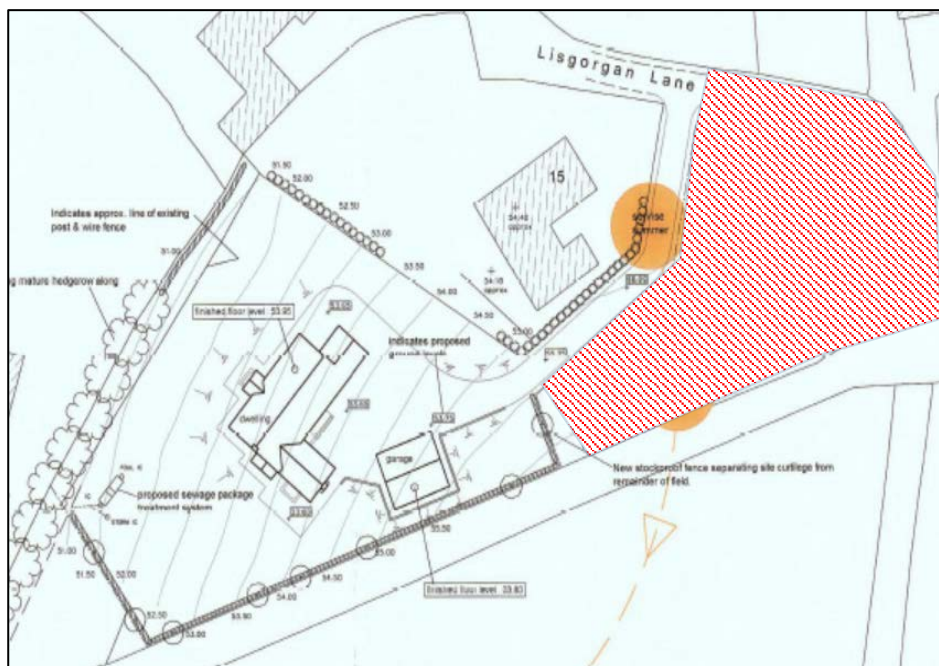
PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking:

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21- Sustainable Development in the Countryside. The application is for a dwelling to be considered under Policy CTY8.

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

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.



meet all the policy criteria required. I am content there is a cluster of development at this location, which consists of four or more buildings, of which at least three are dwellings.

I am content that the cluster appears as a visual entity in the landscape. However, the cluster of development is not associated with a focal point such as a social or community building/facility or at a cross roads, so fails to meet this policy criteria.

I am content that the site provides a suitable degree of enclosure and is bounded on the east and north with existing development within the cluster and that the site can be absorbed into the existing cluster through rounding off.

I would have some concerns surrounding the location of the proposed dwelling on the site and its proximity to No.15 Lisgorgan Lane. The proposed siting of the dwelling sits close to the boundary of the site and within close proximity to No.15, although a new laneway separates the two sites. The rear elevation contains many windows at ground floor level and may give rise to concerns surrounding residential amenity particularly to No.15. It is noted that the site is relatively small and that proposed planting is to take place at this boundary to screen the site, which would reduce any negative impacts on residential amenity.

However, as the proposal does not meet all the criteria listed above, it fails to meet the policy requirements of CTY2a.

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 am content that the dwelling proposed would not be a prominent feature in the landscape. The site does lack established boundaries at some sides, particularly the south and western boundaries but will not rely solely on new landscaping for integration. I am content that the proposal meets the criteria of CTY 13, as it would blend in with the existing character of the area given the number of dwellings at this location.

Policy CTY 14 states planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I believe the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings, as there is no gap site to fill, it would also add to a ribbon of development in the area. As a result, this would erode the rural character of the area, as the proposal cannot be considered as part of a cluster or an infill opportunity. I do not believe the impact of ancillary works would damage the rural character of the area.

#### **Other material considerations**

Two objections have been received in relation to this application with the crux of the issues relating to the impact the development would have on the existing right of way. The objector also brought it to the attention of the planning department that the application form was not correct and the maps did not identify the right of way. Since this the applicant has submitted amended plans showing the right of way and revised plans showing that no development will be taking place on the right of way. From this I am content the objectors concerns have been resolved.

DfI Roads were also consulted and requested amended drawings to show visibility splays of 2.4 x 120 metres, which the applicant provided. DfI also noted the objections on file and states that Lisgorgan Lane is not adopted by DfI Roads and provided no further comments or objections subject to conditions and informative being applied.

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has

been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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.

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not located within an existing cluster of development that is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted; create a ribbon of development along Lisgorgan Lane.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	22nd June 2020
<b>Date First Advertised</b>	7th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) John Stewart . The Owner/Occupier, 10 Lisgorgan Lane Upperlands Maghera The Owner/Occupier, 141 Kilrea Road Upperlands Londonderry The Owner/Occupier, 15 Lisgorgan Lane Upperlands Maghera The Owner/Occupier, 17 Lisgorgan Lane, Upperlands, Maghera, Londonderry, The Owner/Occupier, 2 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE The Owner/Occupier, 4 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE The Owner/Occupier, 9 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE John Stewart Email Address	
<b>Date of Last Neighbour Notification</b>	27th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/0721/F Proposal: 1No. Industrial Unit to provide storage, office, and ancillary facilities Address: 202m S.E. of 24 Lisgorgan Lane, Upperlands, Decision: Decision Date:  Ref ID: LA09/2020/0332/F Proposal: Retrospective planning application for 2 industrial units and retrospective change of use of 2 agricultural sheds to industrial units Address: 245m East of 24 Lisgorgan Lane, Upperlands, Decision:	

Decision Date:

Ref ID: LA09/2020/0707/F

Proposal: New infill dwelling and garage

Address: 20m East of 15 Lisgorgan Lane, Maghera,

Decision:

Decision Date:

Ref ID: LA09/2019/0525/F

Proposal: Proposed change of house type with detached garage and extension to site curtilage from that approved under approval LA09/2017/1773/F

Address: Lisgorgan Lane 5 Metres South of 141 Kilrea Road, Upperlands, Maghera,

Decision: PG

Decision Date: 01.07.2019

Ref ID: LA09/2017/1773/F

Proposal: Proposed infill dwelling

Address: 5m South of 141 Kilrea Road, Upperlands, Maghera,

Decision: PG

Decision Date: 17.08.2018

Ref ID: LA09/2018/0751/F

Proposal: Replacement of foundations and associated works under approval H/2008/0398/RM for alternative site located at 20m North of Lisgorgan Lane, Upperlands, for new dwelling and garage in substitution for previously approved dwelling.

(amended description)

Address: 20M North of 2 Lisgorgan Lane Upperlands Maghera,

Decision: PG

Decision Date: 10.01.2019

Ref ID: H/2008/0154/F

Proposal: Retention of private access and laneway

Address: Adjacent to 139 Kilrea Road, Upperlands

Decision:

Decision Date: 12.12.2008

Ref ID: H/2004/1123/O

Proposal: Site for Bungalow.

Address: Adjacent to 2 Lisgorgan Lane, Upperlands, Maghera.

Decision:

Decision Date: 26.07.2005

Ref ID: H/2005/1111/F

Proposal: Extension to dwelling and conversion of barn to living accommodation.

Address: 10 Lisnagoran Lane, Lisgorgan Glebe, Maghera

Decision:

Decision Date: 03.07.2006

Ref ID: H/2010/0183/O

Proposal: Site of proposed single dwelling as infill

Address: 5m South of No.141 Kilrea Road, Upperlands, Maghera

Decision:

Decision Date: 28.09.2010

Ref ID: H/2004/1019/O

Proposal: Site of 1no Dwelling and 1no Garage.

Address: Adjacent to no 10 Lisgrogan Lane, Upperlands, Kilrea.

Decision:

Decision Date: 24.10.2005

Ref ID: H/2008/0053/F

Proposal: Proposed change of house type & new domestic garage to supersede existing approval H/2007/0273/RM

Address: Opposite No.4 Lisgrogan Lane, Upperlands

Decision:

Decision Date: 16.10.2008

Ref ID: H/2008/0155/RM

Proposal: Dwelling and garage

Address: Adjacent to No.10 Lisgrogan Lane, Upperlands

Decision:

Decision Date: 16.07.2008

Ref ID: H/1999/0275

Proposal: BUNGALOW

Address: ADJ TO 10 LISGORGAN LANE UPPERLANDS MAGHERA

Decision:

Decision Date:

Ref ID: H/1999/0065

Proposal: SITE OF BUNGALOW

Address: OPPOSITE 10 LISGORGAN LANE UPPERLANDS

Decision:

Decision Date:

Ref ID: H/1994/0237

Proposal: SITE OF DWELLING

Address: ADJ TO 6 LISGORGAN LANE KILREA ROAD UPPERLANDS

Decision:

Decision Date:

Ref ID: H/2004/0821/F

Proposal: Extension to Back of House Connecting Garage.

Address: 4 Lisgrogan Lane, Upperlands, Maghera.

Decision:

Decision Date: 22.12.2004

Ref ID: H/1996/0134

Proposal: BUNGALOW AND GARAGE

Address: ADJ TO 6 LISGORGAN LANE UPPERLANDS

Decision:

Decision Date:

Ref ID: H/2007/0273/RM

Proposal: Proposed dwelling

Address: Opposite No.4 Lisgrogan Lane, Upperlands

Decision:

Decision Date: 02.08.2007

Ref ID: H/2003/0661/O

Proposal: Site of bungalow.

Address: Opposite no.4 Lisgorgan Lane, Upperlands.

Decision:

Decision Date: 18.08.2004

Ref ID: H/2008/0398/RM

Proposal: New dwelling and garage adjacent to No. 2 Lisgorgan lane, Upperlands, Maghera.

Address: Adjacent to No. 2 Lisgorgan Lane, Upperlands, Maghera

Decision:

Decision Date: 19.02.2009

Ref ID: H/2013/0360/RM

Proposal: Infill dwelling with attached garage

Address: 5m South of 141 Kilrea Road, Upperlands,

Decision: PG

Decision Date: 13.11.2013

Ref ID: LA09/2017/0837/F

Proposal: Proposed industrial unit to include display area, storage, office and ancillary facilities

Address: 24 Lisgorgan Lane, Upperlands, Maghera,

Decision: PG

Decision Date: 04.01.2018

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 06  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 05  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 04  
Type: Floor Plans  
Status: Submitted

Drawing No. 03  
Type: Floor 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:



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

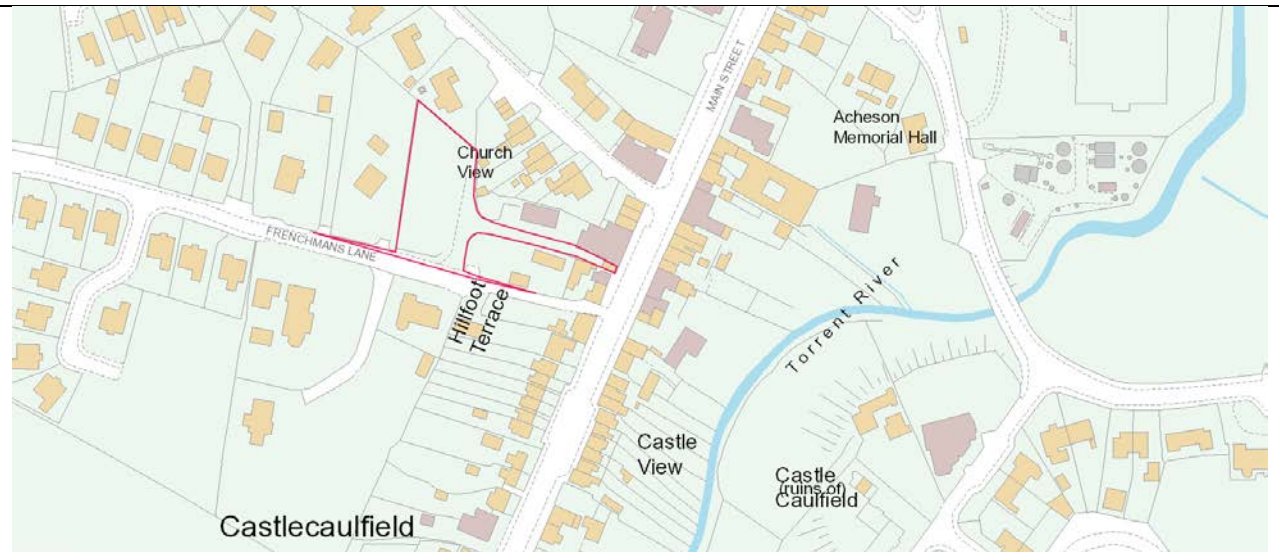
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0798/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2 no. two storey dwellings	<b>Location:</b> Site immediately east and adjacent to 5 Frenchmans Lane Castlecaulfield
<b>Referral Route: Objection</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Miss Kathy Robinson 36 Main Street Castlecaulfield Dungannon	<b>Agent Name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan





<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b>		
<p>The site is located within the development limits of Castlecaulfield as defined in the Dungannon and South Tyrone Area Plan 2010. It sits adjacent Frenchmans Lane, approx. 45 metres to the rear / west of an Area of Townscape Character, Area of Archaeological Potential and the centre of Castlecaulfeild village comprising a mix of retail and residential properties.</p> <p>The site, a relatively rectangular plot (approx. 0.25ha) comprising improved grassland, sits to the front/east of 5 Frenchmans Lane, a large 2-storey, brick dwelling; and to the rear/west of a no. of properties running along Main St including: a butchers 'Teners'; a 'Food Centre' shop; and no. of residential properties.</p> <p>Residential properties bound the site to the north/northeast including no. 10 Annaghmakeown Rd, a detached split level property of bungalow appearance; and nos. 4, 5 and 6 Church View, three 2-storey semi-detached properties. Detached residential properties also exist on large plots to the south of the site at the opposite side of Frenchman's Lane and include nos. 2, 4 and 6 Frenchmans Lane.</p> <p>The landform in the area rises steeply from Main St to the west, up to the site and beyond. As such, the land within the site has a gradual incline it occupies an elevated position above Main St, the properties along it and within Church View. No. 5 Frenchmans Lane sits just above and fronting east onto the site.</p> <p>A wooden d-rail fence defines the western/party boundary of the site with no. 5 Frenchmans lane. A mix of mature tree and hedgerow vegetation defines the northern / party boundary of the site with no. 10 Annaghmakeown Rd. A mix of close boarded fencing and hedging defines part of the eastern/party boundary of the site with 4, 5 and 6 Church View. The roadside boundary of the site and remainder of the eastern boundary are undefined onto Frenchmans Lane and an existing access and driveway off it. The access and driveway serve a hard-cored yard to the rear of the shop referenced above. The yard, comprising an area of parking and large store, also has vehicular access off Main St between the shop and adjacent butchers 'Teners'.</p> <p>The shop and ancillary yard are identified on the site location plan submitted on lands outlined in blue, within the control of the applicant.</p>		



**Description of Proposal**

This is a full application for two 2-storey dwellings to be located on a site immediately east and adjacent to 5 Frenchmans Lane Castlecaulfield.

The dwellings are to be sited one staggered behind the other fronting onto and individually accessed off Frenchmans Lane.

The dwellings, which both have a simple rectangular floor plan and pitched roof construction with a single chimney expressed on the ridgeline and 2-storey front projection offset to one side, are largely similar in external appearance and internal layout. The exception being a variation in the design of their front projections. The dwellings are finished to match.

Finishes include:

- Walls: Feature recon, stone door and window surrounds; feature plaster plinth; smooth through colour render - off white; natural grey stone to front projection and chimneys
- Roof: Natural slate
- Rainwater goods: PPC Aluminium
- Windows: Woodgrain finish

**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:**

Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6: Planning, Archaeology and The Built Heritage

Planning Policy Statement 7: Quality Residential Environments

Planning Policy Statement 7 (Addendum): Safe Guarding the Character of Established Residential Areas

Creating Places

Development Control Advice Note 8 Housing in Existing Urban Areas

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Relevant / Recent History**

On Site

- M/1998/0494 – Outline application for dwelling – Land at Frenchmans Lane 70m W of 28 Main St Castlecaulfield Dungannon – Granted 18<sup>th</sup> August 1998

#### Adjacent Site

- M/1998/0618 – Site for Dwelling - Approx. 110m W of 28 Main St Castlecaulfield on Frenchman's Lane – Granted 27<sup>th</sup> November 1998.
- M/1999/0778/RO – Site for Dwelling – Approx. 110m W of 28 Main St Castlecaulfield on Frenchman's Lane – Granted 30<sup>th</sup> December 1999. This application and M/1998/0618 relate to no. 5 Frenchman's Lane to the west of the site.
- M/2000/0012/F – Proposed re-structuring and extension of existing food retail outlet, erection of new dry foods store and provision of new access – 30 - 34 Main Street Castlecaulfield Dungannon – Granted 6<sup>th</sup> June 2000. This application relates to the food shop to the east of the site.
- M/2006/0029/O – One dwelling house – 36m to the rear of 26 Main Street, Castlecaulfield – Granted 15<sup>th</sup> May 2006.
- M/2006/1651/RM – One dwelling house – 36m to the Rear of 26 Main Street, Castlecaulfield – Granted November 2007. This and above application 0029/O relate to a site to the east of the site on lands to the rear of the butcher's 'Tener's' on Main St.

#### **Consultees**

1. DfI (Roads) were consulted in relation to access, movement and parking arrangements for the proposal. Roads responded with no objection, to the proposal subject to standard conditions and informatives, as such, I am content the proposal meets the requirements of Planning Policy Statement 3: Access, Movement and Parking.
2. NI Water (Multi Units West) were consulted and indicate that there is available capacity within Castlecaulfeild WWTW for this development to connect, therefore it is demonstrated that sewage can be disposed of safely.
3. Historic Environment Division (HED) were consulted as the site is located within the buffer zone of 2 archaeological sites and monuments (TYR054:001 and TYR054:030). HED Historic Monuments responded that having assessed the application they were content it is satisfactory to SPPS and PPS 6 archaeological policy requirements. That the application site is not within the Area of Archaeological Potential defined for Castlecaulfield and so the potential for uncovering buried archaeological remains during site works is low. It will also not provide any adverse impact upon the setting or physical remains of Castlecaulfield castle (TYR054:001) or the ecclesiastical site (TYR054:030).

**The Dungannon and South Tyrone Area Plan (2010)** identifies the site as being within the settlement limits of Castlecaulfeild. The site is not located within but approx. 45

metres to the rear / west of an Area of Townscape Character (ATC), Area of Archaeological Potential and the centre of Castlecaulfeild village.

The Plan defines the settlement limits and allows for development within these limits provided it meets with regional policy requirements of Policy SETT 1, including Part 3 of the Plan.

Part 3 of the Plan, gives favourable consideration to housing development in Castlecaulfeild, provided the scale, layout, and detailed design of the development are compatible with the scale and character of the settlement. In order to reinforce local identity, such proposals should be guided and informed by the historic built forms displayed within the designated ATC in the village. Standard suburban layouts or the use of designs and materials unrelated to the traditional village character will not be acceptable.

Policy SETT 1 sets out 6 criteria and a general criteria to meet with regional policy. I consider that if the development meets with regional policies contained in PPS 3 – Access, Movement and Parking; PPS6: Planning, Archaeology and The Built Heritage; PPS7 – Quality Residential Environments; PPS7 (Addendum): Safe Guarding the Character of Established Residential Areas it will meet the requirements of SETT1 including Part 3 of the Plan.

**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 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 i.e. PPS 7 and the Addendum to PPS 7.

**Planning Policy Statement 3 – Access, Movement and Parking** – The dwellings proposed are to be accessed off Frenchmans Lane, via 2 individual accesses. I am content this proposal is in compliance, with the policy provisions of Planning Policy Statement 3, in that DFI (Roads) raised no objections to it, subject to standard conditions and informatives; and in-curtilage parking for 2 vehicles, to each property, has been provided.

**PPS 7 – Quality Residential Environments** – PPS 7 is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy. I will deal with these as they appear in the policy.

- a) the development should respect the surrounding context and be 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;

It is my opinion that the proposal respects its surrounding largely residential context and is appropriate in terms of layout and appearance of buildings and landscaped areas. The design and finishes are in general conformity with properties in the wider vicinity as the plot sizes which include private rear amenity and in curtilage parking for vehicles.

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

The site is not located within but approx. 45 metres to the rear / west of an Area of Townscape Character (ATC), Area of Archaeological Potential and the centre of Castlecaulfeild village. Historic Environment Division were consulted (see 'Consultee's' above) and raised no objection to development. Existing vegetation except where required to provide access to the site will be conditioned to be retained.

- (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;

A development of this size does not require communal open space. The proposed private rear amenity space is acceptable for these dwellings and is above 70sqm of the standard contained within Creating Places. I find the landscape provision acceptable for the size and scale of this proposal, the site and area.

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

A development of this size does not require its own neighbourhood facilities. The site is close to the centre of Castlecaulfeild and there is adequate provision of services within the existing village.

- (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 runs along site frontage of the site. Whilst it does not connect to a wider public footpath network into Castelcaulfeild village centre owing to a narrowing of the road, Frenchmans Lane heading into the centre, it should still support walking / cycling and help meet the needs of people whose mobility is impaired, owing to its close location to the centre where public transport can be accessed.

- (f) adequate and appropriate provision is made for parking;

DfI Roads raise no concern in this regard and in-curtilage parking for 2 vehicles, to each property has been provided.

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

The design and finishes of the proposed dwellings are considered acceptable to the site and locality.

(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 surrounding land uses are primarily residential with business to the east along Main St. This residential development should not conflict those land uses. There should be no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light or overshadowing owing to the location, layout, orientation and design of the dwellings; and separation distances that will be retained. Paragraph 7.16 of Creating Places advises that there should be a minimum separation distance of 10m between the rear of new houses and the common boundary. Whilst I acknowledge this has not been fully achieved in relation to house type 2 at its entire party boundary with no. 10, having taken account of the location, orientation and levels of no. 10 and house type 2 proposed, alongside existing and proposed planting and the path of sun, I am content in this instance the reduction is acceptable. That it should not cause unacceptable impact to no. 10 in terms of overlooking or overshadowing. No. 10 sits tucked on lower lands to the site bound by existing hedging along the party boundary which will be reinforced with additionally planting so there should be no overlooking from ground floor windows of house type 2 and the upper windows are bedroom, and therefore not considered main serving.

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

The proposal raises no concerns in relation to crime or personal safety and I am satisfied that the dwelling is in an area where there are enough dwellings close enough by to deter crime to some degree. Additionally, the dwellings are orientated to front towards the public road, Frenchman's Lane, which has street lighting.

On the basis of the above assessment it is clear that the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7.

#### **PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas**

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this area, unit size is not less than recommended in Annex A of this policy and design is acceptable.

#### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 2 letters of objection were received from a third party Mr Watt, the owner/occupier of no. 5 Church View located on lands

immediately east of the site. The letters received the 27<sup>th</sup> August 2020 and 19<sup>th</sup> October 2020 relate to surface water run-off from the site.

In the 1<sup>st</sup> letter at the outset of the application Mr Watt outlined he does not object to the houses subject to drainage issues being resolved. He has been flooded before and wants to ensure will not be again. That when the applicant acquired the site, its top soil was levelled 2ft higher than his garden and a drainage pipe covered leading to surface water run-off into his and no. 6 Church View's property every time there is heavy rainfall. He asks what drainage system will be put in place to stop the run-off into his property; and who is responsible for ensuring run-off from the houses does not flood his property? Adding he would like the topsoil taken down to the same level as his garden so he can put up a privacy fence.

Planning received an email from the applicant's agent including photos of before and after drainage works recently implemented on site to address the above issues raised and prevent future flooding. The photos depict the site excavated approx. 300mm below Mr Watt's rear garden and new drain laid and backfilled with clean stone.

In response to the recent drainage works outlined in his 2<sup>nd</sup> letter Mr Watt states the applicant has laid a pipe with gulley riser to its rear and two pipes out of it up into the site; and added a 6 inch pipe up through stones laid, which it would appear will add more water to this point. Thus making flooding worse. He states water should be drained to a different point, possible as a manhole exists further across. It is up to Planning to resolve issue as the applicant will be held responsible if further flooding or damage is caused.

Planning received a further email from the applicant's agent stating it appears Mr Watt is concerned the applicant plans to connect additional surface water drainage pipes into the existing storm drain transversing his rear boundary as it has a spur connection projecting from the drain. However, the spur head is solely a rodding eye left in in case the drain ever blocks and needs flushed. It is not applicant's intention to connect additional surface / storm water drainage pipes into this run of pipe along Mr Watt's boundary. The houses are to be serviced with new separate storm water connections, directly into the existing storm water sewer system further downstream from Mr Watt's property, which will have no adverse impact on the existing drainage line Mr. Watt is referring too.

Further to the agents email above and amended drawing (no. 05 received 11<sup>th</sup> November 2020) showing the drainage measures to deal with surface water on site, neighbours including Mr Watt were re-neighbour notified for further comment. To date no further objections have been received. I note Strategic Flood Maps NI indicate no fluvial or pluvial flooding on site, that said it is elevated above lands largely to its east including Mr Watts property and surface water will naturally fall to lower lands, which Mr Watt outlined has happened in the past causing flooding to his and a neighbouring property. Whilst Planning Policy Statement 15 Planning and Floodrisk does not require a Drainage Assessment for developments of this size, the developer is still responsible for ensuring that drainage within the site does not cause flooding within the development or elsewhere. Accordingly, having taken into account Mr Watt's objection, I am content the issue raised has been addressed within the remit of Planning in that the agent has been made aware of the issue raised and the applicant has put in place drainage measures to show the water directed away from Mr Watts property. I believe the applicant has done

what can be reasonably expected to address water runoff. The developer will have the ultimate responsibility for effectiveness of these measures and an informative to that effect will be added to any subsequent decision notice.

### **Other Policy / Material Considerations**

In addition to checks on the planning portal DAERA's Natural Environment Division Map Viewer available online has been checked and no natural heritage features of significance were identified on site.

No land contamination issues have been identified.

**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. The existing mature trees and vegetation along the boundaries of the site, as identified on Drawing no. 05 bearing the date stamp received 11 NOV 2020, shall be retained. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing at the earliest possible moment.

Reason: In the interests of visual amenity.

3. All proposed landscaping, as detailed on Drawing no. 05 bearing the date stamp received 11 NOV 2020, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

4. The vehicular accesses, including visibility splays of 1.8 metres by 45 metres and any forward sight distance, shall be provided in accordance with on Drawing no. 02(Rev.01) bearing the date stamp received 3 NOV 2020, prior to the commencement of any other development hereby permitted. The area within the

visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

### Informatives

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

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

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the 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 Roads Service Section Engineer. 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.



5. Please see NI Water consultation response dated and scanned to the planning portal on the 23<sup>rd</sup> November 2020 for information purposes.

**Signature(s)**

**Date:**



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0840/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage - infill site	<b>Location:</b> Adjacent to 55 and opposite 59 Coole Road Bogside Aughamullan Coalisland BT71 5DP
<b>Referral Route:</b> Refusal – Contrary to Policies held within PPS 21.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Fionntan Cullen & Niamh Carberry 200 Washingbay Road Aughamullan Coalisland BT71 4QE	<b>Agent Name and Address:</b> Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
<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

### 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 CTY 8, CTY 13 and CTY 14 of PPS 21. No representations received.

### Characteristics of the Site and Area

The site is located approximately two and a half miles east of Coalisland, adjacent to 55 and opposite 59 Coole Road. Access to the site is gained from the Coole Road, a minor rural road within proximity of the settlement of Aughamullan. The Coole Road defines the northern boundary and the eastern and western boundaries are defined by quality hedge lines. The southern boundary is undefined, opening to the remainder of the agricultural field hatched in blue indicating ownership. The site is flat throughout and there was a dwelling undergoing construction directly west of the application site. The immediate area surrounding the site appears to be quite built up in recent years however beyond that is rural in nature, scattered with single dwellings and associated outbuildings.

### Description of Proposal

Full planning permission is sought for proposed dwelling and garage on an approved infill site.

## **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. There were a number of neighbours notified under this application including: 55, 57, 57A and 59 Coole Road. 61A Coole Road was hand delivered at the site visit. At the time of writing, no third party representations have been received.

### Planning History

LA09/2016/0007/O - Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, - Dwelling and garage - PERMISSION GRANTED

### Planning Assessment of Policy and Other Material Considerations

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- The Local Development Plan 2030 - Draft Plan Strategy
- Building on Tradition: A Sustainable Design Guide for the Rural Northern Ireland

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside, located East of Coalisland.

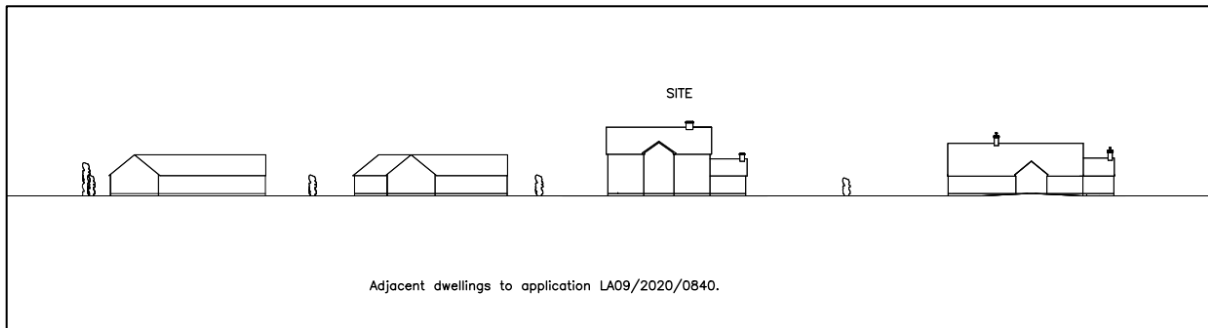
The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

Outline planning permission was granted for a dwelling on this infill site on 23rd February 2016 under LA09/2016/0007/O and therefore I am content that this application remains live in terms of receiving a full planning application. The principle of development on this site has already been agreed and all that remains to assess under this application is the design of the proposed dwelling and garage given that the time frame to submit a Reserved Matters application has lapsed. This proposal also would not have met the conditions on the previous planning application, which had a 6.5m ridge height condition attached to it.

The proposed dwelling is a two storey dwelling with a ridge height of approx. 8.5m and frontage of approx. 17.6m. The design of the dwelling proposed is simple and typical of that found in the countryside, however it is considered that the proposal is contrary to Policy CTY 8 of PPS 21 due to the size and scale proposed. Policy CTY 8 notes that an infill opportunity must "respect the existing pattern along the frontage in terms of size

and scale". The existing pattern along this frontage is bungalows as shown in figure 1 below and photographs taken from Site Visit. I consider that either a reduced ridge height or single storey dwelling would be more appropriate for this site given the existing bungalows at either side of the gap site. I consider the 6.5m ridge height which was attached to the original outline approval appropriate for the site.



***Figure 1 – How the proposed dwelling would read with existing dwellings along Coole Road***



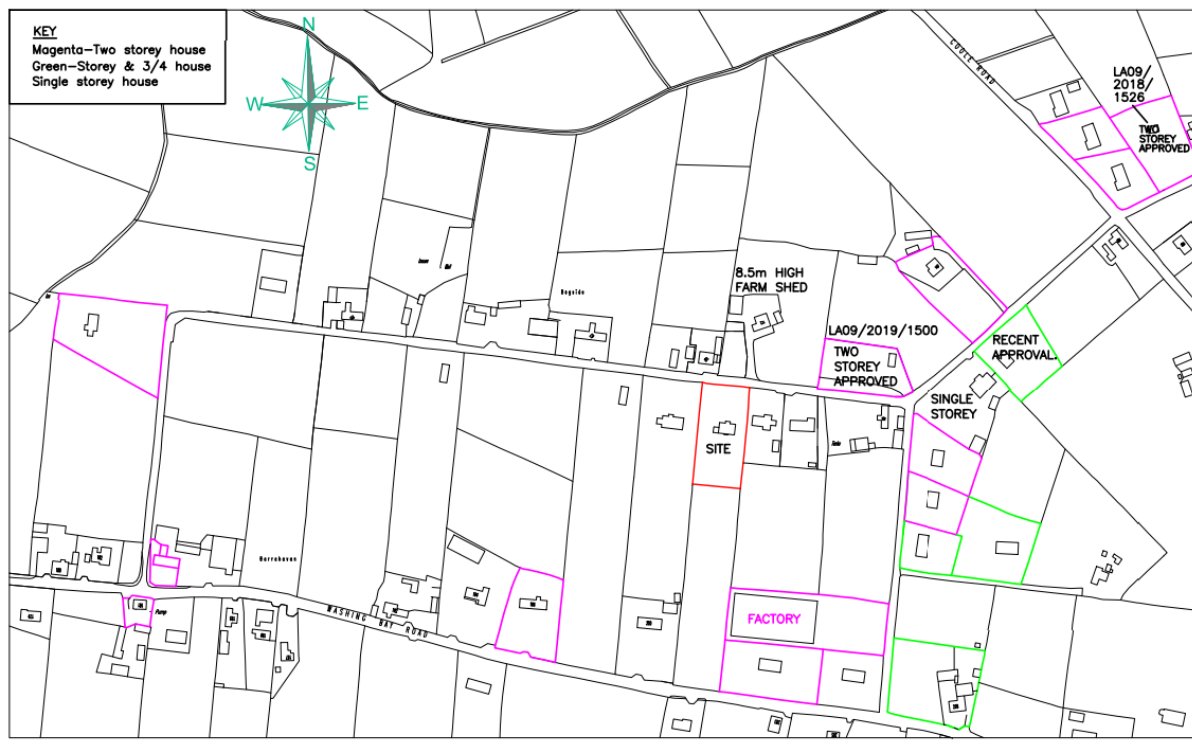
***Photograph 1 – Dwelling directly West of the site***



***Photograph 2 – The site shown along with the roof of the bungalow East of the site.***

The Design Guide for Rural NI also refers to the importance of a suitably designed dwelling in gap sites or infill sites and notes that proposals should respect the existing houses in the ribbon otherwise they may relate poorly to them. The agent submitted supporting information including an overview of existing house types in the area and examples that he felt created a precedent to allow this proposal (shown below in figure 2). From group discussion, we felt that many of the examples shown are too far removed from the application site and it still doesn't negate the need to meet the policy requirements of CTY 8 as noted before. The map highlights again that the frontage which this infill opportunity would be read with are all bungalow dwellings. Numerous opportunities were afforded to the agent to submit an amended design, however at time of writing, no further amendments have been received.





**Figure 2 – Map showing surrounding dwellings ridge heights**

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. Criterion (e) of CTY 13 states that a new building would be unacceptable if the design of the building is inappropriate for the site and its locality which is considered to be the case for this proposal. 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. Criterion (c) of CTY 14 states that a new building would be unacceptable if it does not respect the traditional pattern of settlement exhibited in that area. Both policies also note that any proposed building should not appear prominent. It is considered that in relation to the dwellings at either side of the infill site, the dwelling proposed under this application may appear prominent.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

The proposal is considered to be contrary to the relevant policy documents and guidance documents and subsequently refusal is recommended.

**Conditions/Reasons for Refusal:**

1. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing pattern along the frontage in terms of size and scale.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	15th July 2020
<b>Date First Advertised</b>	28th July 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 55 Coole Road Dungannon Tyrone The Owner/Occupier, 57 Coole Road Dungannon Tyrone The Owner/Occupier, 57a ,Coole Road,Dungannon,Tyrone,BT71 5DP The Owner/Occupier, 59 Coole Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	14th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2019/0674/RM Proposal: Proposed dwelling and garage - infill site. Address: 44m West of 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland BT71 5DP., Decision: PG Decision Date: 11.09.2019  Ref ID: LA09/2017/0333/O Proposal: Dwelling and garage infill site Address: 44m West of 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, Decision: PG Decision Date: 04.05.2017  Ref ID: LA09/2016/0007/O Proposal: Dwelling and garage Address: Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, Decision: PG Decision Date: 25.02.2016	

Ref ID: LA09/2020/0840/F

Proposal: Proposed dwelling and garage - infill site

Address: Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, BT71 5DP,

Decision:

Decision Date:

Ref ID: M/2005/0444/O

Proposal: Proposed two storey dwelling

Address: 80m South of 59 Coole Road, Bogside, Aughamullan, Coalisland

Decision:

Decision Date: 23.09.2005

Ref ID: M/1991/0568

Proposal: Erection of dwelling

Address: ADJACENT TO 55 COOLE ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/1001/F

Proposal: Improvements/Extension to dwelling

Address: 55 Coole Road, Coalisland

Decision:

Decision Date: 16.10.2002

Ref ID: M/1984/0165

Proposal: DWELLING AND GARAGE

Address: BOGSIDE, AUGHAMULLAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1982/0149

Proposal: ERECTION OF DWELLING

Address: BOGSIDE, AUGHAMULLAN, COALISLAND

Decision:

Decision Date:

### **Summary of Consultee Responses**

DfI Roads: Content.

### **Drawing Numbers and Title**

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 02  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0879/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling & garage on a farm	<b>Location:</b> 45M NE of No 7 Glenviggan Road Draperstown BT45 7BL (Change of location)
<b>Referral Route:</b>  Objection letter	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Cathal Doyle 7 Glenviggan Road Draperstown BT45 7BL	<b>Agent Name and Address:</b> Sperrin Architecture 43 Mulinderg Draperstown BT45 7FD
<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	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	Substantive Response Received

### Representations:

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

### Summary of Issues

Farm dwelling complies with CTY 10 criteria of PPS 21. One letter of objection received; all other material considerations have been taken into consideration.

### Characteristics of the Site and Area

The application site is located in open countryside in accordance with the Magherafelt Area Plan 2015. The site is identified as lands located 45m Northeast of No 7 Glenviggan Road, Draperstown, which comprises farmland with associated buildings with access onto the Draperstown Road. This is a fairly enclosed area of the countryside with a high degree of vegetation and mature trees bounding the complex network of small scale agricultural fields. The site is located within the Sperrins Area of Outstanding Natural Beauty.

In terms of surrounding topography there is a gradual falls away from the road towards north and this contributes to the enclosed nature of the site. The closest neighbouring property to the proposal is noted as being No. 27 Glenviggan Road, which is a storey and a half dwelling situated approx. 85m to the south east of the proposal.

### **Description of Proposal**

The applicant is seeking an outline planning permission a dwelling & garage on a farm 45m Northeast of No 7 Glenviggan Road, Draperstown. No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves the construction of a new access to a public road.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

### **Representations.**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing one letter of objection was received date stamp 01/10/2020. Neighbours were on this application of 5/08/2020; and were re-notified on amended site address on 26/10/2020. This application was initially advertised in the local press on w/c 3rd August 2020 (publication 4th August 2020; and was re-advertised on 3rd November 2020. Two (2) neighbouring properties were notified on 5th August 2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

**EIA Determination.** The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

**HRA Determination** - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site.  
Relevant Planning History

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

#### **Constraints:**

DFI: Roads no objection apply standard conditions;  
DAERA: No issues confirmation of active farming activities;  
NIW: No objections standard Informatives.

**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. PPS 21 Sustainable Development in the Countryside.
  4. PPS 3 Access, Movement and Parking.
- Supplementary Planning Guidance: Building on Tradition: A Rural Design Guide for NI.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Magherafelt Area Plan 2015 does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by PPS 21 and the SPPS. The Cookstown Area Plan 2010 (CAP) operates as the statutory local development plan for the area the site lies in and offers no other specific policy or guidance in respect of the proposed development.

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.

**The Mid Ulster District Council Local Development Plan 2030-** Draft Plan Strategy was launched on the 22nd Feb 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation is due to close at 5pm on 21st May 2020. In light of this the draft plan cannot currently be given any determining weight.

**Planning Policy Statement 21:** Sustainable Development in the Countryside (PPS21) is a retained policy document under the SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is CTY 10 Dwellings on farms.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

### **Assessment.**

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 CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years.
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons; or
  - Verifiable plans to expand the farm business at the existing building group(s).

In addition to the criteria above, applications of this nature must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21.

The Department of Agriculture and Rural Affairs (DAERA) consultation response confirmed that the applicant's farm was established on 19/11/1991 and has been established for 6 years or more but does not claim any farm payments and that the farm is associated with another farm business. DAERA stated that it was a category 1 business. From my onsite observations the farm business is active and appears to be kept in a good environmental condition. DAERA in their initial consultation response confirmed that the appeal site was located on lands associated with another farm business. The Farmer who takes the land in conacre (Mr Michael Finbar Doyle).

The applicant supplied a number of invoices for materials (posts) 24.05.2018; blocks from FP McCann Ltd; drainage piping from Heron Brothers dated 15.05.2019; material from Heron Brothers dated 12.05.2018; hedgerow cutting by James Moran dated 01.10.2017; farm insurance from NFU Mutual dated 15.12.2018; cattle drinkers from Quinn Supplies dated 17.05.2017; Quinn Supplies galvanised field gate dated 21.01.2017; Quinn Supplies fencing dated 29.07.2016; posts, strainers and fencing from John McConnell dated 10.08.2018. I am satisfied that criteria (a) has been met.

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) it is noted that the application site is located on lands 45m NE of No 7 Glenviggan Road, Draperstown. It is proposed the site will be accessed with the construction of a new access onto the public road.

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

### **Assessment of objection.**

As background the applicant had identified two potential sitings within the initial reline and was reflected in the site address that read (site at 75m SW of No 7 Glenviggan Road, Draperstown). An objection was received via Council's general account email stamp date 01/10/2020. The objector raised the following objections;

1. The objector noted from DAERA consultation response that the application is associated with a different farm business and therefore fail the test of criteria. My response to the above is that the test posed by Criterion (a) is not whether the applicant is an active farmer but whether the farm business is active and established and is in keeping with the policy criteria (a);
2. The objector raised concerns relating to the proposed site not being clustered or visually linked to the established farm group. The applicant reduced the site's redline away from southwest to 45m northeast which is more integrated with the existing farm group. I am therefore content with the proposed siting of the dwelling;
3. The objection concerning the Design and Access Statement pertaining to Health and Safety are reflected in my assessment and that DFI Roads have been consulted and responded no objection subject to standard condition;
4. The objection raised a further concern regarding ribbon of development under CTY 8. I am content that the change of siting to the SW would be able to visually link with the existing is



group. I note that the policy does where practicable that access should be taken from an existing lane, I note that the intention is create a new access onto a public road. From this I am content that the dwelling would be able to comply under this policy test.

5. Objections 5-6 relate to CTY13 and CTY 14 the removal of roadside hedges to provide sightlines would cause the proposed dwelling to be prominent and offend criteria a and in terms of CTY 14 offend criteria b, c and d. I am content that concerns raised can be dealt way by appropriate conditions.

**Policy CTY 13** states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application in which the exact design and siting details have not been submitted, however I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. I am of the opinion that as much of the existing landscaping should be retained where possible and supplemented with additional landscaping to aid integration, therefore a landscaping plan will be necessary. Given the topography I am satisfied the site can absorbed a dwelling with a ridge height of 7.5m above ground level. From which, I am content that the application is able to comply under CTY 13.

**Policy CTY 14** states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. I am content that this application is unlikely to lead to further development through infilling. From all of this it has been agreed that the application is able to comply with CTY 14 on balance.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval subject to conditions

**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 plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application, showing the access point including visibility splays of 2.4 metres x 60 metres in accordance with the attached form RS1 to be constructed prior to the commencement of any development hereby approved and as approved at Reserved Matters stage.

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

5.During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development; details of a native species hedge to be planted to the rear of the visibility splays and along all new boundaries of the area identified in Blue on the approved plan Drag No 01 date stamped 29/07/2020. 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

### **Informatives**

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

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

3.This 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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	23rd July 2020
<b>Date First Advertised</b>	4th August 2020
<b>Date Last Advertised</b>	3rd November 2020
<b>Details of Neighbour Notification</b> (all addresses) Liam Ward . The Owner/Occupier, 2 Glenviggan Road Draperstown Londonderry The Owner/Occupier, 4 Glenviggan Road Draperstown Londonderry The Owner/Occupier, 6 Glenviggan Road Draperstown Londonderry The Owner/Occupier, 7 Glenviggan Road, Draperstown, Londonderry, BT45 7BL	
<b>Date of Last Neighbour Notification</b>	26th October 2020
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0879/O Proposal: Dwelling & garage on a farm Address: Site at 75m SW of 7 Glenviggan Road, Draperstown, Decision: Decision Date:  Ref ID: H/2004/0827/O Proposal: Site Of Dwelling & Domestic Garage Address: 110 Metres South West Of 7 Glenviggan Road, Draperstown Decision: Decision Date: 02.10.2006  Ref ID: H/2009/0720/F Proposal: Single storey dwelling with garage Address: 50m south west of no.7 Glenviggan Road, Draperstown Decision: Decision Date: 15.10.2010	

Ref ID: H/2003/1496/O

Proposal: Site of dwelling. Ridge Height 6.8m.

Address: 90m South West of 7 Glenviggan Road, Draperstown.

Decision:

Decision Date: 11.11.2005

Ref ID: H/2002/1157/F

Proposal: Renovations and Extension to Dwelling

Address: 7 Glenviggan Road, Draperstown

Decision:

Decision Date: 14.02.2003

Ref ID: H/2003/0172/F

Proposal: Replacement dwelling.

Address: 7 Glenviggan Road, Draperstown.

Decision:

Decision Date: 16.04.2003

### **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:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0899/O	<b>Target Date:</b>
<b>Proposal:</b> Site for a dwelling & domestic garage based on policy CTY8	<b>Location:</b> Approx 15m North of 69 Anneeter Road, Coagh, Cookstown
<b>Referral Route:</b> Recommended refusal & 2no. Objection received	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Charles Mallon 71 Anneeter Road Coagh Cookstown	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge
<b>Executive Summary:</b>  Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY1 and Policy CTY14. 2no. objections received considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DfI Roads - Enniskillen	Standing Advice
Statutory	DFI Roads - Enniskillen	

### 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

### Characteristics of the Site and Area

The site is located in the rural countryside outside any settlement limits as depicted within the Cookstown Area Plan 2010. The settlement limit of Moortown is approx. 1.5km south of the site and Lough Neagh shore is approx. 200 metres to the north. The surrounding area is rural in character with the predominant land use being agricultural fields. However the surrounding area has undergone development pressure and there are a number of detached dwellings and outbuildings in the immediate locality. Directly adjacent to the northwest of the site is a shared laneway, which currently serves two dwellings. There are three further dwellings west of the site and a detached dwelling northeast of the site accessed via a laneway of approx. 80 metres directly adjacent to the east. The proposal site comprises an existing storey and a half, roadside dwelling with a detached garage and large outbuilding to the rear. The curtilage of the dwelling is large with a substantial garden area to the rear and side of the dwelling house. The site is currently accessed via a driveway directly onto Anneeter Road. The topography of the site is relatively flat. The boundaries of the site are well defined by established trees and vegetation and public views are limited/isolated given the mature trees to the front boundary.

### Description of Proposal

This is an outline planning application for a dwelling and domestic garage at land approx. 15m North of 69 Anneeter Road, Coagh, Cookstown.

The dwelling is being applied for as a gap site under Planning Policy Statement 21, Policy CTY 8.

### **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
- Cookstown Area Plan 2010
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2 objection letters were received, the details of which are outlined and considered below.

1. Objection letter received 1<sup>st</sup> September 2020 from Ms Colette McLernon. Ms C McLernon advises she was made aware of the application through a third party and had not received a letter or received notification from the agent/applicant on 25/03/20 as advised on the signed Certificate C of the P1 form. She queries when she would have received notification and given she had not received any correspondence from any party she wished to object to the planning application.
2. Objection letter received 7<sup>th</sup> September 2020 from Ms Geraldine McLernon. Ms G McLernon objects to the proposed access, which utilises her brother's private laneway and another brother's hedge for sightlines. She advises neither brother had received notification from the planning office or consultation with her brother who owns the laneway prior to submission.

The Planning (General Development Procedure) Order (Northern Ireland) 2015 places a legislative requirement to serve notice of an application to any identified occupier on neighbouring land. During the processing of this application, identified occupiers of neighbouring land were identified, checked and notified under the neighbour notification

scheme. Neighbour notification was carried out on 3<sup>rd</sup> September and then again on 12<sup>th</sup> December following the receipt of amended plans.

I note both objection letters advise the relevant landowner did not receive notice as stated and signed in Section 27 of the P1 Form. The second letter objects to the use of her brother's laneway and hedge for sightlines. Any planning permission granted does not confer title; the use of land for an access or sightlines is a land ownership issue outside the remit of planning and a civil matter between the relevant parties. The agent subsequently provided an amended plan and letter dated 13<sup>th</sup> October to address the objections. The letter advised that it was understanding that an agreement was in place between the two parties for the use of this laneway, however the site location plan was amended removing this laneway from the submission. The amended site location plan, Drawing 01 Rev 3, date stamped 16<sup>th</sup> November 2020 relocates the proposed access to within the applicant's ownership and the curtilage of No. 71 Anneeter Road.

### **History on Site**

No relevant planning history.

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. 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. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria.

The application has been submitted on the basis of an infill site in accordance with Policy CTY 8 - Ribbon Development of PPS 21. Considering the requirements of CTY 8, planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

When approaching the site from the west, the dwellings of No 73, No 71E and No 71D are in a line and sited on the roadside of Anneeter Road. The dwelling of No 71, which is located within the application site, is also included in this line and with road frontage onto Anneeter Road. I do not consider the private garden to the east of No 71 could be considered as a gap for the purpose of Policy CTY 8. When continuing from this approach, the dwelling of No 71B only comes into view when beyond No 71. No 71B



does not have a common frontage with the other dwellings, set back approximately 95.5 metres from the Anneeter Road. The curtilage of No 71B is defined by established vegetation and between the property and the roadside there is agricultural land. I do not consider No 71B benefits from visual linkage with the other dwellings to the west to be considered as part of a substantial and built up frontage for the purposes of satisfying Policy CTY 8. Equally, I do not consider the private garden to the rear of No 71 which currently occupies an outbuilding, could be considered as an infill exception under Policy CTY 8. I do not consider the rear garden is located within line of 3 or more buildings with common frontage on to Anneeter Road; or the shared laneway immediately west of the application site. An approval of this application would add to a ribbon of development and Policy CTY 8 is clear when it states that planning permission will be refused for a building which creates or adds to a ribbon of development.

Policy CTY2a of PPS21 provides an opportunity for a new dwelling at an existing cluster of development provided all listed criteria is met. I am content that the site lies outside of a farm and consists of four or more buildings in which more than three of such are dwellings. Given the build-up of development, this cluster could be considered as a visual entity in the local landscape. It is also accepted, given this is an outline application, that the proposed dwelling could be sited and designed to ensure no adverse impact to residential amenity. However, the proposal is not bound on at least two sides with other development in the cluster. Furthermore, there does not appear to be a focal point in close proximity to the site nor is the site located at a cross-roads, failing this part of the policy. Therefore, it is considered the proposal would also fail under Policy CTY2a.

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. Given the existing, established vegetation to the boundaries of the site and the flat topography, I consider a dwelling and garage could be accommodated without appearing as an overly prominent feature in the landscape. Should permission be granted the design of the proposed dwelling would be a matter for consideration at the Reserved Matters stage, however I consider a maximum ridge height of 6 metres would be appropriate and in keeping with the existing built form to ensure integration into the setting.

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 do not consider the proposal site represents a small gap site within a line of 3 or more buildings with a common frontage. In my opinion, the proposal would add to a ribbon of development which is detrimental to the surrounding rural character contributing to a localised sense of build-up of development, therefore contrary to Policy CTY 14.

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

The original site location plan submitted sought access from the laneway immediately east of the application site. Following the receipt of objection letters, the access was amended to utilise the land within the existing curtilage of No 71. DfI Roads were consulted on the original access and responded raising no objections to the proposal subject to conditions. DfI Roads were consulted on 15/12/20, however it is noted their response is outstanding. Given the principle of development is not considered

acceptable, it was not considered necessary to await their response. However, should the Planning Committee consider the proposed development is acceptable and permission granted, the response of DfI Roads will be required and any the necessary vehicular access including visibility splays conditioned to any forthcoming approval.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having weighted up the above policy and material considerations I am of the opinion that this application should be recommended for refusal on the basis the proposal is contrary to Policy CTY1, CTY 8, CTY 2a and CTY 14.

**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 CTY 8 Ribbon Development of Planning Policy Statement 21 in that the development would create or add to a ribbon development.
3. The proposal is contrary to CTY 14 Rural Character of Planning Policy Statement 21 in that the development would further erode rural character adding to a ribbon of development.
4. 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 it is not located at a cross-roads.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1030/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling and garage	<b>Location:</b> 55 Mullaghboy Road Bellaghy
<b>Referral Route:</b>  To Committee - Approval - Applicant is related to a member of the Planning Committee.	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Miss Clodagh Mc Peake 266 Hillhead Road Castledawson	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<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	Standing Advice

### Representations:

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

### Summary of Issues

Applicant is related to a member in the Planning Committee.

### Characteristics of the Site and Area

The site is located approximately 0.4km north of the development limits of Ballaghy, in which the site is located within the open countryside as per the Magherafelt Area Plan 2010. I note that the site is identified as 55 Mullaghbhoy Road, Bellaghy, on the site sits an old detached single storey dwelling and old shed, I note that the red line extends to a portion of the agricultural field to east of the existing dwelling. I note that the immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

#### Representations

One neighbour notification was sent out on this one but no representations were received.

**Description of Proposal**

This is a full application for a replacement dwelling and garage located at 55 Mullaghbhoy Road, Bellaghy.

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

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

CTY 1 - Development in the Countryside

CTY 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. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy. Policy states that if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group. Upon the site visit I am content that the building identified to be replaced is able to exhibit the main characteristics of a dwelling and remains substantially intact.

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. I first note that the existing curtilage is quite small and the proposed siting is just outside this curtilage, given this I am content that the proposed siting is acceptable on balance to allow for a modest sized dwelling to be developed.

CTY 3 states that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building. In addition, that the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness; all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic. I note that the proposed siting sits on lower ground than that of the existing dwelling wherein whilst it has a higher ridge than the existing I am content that the proposed dwelling will not have a significantly greater visual impact than the existing dwelling. I note that the design is quite simple and acceptable in this area with all necessary services available. From such, I am content that application complies under CTY 3 of PPS 21.

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. Upon review of the submitted plans and what was witnessed on site I am content that the proposed dwelling will not be a prominent feature in the landscape. Given the surrounding context of the site in addition to the additional landscaping proposed, I am content that the dwelling would be able to successfully integrate into the landscape. With regards to the design of the dwelling I am content that this is acceptable within the rural context. Finally, I note that the access works are to be upgraded to the appropriate standard but these are still able to visually integrate. From this I am content that the application is able to comply with CTY 13.

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 noted it has been agreed that an appropriately designed dwelling would not appear unduly prominent. I am content that a dwelling in this location will not result in a suburban style build-up of development. From this I am of the opinion that this development is able to respect the traditional pattern of settlement exhibited in the area. From this I am content that the local landscape has the capacity to absorb the development and in addition the proposal will not result in the creation of additional development opportunities that already exist. I am therefore content that the proposal is able to comply with the criteria of CTY 14.

### PPS 3: Access, Movement and Parking

I note that the application intended to initially create a new access however after consultation with DFI Roads reverted back to use the existing access, no further consultations were required.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I have no flooding, ecological or residential amenity concerns.

The proposal accords with the policy requirements of SPPS and PPS 21, therefore I recommend approval for this development.

#### 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.

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.All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 05/1 date stamped 17th December 2020 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

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

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

6. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan 01 date stamped 26th August is demolished, all rubble and foundations have been removed.

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

#### 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 proposed garage 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.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	26th August 2020
<b>Date First Advertised</b>	8th September 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 54 Mullaghboy Road Bellaghy Londonderry	
<b>Date of Last Neighbour Notification</b>	16th September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1030/F Proposal: Proposed replacement dwelling and garage Address: 55 Mullaghboy Road, Bellaghy, Decision: Decision Date:  Ref ID: H/2012/0293/F Proposal: Change of house type (with integral garage) to a dwelling and garage previously approved under planning reference H/2007/0298/F. Address: Adjacent to 51 Mullaghboy Road, Bellaghy, Decision: PG Decision Date: 09.10.2012  Ref ID: H/2003/0228/O Proposal: Site of dwelling and garage. Address: Adjacent to 51 Mullaghboy Road, Bellaghy. Decision: Decision Date: 24.02.2004  Ref ID: H/2007/0298/F Proposal: Proposed 1 - storey rural dwelling and single storey garage Address: Lands adjacent to 51 Mullaghboy Road, Bellaghy Decision: Decision Date: 22.11.2007	

<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 04 Type: Proposed Plans Status: Submitted
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
Drawing No. 02 Type: Proposed Plans Status: Submitted
Drawing No. 05/1 Type: Proposed Plans Status: Submitted
<b>Notification to Department (if relevant)</b>
Date of Notification to Department: Response of Department:



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1119/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 10m West of 44 Ballyscullion Road Bellaghy
<b>Referral Route:</b>  Refusal- Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Brian Milne 44 Ballyscullion Road Bellaghy	<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

### 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 Policies CTY1, CTY2a and CTY14 of PPS 21

### Characteristics of the Site and Area

The site is located within the open countryside, approximately 0.4km east of the settlement limits of Bellaghy as per the Magherafelt Area Plan 2015. The red line of the application site consists of part of a larger agricultural field which is flat in nature with the site bounded on the east and southern boundaries with existing hedges along these sides. The northern and western boundaries are currently undefined and expand into the larger agricultural field. The surrounding area is mainly agricultural with a build up of single houses located to the east of the site.

## Description of Proposal

This is an outline planning application for a proposed domestic dwelling and garage in a cluster.

## Planning Assessment of Policy and Other Material Considerations

The Magherafelt Area Plan identifies the site as being outside any defined settlement limits, located east of Bellaghy settlement limit. There are no other specific designations or zonings.

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

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

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content that the application site is located within an existing cluster that lies outside of a farm and consists of four or more buildings, which at least three are dwellings. I would contend that the proposed site is located at the edge of an existing cluster, which is located to the east of the site as shown on image 1 below.



Image 1: Site location plan showing extent of existing cluster

- *The cluster appears as a visual entity in the local landscape*

Whilst travelling along the Ballyscullion Road it is clear that the cluster appears as a visually entity in the local landscape, with most dwellings sharing a road frontage onto the Ballyscullion Road.

- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

The agent contends that the cluster of development is associated with Wolfe Tones GAC that is partly located within the settlement limits of Bellaghy, with the playing field located within the open countryside. However, I am not of the opinion that the cluster of development is associated with the GAA club given the distance between the site and the lack of visual linkage between the two. The GAA grounds are located approximately 300m west of the application site, but given the topography of the land, the GAA grounds are not visually linked to the site or the cluster of development. The image below is taken from site, facing towards Bellaghy GAA grounds, which are not visible from the site.



Image 2: View from the site towards GAA grounds

From this, the proposal fails to meet this policy criteria of CTY2a.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The application site has a dwelling located adjacent to the red line being No.44 Ballyscullion Road, there is no development to the north and west of the site. Another dwelling is located directly south of the dwelling but is separated by the Ballyscullion Road. Given the fact that the site is not bounded to the South with the dwelling, rather the road separates the site from the dwelling I do not believe the site 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.*

As previously mentioned I believe the proposed application site is located within an existing cluster albeit, at the edge of the cluster. From this I am content that a dwelling here could be absorbed into the existing cluster through rounding off and a well-designed dwelling would not visually intrude into the open countryside. I do not believe a dwelling would significantly alter the existing character of the area given the existing development in the area.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area I am content a dwelling at this location would not adversely impact on residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well designed dwelling at this location would not be a prominent feature in the landscape would visually integrate into the surrounding landscape.

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 the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would therefore result in a suburban style build-up of development when viewed with existing and approved buildings. I also be of the opinion that a dwelling located here which fails to comply with Policy CTY2a would add to a ribbon of development along the Ballyscullion Road as there is already a row of three dwellings immediately east of the site and a dwelling approved here would add to this. As there is no gap to be filled, it could not be considered an exception to policy CTY8. As a result, the proposal fails to meet the policy criteria of CTY14.

**PPS 3- Access, Movement and Parking:**

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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.

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not



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

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	16th September 2020
<b>Date First Advertised</b>	29th September 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 44 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 47 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 48 Ballyscullion Road Bellaghy Londonderry	
<b>Date of Last Neighbour Notification</b>	6th October 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1119/O Proposal: Proposed domestic dwelling and garage in a cluster Address: 10m West of 44 Ballyscullion Road, Bellaghy, Decision: Decision Date:  Ref ID: H/2009/0177/F Proposal: Proposed Sun Room to East of dwelling Address: 44 Ballyscullion Road, Bellaghy Decision: Decision Date: 01.06.2009	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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> LA09/2020/1169/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed alterations and extensions to existing dwelling including new access gates, pillars and walls.	<b>Location:</b> 81a Glen Road Maghera BT46 5AP.
<b>Referral Route:</b>  Objection received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr & Mrs Gareth Campbell 81a Glen Road Maghera BT46 5AP	<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	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

Neighbour notification and local press advertisement was carried out as per the statutory requirements. One written objection was received. DfI Roads were consulted in relation to the new access gates, pillars and walls who responded with no objection.

The summary of the objection is that the proposed extension at first floor level and the proposed windows facing in a north westerly direction will overlook and cause privacy concerns to sites 1-3 Beech Lane Maghera, which have not yet been completed, but permission is in place. These concerns have been considered and addressed within this report.

### Characteristics of the Site and Area

The site is located within the development limits of Maghera, within an area zoned for housing (reference 02/05). The existing access and lane leading to the dwelling are located within the Area of Townscape Character with the dwelling located outside of this area, as per the Magherafelt Area Plan 2015. The dwelling on site is a single storey dwelling with a first floor conversion and is situated at the end of a laneway from the Glen Road. The site has a relatively spacious garden to the rear. The surrounding area is mainly residential with a dwelling and garage located to the east/ southeastern

boundary. A partially built housing development is located to the western boundary of the site, with the nearest part being yet undeveloped. To the north is an agricultural field located outside the development limits of Maghera. The site is well screened with trees and plants located along all boundaries.

### **Description of Proposal**

This is a full planning application for the proposed alterations and extension to the existing dwelling, including new access gates, pillars and walls at 81a Glen Road, Maghera.

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore; transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

Planning Policy EXT 1 details that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) The scale, massing, design and external material of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area;
- (b) The proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (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; and
- (d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

In terms of the scale and massing of the proposed extension, I am content that the extension in terms of its size will detract from the existing property. In terms of the design of the proposal, it is noted that the extension when completed will alter the overall appearance of the existing property creating a more modern looking dwelling. The proposal will create large windows at first floor level at both the front and rear extension of the dwelling. Given the location of the dwelling, along with the screening available on site in ways of existing trees and hedges, I am content that the proposal will not detract from the appearance and character of the surrounding area. Regarding the works to take place at the start of the access point from the Glen road, I am content that the proposed gates, pillars and walls will also not detract from the appearance and character of the surrounding area.

The letter of objection received raised concerns that the proposed extension, particularly the proposed windows facing in a north westerly direction at first floor level would cause an issue with overlooking and privacy of the dwellings which are approved to the west of the site. I am content that the proposed windows will not cause any issues with overlooking or loss of privacy. The proposed windows at these points are of a modest size (1.1m long) and then extend into the roof into a skylight window. In addition, having reviewed the plans of the housing development adjacent under H/2000/0418/, I am content that the position of the three remaining dwellings to be built, will not have any issues with privacy or overlooking from the proposed extension. Weight must also be given to the fact that the windows, which are subject to the objection, are bedroom windows, rather than a living room or another highly inhabited room so the impact is once again lessened. I have no other concerns regarding privacy or amenity issues therefore, I am content that the proposal does not unduly affect the privacy or amenity of neighbouring residents.

As the proposal relates to alterations and an extension to the existing first floor of the dwelling, I am content that the proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features, which contribute significantly to local environmental quality.

Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

#### **Other policy and material considerations**

DfI Roads were consulted with regards the alteration to the existing access, including the new walls, pillars and gates. They responded with no objection, subject to conditions being attached. On this basis, I am content that the proposal meets the policy criteria and recommend approval.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

#### **Neighbour Notification Checked**

**Yes/No**

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

Approval 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 vehicular access, including visibility splays and any forward sight line shall be provided in accordance with the approved plans, prior to the commencement/occupation/operation of any works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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.

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

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

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

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	24th September 2020
<b>Date First Advertised</b>	6th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 64 Glen Road Maghera Londonderry The Owner/Occupier, 81 Glen Road Maghera Londonderry The Owner/Occupier, 83 Glen Road Maghera Londonderry D Crawford 83 Glen Road, Maghera, BT46 5AP	
<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: LA09/2019/0457/TPO Proposal: Consent to carry out works to Protected Trees Address: 81 Glen Road, Maghera, BT46 5AP, Decision: Decision Date:  Ref ID: LA09/2020/1169/F Proposal: Proposed alterations and extensions to existing dwelling including new access gates, pillars and walls. Address: 81a Glen Road, Maghera BT46 5AP., Decision: Decision Date:  Ref ID: H/2005/1015/O Proposal: Site of Dwelling Address: Land Situated between 81 & 83 Glen Road, Maghera Decision: Decision Date: 10.09.2007	

Ref ID: H/2005/1018/O

Proposal: Site of dwelling

Address: Approx 25m SE of 83 Glen Road, Maghera

Decision:

Decision Date: 10.09.2007

Ref ID: H/2009/0080/F

Proposal: Proposed detached two storey garage (triple garage, boat storage area and first floor playroom/games room). Proposed new boundary walls, altered road access and new entrance pillars and gates

Address: 81 Glen Road, Maghera

Decision:

Decision Date: 27.08.2009

Ref ID: H/2011/0124/F

Proposal: Proposed Replacement Dwelling and Garage, along with the retention of a second access, gates, and additional pillars behind boundary wall

Address: 81 Glen Road, Maghera,

Decision:

Decision Date: 15.12.2011

Ref ID: H/2005/1016/O

Proposal: Site of Dwelling

Address: Approx 20m NE of 81 Glen Road, Maghera

Decision:

Decision Date: 10.09.2007

Ref ID: H/2001/0573/F

Proposal: Change of house types

Address: Housing Development, Glen Road, Maghera

Decision:

Decision Date: 25.01.2002

Ref ID: H/2000/0418/F

Proposal: 10 No. Dwellings And Garages

Address: To The Rear Of 83 Glen Road, Maghera

Decision:

Decision Date: 07.11.2000

Ref ID: H/1999/0333

Proposal: HOUSING DEVELOPMENT(12 DWELLINGS & GARAGES)

Address: TO THE REAR OF 83 GLEN ROAD, MAGHERA

Decision:

Decision Date: 19.06.2000

Ref ID: H/2010/0367/F

Proposal: Proposed change of house type at site No.7 (approved under H/2000/0418/F)

Address: Site No.7 Beech Lane, Glen Road, Maghera

Decision:

Decision Date: 16.09.2010

Ref ID: H/1994/0264  
 Proposal: DWELLING  
 Address: ADJ TO 81 GLEN ROAD MAGHERA  
 Decision:  
 Decision Date:

Ref ID: H/1993/0337  
 Proposal: SITE OF DWELLING  
 Address: ADJ TO 81 GLEN ROAD MAGHERA  
 Decision:  
 Decision Date:

Ref ID: H/2003/0825/O  
 Proposal: Site of residential development land.  
 Address: Land around 66 Tirkane Road and Opposite Craigmole Heights, Maghera  
 Decision:  
 Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

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

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

Date of Notification to Department:  
 Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1191/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed new access to existing dwelling	<b>Location:</b> 28 Ballymaguigan Road Ballymaguigan Magherafelt
<b>Referral Route:</b>  The applicants spouse works for Mid Ulster District Council	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Martin McIvor 28 Ballymaguigan Road Magherafelt BT45 6LE	<b>Agent Name and Address:</b> Vision Design 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Neighbour notification and press advertisement was carried out in line with statutory requirements and no third party representations were received. DFI Roads were consulted and initially requested amended drawings and advised third party land was required to achieve visibility splays. Appropriate notice was served on the third party land owner and no objection has been received.

### Characteristics of the Site and Area

The site is located within the open countryside, outside of any development limits defined by the Magherafelt Area Plan 2015. The red line of the application is located within an agricultural field, running alongside an existing laneway and then joins this laneway at the end, which leads to the property identified as 28 Ballymaguigan Road. The surrounding area is a mix of agricultural lands and residential properties, with a cluster of three dwellings located to the east of the red line.

### Description of Proposal

This is a full planning application to create a proposed new access to the existing dwelling at 28 Ballymaguigan Road, Magherafelt.

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

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

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".

Policy CTY 1 within PPS 21 highlights that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. CTY 1 also highlights that access arrangements must be in accordance with the Departments published guidance.

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking contains the relevant policy for assessing this application for a new access. Policy AMP 2 Access to Public Roads states that planning permission will only be granted for a development involving direct access onto a public road where, such access will not prejudice road safety or significantly inconvenience the flow of traffic and does not conflict with Policy AMP 3. DfI Roads were consulted as part of the application and initially requested amended plans to show the hedgerow on the south eastern splay set back from the road in order to achieve the necessary visibility splay. The applicant provided this and once re-consulted roads offered no objection to the proposal, but did advise that third party lands are required to the south eastern side to achieve the visibility splays of 2.4 x 60m. The appropriate notice was served on the third party landowner and no objection has been received. On this basis, I am content the proposal meets Policy AMP 2.

Policy CTY 13 states that permission would be refused if ancillary works do not integrate with their surroundings. I am content that the proposed access will not have an adverse visual impact and it is capable of visually integrating into the landscape. In terms of CTY 14, for the above reasons I am content that this will not cause a detrimental change to the rural character of the area, as it respects the traditional pattern of settlement exhibited in the area and will not result in a suburban style build-up of development or create or add to a ribbon of development.

I am content that this proposal complies with the policy criteria of SPPS, PPS 3 and policies CTY 13 & 14 of PPS 21

**Other Material Considerations**

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Approval 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 vehicular access including visibility splays 2.4 x 60 metres and a 60 metre forward sight distance, shall be provided in accordance with Drawing No 03 Rev 1 bearing the date stamp 08 Dec 2020 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

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

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	29th September 2020
<b>Date First Advertised</b>	13th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 26 Ballymaguigan Road Magherafelt Londonderry The Owner/Occupier, 26a Ballymaguigan Road Magherafelt The Owner/Occupier, 26b Ballymaguigan Road Magherafelt	
<b>Date of Last Neighbour Notification</b>	16th October 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1191/F Proposal: Proposed new access to existing dwelling Address: 28 Ballymaguigan Road, Ballymaguigan, Magherafelt, Decision: Decision Date:  Ref ID: H/2002/0673/O Proposal: Site of Dwelling Address: Adjacent to 28 Ballymaguigan Road, Toome Decision: Decision Date: 04.11.2002  Ref ID: H/2002/1156/O Proposal: Site of dwelling and garage. Address: Site adjacent to 28 Ballymaguigan Road, Toome. Decision: Decision Date: 04.11.2003  Ref ID: H/2004/0964/O Proposal: Site of dwelling and domestic garage Address: 225m North East of, 26 Ballymaguigan Road, Toome Decision:	

Decision Date: 19.11.2005

Ref ID: H/2004/0605/O

Proposal: Site Of Dwelling & Garage.

Address: 200 Metres North East Of 26a Ballymaguigan Road, Toome

Decision:

Decision Date: 19.11.2005

Ref ID: H/2002/0674/O

Proposal: Site of Dwelling

Address: Adjacent to 28 Ballymaguigan Road, Toome

Decision:

Decision Date: 20.11.2002

Ref ID: H/2004/0968/O

Proposal: Site Of Dwelling & Garage

Address: 130 Metres North East Of 26 Ballymaguigan Road, Toome

Decision:

Decision Date: 19.11.2005

Ref ID: H/2005/1197/F

Proposal: Proposed 2 Storey Dwelling & Garage to supersede application Ref: H/2002/1156/O

Address: Adjacent to 28 Ballymaguigan Road, Toome, Magherafelt

Decision:

Decision Date: 16.01.2007

Ref ID: H/2001/0989/Q

Proposal: Site of Housing Development

Address: 26 Ballymaguigan Road, Toome

Decision:

Decision Date:

Ref ID: H/2007/0824/O

Proposal: Site of Proposed dwelling & garage

Address: 200m North East of 26a Ballymaguigan Road, Magherafelt

Decision:

Decision Date: 29.07.2010

Ref ID: H/2007/0214/F

Proposal: Proposed replacement dwelling.

Address: 28 Ballymaguigan Road, Ballymaguigan, Magherafelt.

Decision:

Decision Date: 06.11.2007

Ref ID: H/2011/0153/F

Proposal: Retention of temporary mobile home for a 2 year period to facilitate the erection of dwelling approved under planning ref H/2007/0214/F

Address: Adjacent to 26 Ballymaguigan Road, Magherafelt,

Decision:

Decision Date: 27.07.2011

Ref ID: H/2013/0135/F

Proposal: Proposed replacement dwelling

Address: 28 Ballymaguigan Road, Magherafelt,

Decision: PG

Decision Date: 17.06.2013

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1192/O	<b>Target Date:</b> 12/01/21
<b>Proposal:</b> Erection of a dwelling on a farm	<b>Location:</b> 70m NW of 90 Moneysharvan Road Maghera
<b>Referral Route:</b>  Recommended refusal – Contrary to AMP 2 of PPS3 as advised by DfI Roads	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Ronan Bradley 8 Pinehill Avenue Maghera BT46 5HD	<b>Agent Name and Address:</b> Patrick Bradley Architects 30 Gortinure Road Maghera BT46 5PA
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – Proposal complies with CTY 1 and CTY10 of PPS21 however DfI Roads have advised the proposal would prejudice road safety and have recommend refusal. No objections received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DAERA	Advice
Statutory	Historic Environment Division	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

### Characteristics of the Site and Area

The site is located in the rural countryside outside any settlement limits as depicted within the Magherafelt Area Plan 2015. The site is located approx. 1.7 km northwest of Upperlands and 2 km south of Swatragh. The site comprises a large roadside field currently used for agricultural purposes. Land rises gradually from south to north and falls to the west and beyond the red line of the site. The proposal is located adjacent to the protected route, Moneysharvan Road. There is an existing agricultural gate for access to the field and a wide verge between the road and the application site. The proposal seeks to use an existing laneway, south of the field, which currently serves two existing dwellings and a farm holding. The roadside boundary is defined by established trees and hedging. The southern boundary is defined by a mixture of trees and maintained hedging which bounds the existing laneway. Established trees and hedging also bound the northern and western boundary. Despite the adjacent busy road, the surrounding area is rural in character with agricultural fields interspersed with detached dwellings and farm holdings.

### Description of Proposal

This is an outline planning application for a dwelling on a farm on lands 70m NW of 90 Moneysharvan Road, Maghera.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 10 Dwelling on a Farm.

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

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

### **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.

### **History on Site**

LA09/2019/0579/F - Change of house type from previous planning approval - H/2014/0281/F and proposed garage - 45m SW of 91 Moneysharvin Road, Maghera – Permission Granted 01/08/19

### **Key Policy Considerations/Assessment**

Magherafelt Area Plan 2015 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. 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. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. The current proposal falls under one of these

instances, the development of a dwelling on a farm in accordance with Policy CTY10 – Dwellings on Farms.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- 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 however advised the farm business has not claimed payments in each of the last 6 years. The agent subsequently submitted further information including evidence of ground maintenance which included fencing, digging, hay bales, fertiliser, mowing, and hedge cutting. The information submitted has been carefully considered along with DAERA's consultation response and I am content that it has been sufficiently demonstrated that the farm business has been established on the site for an excess of 6 years along with activity over this time.

With respect to (b) I have carried out a check of the land associated with the farm map provided, as well as a search of the Farm Business ID provided and there are no records indicating that any dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With respect to (c), the planning application was accompanied by one farm map which highlights the parcel of land subject to this application. The applicant has confirmed that the land indicated in this farm map is the only land associated with the farm business and there are no farm buildings. It is established practice by Mid Ulster District Council Planning Committee to permit a new building on an active and established farm business if it is confirmed there is no established group of buildings anywhere on the farm. The application seeks to obtain access to the new dwelling from an existing lane.

It is considered the proposal is acceptable and compliant with Policy CTY10.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is an outline application therefore the design will be considered for any forthcoming reserved matters application. The proposal site comprises a large roadside field. There are existing buildings to the rear of the application site, which will assist in providing a backdrop for integration purposes. I am content that a new dwelling on this site will not be a prominent feature in the landscape as it benefits from established, existing trees to the roadside boundary which limits views



from the public road. There is a good degree of existing established natural vegetation along each boundary, which should be retained to aid visual impact. Given the extent of the application site, it is considered additional planting will also be required to define a reasonable curtilage. It is considered appropriate therefore to condition a landscaping plan to accompany any forthcoming reserved matters application should the planning committee consider the application should be approved. I am content the proposal complies with the Policy Criteria of CTY 13.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environment is suitable for absorbing a dwelling without suburban build up. I am content the proposal will not be a prominent feature in the landscape and it will not create or add to a ribbon of development therefore is considered compliant with Policy CTY14.

#### Additional considerations

In addition to checks on the planning portal, Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online have been checked, no natural heritage interests of significance were identified on site however it was identified the site encompasses part of an archaeological site reorded with the SMR as an enclosure (LDY 32: 29). HED were consulted and have responded with no objections however have requested a condition is attached to any forthcoming approval ensuring the proposed dwelling or any site works are not located within the enclosure zone and that they are re-consulted should a Reserved Matters or Full application be forthcoming. Should the Planning Committee consider approval is appropriate, it is considered necessary to attach an appropriately worded siting condition so as to avoid disturbance to these remains.

It was identified a small portion of the site is within pluvial floodplain as defined within the Department for Infrastructure Strategic Flood Maps. Given this is an outline application with no details of siting and the extent of the application site, it was not considered necessary to consult DfI Rivers in this instance. However, should planning permission be granted, again it is considered appropriate and necessary to attach a condition to any forthcoming approval to ensure the siting of the dwelling or any associated works is not within this floodplain.

#### Access and Movement

The application proposes to utilise an existing unaltered access, which currently serves two existing dwellings. DfI Roads were consulted and have advised the adjacent road network, A29 Moneysharvan Road, is a Protected Route and two refusal reasons were provided in their response. The first refusal reason is as follows - *The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.*

The proposal seeks permission for a farm dwelling and Policy AMP 3 of PPS 3 provides an exception involving direct access onto a protected route for a dwelling on the farm. Annex 1 of PPS21 'Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking' states "*Planning permission will only be granted for a*

*development proposal involving access onto this category of Protected Route in the following cases - (b) where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.”*

It has been demonstrated above that the proposal meets the criteria set out in Policy CTY 10. The proposal is making use of an existing vehicular access onto the protected route and from a review of the site location plan; it is evident that access cannot be reasonably obtained from an adjacent minor road. It is my opinion therefore that the proposal does not conflict with Policy AMP 3 and this refusal reason could not be sustained.

DfI Roads have also recommended the below refusal under Policy AMP 2 of PPS 3 - *The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the intensification of use of this existing access in close proximity to a road junction would add to existing traffic hazards created by the slowing down and turning movements of vehicles entering and leaving the access.*

The proposal seeks to utilise an existing, unaltered access, which currently serves two dwellings. I sought further clarification from DfI Roads and advised that it is considered the proposal meets an exception test under Policy AMP 3. The DfI Roads case officer advised the necessary visibility splays of 2.4 x 160m are in place, however advised that the access will create intensification adjacent to a road junction situated on the opposite side of this A class road referring to DCAN 15 paragraph 7.3. Paragraph 7.3 of DCAN 15 refers to the spacing between a proposed major access and existing junctions; when on opposite sides, the spacing should be sufficient to separate conflicting turning movements and avoid ‘straight across’ vehicle movements. This planning application is not proposing to create a new access, rather the intensification of an unaltered, existing access. Nevertheless DfI Roads are the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended) to provide advice on road safety. DfI Roads have recommended refusal in that the proposed development if permitted would prejudice the safety and convenience of road users. As such, I consider the proposal is contrary to PPS 3 AMP 2 and refusal is recommended.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

The proposal is recommended for refusal as it offend Policy AMP 2 of Planning Policy Statement 3.

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the intensification of use of this existing access in close proximity to a road junction would add to existing traffic hazards created

by the slowing down and turning movements of vehicles entering and leaving the access.

**Signature(s)**


**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1225/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill dwelling , in area of average plot size of 44m road frontage	<b>Location:</b> Land adjacent to 214 Hillhead Castledawson Magherafelt
<b>Referral Route:</b>  Committee - Refusal	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Jim Mc Pherson 6 Lissadell Drive Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Content
<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>No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located adjacent to 214 Hillhead Road, Castledawson, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large agricultural field, the boundary to the north-east and is comprised of mature vegetation and hedgerow's and the boundary to the southwest cuts through the centre of the field and is undefined. The roadside boundary is comprised of mature hedgerow and scattered trees and the south eastern boundary consists of a wooden fence approx 1.0 metre in height and laurel hedgerow on the neighbours side. The elevation of the site is relatively flat and sites slightly lower than Hillhead road. Moyola Forest is to the south of the application site and Moyola river runs along the south to south west.</p>		
<b>Description of Proposal</b>		
Proposed infill dwelling		

## **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) PPS21 -Sustainable Development in the Countryside

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

### **Planning History**

There is no planning history relevant to the determination of this application.

### **Representations**

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. At the time of writing no third party objections were received.

### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that 'an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements'. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

The Policy further stipulates in paragraph 5.33 that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. There is one dwelling on the south eastern side, No 214 Hillhead road, however on the other side of the application site is a large agricultural field with no dwellings or buildings. Therefore, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and it would add to ribbon development in the area.

Also, in terms of the application site itself, the Policy PPS 8 states that ‘an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses.’ Following discussion with the Planning Manager it was agreed that the gap site was too large and therefore fails to meet the criteria set out in this policy.

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a building on this site would cause a detrimental change to or further erode the rural character of the area and as previously mentioned it would add to a ribbon of development.

#### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal- Contrary to Policy PPS21

#### Conditions/Reasons for 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.

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 Hillhead Road.

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 or add to a ribbon of development;

and would therefore result in a detrimental change to further erode the rural character of the countryside.

#### Signature(s)

Date:

ANNEX	
<b>Date Valid</b>	6th October 2020
<b>Date First Advertised</b>	20th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 214 Hillhead Road Castledawson Londonderry The Owner/Occupier, 233 Hillhead Road Castledawson Londonderry	
<b>Date of Last Neighbour Notification</b>	18th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1225/O Proposal: Proposed infill dwelling , in area of average plot size of 44m road frontage Address: Land adjacent to 214 Hillhead , Castledawson, Magherafelt, Decision: Decision Date:  Ref ID: H/1986/0040 Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW Address: 67 BELLSHILL ROAD, CASTLEDAWSON Decision: Decision Date:  Ref ID: H/1988/0011 Proposal: SITE OF DWELLING Address: 100M SE OF 244 HILLHEAD ROAD CASTLEDAWSON Decision: Decision Date:  Ref ID: H/2001/0809/O Proposal: Site of Dwelling. Address: Site Adjacent To 214 Hillhead Road, Castledawson. Decision:	



Decision Date: 20.03.2003

Ref ID: H/1989/0566

Proposal: DWELLING WITH GARAGE

Address: HILLHEAD ROAD CASTLEDAWSON

Decision:

Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1317/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and garage	<b>Location:</b> Lands between 17-19a Drumrot Road Moneymore
<b>Referral Route:</b>  To Committee – Refusal – Contrary to CTY 1, 8 and 14 of PPS 21.	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Miss Z McClintock 17 Drumrot Road Moneymore BT45 7QH	<b>Agent Name and Address:</b> 5050 Architecture 3a Keldon Court 17 Linenhall Street Limavady BT49 0HQ
<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	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 2.5km south of the development limits of Moneymore, from such the site is located in the open countryside as per defined by the Cookstown Area Plan 2010. I note that the site is identified as lands between 17 and 19a Drumrot Road, Moneymore, in which the red line covers a grassed area bounded by post and wire fencing. I note that currently on the site sits an unauthorised mobile home. I note that the intention to use an 'existing laneway' to access the site however this laneway was overgrown and difficult to find. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings.

<p><b>Representations</b></p> <p>Two neighbour notifications were sent out however no representations were received.</p>
<p><b>Description of Proposal</b></p> <p>This is an outline application for the proposed site for dwelling and garage, the site is located Lands between 17-19a Drumrot Road, Moneymore.</p>
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.</p> <p>Cookstown Area Plan 2010  Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  Strategic Planning Policy Statement (SPPS)  PPS 21: Sustainable Development in the Countryside  CTY 1- Development in the Countryside  CTY 8 - Ribbon Development  CTY 13 - Integration and Design of Buildings in the Countryside; and  CTY14 - Rural Character  PPS 3 - Access, Movement and Parking;</p> <p>The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.</p> <p>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'.</p> <p>CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.</p> <p>With regards to the continuous and built up frontage, I note that the agent has confirmed that the use of the existing laneway with Nos. 17 and 19a Drumrot Road and an outbuilding constituting as the three buildings. I note from the aerial maps it was difficult to determine if there was an existing laneway, as shown below;</p>



I note that upon the site visit that the identified 'existing laneway' was all overgrown and was difficult to determine that it was ever a laneway at all as shown below;



From such, it is difficult to determine if there is even a continuous line of built up frontage along a common frontage in the first instance. Taking consideration that this may be an existing laneway I would still have doubts over the continuous line of development; in that, I am content that the two outbuildings would front onto this 'laneway'. However, I would argue that both No. 17 and 19a both share a frontage onto the Drumrot Road and not the 'laneway' therefore would not be able to comply with this part of the policy. In terms of the gap, and despite the issue over the laneway and built up frontage I would be content that the site would be able to accommodate a modest sized dwelling and no more than two dwellings as per policy. From such, I am of the opinion the proposal would fail under CTY 8.

I note that no other policy considerations have been put forward, in that it cannot be constituted as a cluster as there is no focal point, nor is there a building to be replaced or converted. Nor is the site in a dispersed rural community, nor is the site for social

housing or has there been personal and domestic circumstances provided. Finally, there has been no farm case nor non-agricultural business enterprise.

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 have been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I note that as much of the existing landscaping should be retained as possible and supplemented with additional landscaping where necessary. Therefore a landscaping scheme will be required in any 'Reserved Matters' application. Finally given the site, landform and surrounding development I feel it necessary to restrict the ridge height to be no more than 7.5m above finished floor level. From this I am content that the application is able to comply with 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. I am content that an appropriately designed dwelling will not appear prominent in the landscape wherein it will still be able to respect the pattern of development in the area. I note that a dwelling in this location would read as part of the group of buildings around it but as stated it has failed under CTY 8 in that it creates a ribbon of development. Therefore this application also fails under CTY 14 given the change in character it will cause.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and in their response confirmed that they were content subject conditions and informatives.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I have no flooding or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

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

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation ribbon development along the Drumrot Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	22nd October 2020
<b>Date First Advertised</b>	3rd November 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 19 Drumrot Road Moneymore Londonderry The Owner/Occupier, 19a Drumrot Road Moneymore	
<b>Date of Last Neighbour Notification</b>	19th November 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1317/O Proposal: Proposed site for dwelling and garage Address: Lands between 17-19a Drumrot Road, Moneymore, Decision: Decision Date:  Ref ID: I/2007/0526/F Proposal: Proposed variation of condition no 4 of approval I/2006/0061/O to enable a ridge height extension of 7.5m Address: 100m South of 19 Drumrot Road, Moneymore Decision: Decision Date: 16.11.2007  Ref ID: I/2009/0241/RM Proposal: New two storey dwelling with garage Address: 100m South of 19 Drumrot Road Moneymore Co L'Derry BT45 7QH Decision: Decision Date: 18.06.2009  Ref ID: I/2010/0107/F Proposal: Change of house type and garage to previously approved I/2009/0241/RM Address: 100m south of 19 Drumrott Road, Moneymore, Co L'Derry, BT45 7QH Decision: Decision Date: 20.04.2010	

Ref ID: I/2006/0061/O

Proposal: Proposed site for dwelling

Address: 100 metres (approx) South of 19 Drumrot Road, Moneymore

Decision:

Decision Date: 20.05.2006

Ref ID: I/1989/0340

Proposal: Dwelling and Garage

Address: 300M EAST OF JUNCTION OF COLTRIM LANE AND DRUMROT ROAD  
MONEYMORE

Decision:

Decision Date:

Ref ID: I/2002/0277/RM

Proposal: Proposed dwelling and garage

Address: Adjacent to 17 Drumrot Road Moneymore

Decision:

Decision Date: 14.06.2002

Ref ID: I/2000/0461/O

Proposal: Dwelling and detached domestic garage

Address: Adjacent to No 17 Drumrot Road Moneymore

Decision:

Decision Date: 22.08.2000

Ref ID: I/2005/0335/O

Proposal: Proposed site for dwelling and garage

Address: 100 metres (approx) South of 19 Drumrot Road, Moneymore

Decision:

Decision Date: 14.12.2005

### **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:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1523/F	<b>Target Date:</b>
<b>Proposal:</b> Installation of Floodlighting to MUGA	<b>Location:</b> Maghera Leisure Centre Coleraine Road Maghera BT46 5BN.
<b>Referral Route:</b>  Applicant is MUDC.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> MUDC Burn Road Cookstown BT80 8DT	<b>Agent Name and Address:</b> Mc Adam Design 1C Montgomery House 478 Castlereagh House Belfast BT5 6BQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

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

### Summary of Issues

Neighbour notification and advertisement in the local press was carried out in accordance with statutory requirements. No third party representations have been received. Magherafelt District Council's Environmental Health Department was consulted in relation to the application and offered no objection.

### Characteristics of the Site and Area

The site is located within the existing premises at Maghera Leisure Centre, which sits within the development limits of Maghera as per defined by the Magherafelt Area Plan 2015. The application site relates to the recently approved Multi Use Games Area which is currently under construction on lands which were once a grass playing field. The site is currently under construction with land having been cleared and works commenced. The surrounding area is mainly residential with a high density of dwellings in close proximity. The existing leisure centre facilities are adjacent to the site.

### Description of Proposal

This is a full planning application for the installation of Floodlights to MUGA at Maghera Leisure Centre.

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

The following have been considered in the assessment of this application:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Mid Ulster Local Development Plan 2030- Draft Plan Strategy
- Magherafelt Area Plan 2015
- PPS8- Open Space, Sport Outdoor Recreation

The SPPS recognises that open space, sport and outdoor recreation is important to society now and in the future. Everyone, particularly children, older people and people with disabilities should have easy access to open space and the opportunity to participate in sport and outdoor recreational activity or simply enjoy and have contact with nature.

PPS 8- Open Space, Sport and Outdoor Recreation is the relevant planning policy for this application to be assessed. Policy OS 7- The floodlighting of Sports and Outdoor Recreational Facilities states that permission will only be permitted for floodlighting associated with sports and outdoor recreational facilities where all the following criteria are met:

*-There is no unacceptable impact on the amenities of people living nearby.*

A consultation was issued to Mid Ulster District Council's Environmental Health department who assessed the application and associated technical documents and concluded they would have no objection to the proposal subject to a number of conditions being attached to any approval. The first being that the floodlights should only be used between 07:00 and 22:00 hours to protect the amenity of nearby residents. The second condition requires the operator to employ a suitably qualified person to assess the level of light from the development within 4 weeks of a reasonable light complaint from any of the nearby dwellings. Any remedial actions required would then have to be carried out within 4 weeks from the date of approval of the report and be permanently retained. Based on the consultation response from Environmental Health, I am content that there would be no unacceptable impact on nearby residents.

*-There is no adverse impact on the visual amenity or character of the locality*

I am content that the proposed floodlighting will not impact on the visual amenity or character of the locality, as it is located on existing leisure centre facilities. These floodlights are in keeping with the character and land use at the site.

*-Public safety is not prejudiced*

I am content that public safety will not be prejudiced as the positioning of the floodlights mean they are at distance from the public road and no floodlight will be facing or angled towards the public road. Given the fact that the site is located within the development limits, which benefits from street lighting the impact of the development will not cause dazzle for transport users or pedestrians.

I am content that the proposal complies with the policy contained in PPS 8.

**Other material considerations**

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<b>Summary of Recommendation:</b>  Approval subject to conditions	
<b>Conditions</b>  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 floodlights shall only be used between the hours of 07:00 and 22:00 hours  Reason: To protect residential amenity  3. Within 4 weeks of a written request by the Council following a reasonable light complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of light from the development. Details of light monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the light monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.  Reason: To protect residential amenity.  <b>Informatives</b>  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.	
<b>Signature(s)</b>  <b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	1st December 2020
<b>Date First Advertised</b>	15th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Hawthorne Lane Maghera Londonderry The Owner/Occupier, 10 Tirkane Court Maghera Londonderry The Owner/Occupier, 11 Tirkane Court Maghera Londonderry The Owner/Occupier, 16 Tamney Crescent Maghera Londonderry The Owner/Occupier, 16 Thompson Gardens Maghera Londonderry The Owner/Occupier, 17 Tamney Crescent Maghera Londonderry The Owner/Occupier, 18 Tamney Crescent Maghera Londonderry The Owner/Occupier, 19 Tamney Crescent Maghera Londonderry The Owner/Occupier, 2 Hawthorne Drive, Maghera, Londonderry, BT46 5FL The Owner/Occupier, 20 Tamney Crescent Maghera Londonderry The Owner/Occupier, 21 Tamney Crescent Maghera Londonderry The Owner/Occupier, 22 Hawthorne Crescent, Maghera, Londonderry, BT46 5FT The Owner/Occupier, 22 Tamney Crescent Maghera Londonderry The Owner/Occupier, 23 Tamney Crescent Maghera Londonderry The Owner/Occupier, 24 Tamney Crescent Maghera Londonderry The Owner/Occupier, 25 Tamney Crescent Maghera Londonderry The Owner/Occupier, 26 Tamney Crescent Maghera Londonderry The Owner/Occupier, 27 Tamney Crescent Maghera Londonderry The Owner/Occupier, 28 Tamney Crescent Maghera Londonderry The Owner/Occupier, 29 Tamney Crescent Maghera Londonderry	

The Owner/Occupier,  
 3 Hawthorne Lane Maghera Londonderry  
 The Owner/Occupier,  
 30 Tamney Crescent Maghera Londonderry  
 The Owner/Occupier,  
 31 Tamney Crescent Maghera Londonderry  
 The Owner/Occupier,  
 32 Tamney Crescent Maghera Londonderry  
 The Owner/Occupier,  
 33 Tamney Crescent Maghera Londonderry  
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 34 Tamney Crescent Maghera Londonderry  
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 35 Tamney Crescent Maghera Londonderry  
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 38 Tamney Crescent Maghera Londonderry  
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 39 Tamney Crescent Maghera Londonderry  
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 4 Hawthorne Drive, Maghera, Londonderry, BT46 5FL  
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 40 Tamney Crescent Maghera Londonderry  
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 41 Tamney Crescent Maghera Londonderry  
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 42 Tamney Crescent Maghera Londonderry  
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 44 Coleraine Road Maghera Londonderry  
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 48 Coleraine Road Maghera Londonderry  
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 48 Coleraine Road Maghera Londonderry  
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 5 Hawthorne Drive, Maghera, Londonderry, BT46 5FL  
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 5 Hawthorne Lane Maghera Londonderry  
 The Owner/Occupier,  
 5 Sunnyside Drive Maghera Londonderry  
 The Owner/Occupier,  
 51 Coleraine Road Maghera Londonderry  
 The Owner/Occupier,  
 60 Coleraine Road, Maghera, Londonderry, BT46 5BP  
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 62 Coleraine Road, Maghera, Londonderry, BT46 5BP  
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The Owner/Occupier, 66 Coleraine Road, Maghera, Londonderry, BT46 5BP The Owner/Occupier, 68 Coleraine Road, Maghera, Londonderry, BT46 5BP The Owner/Occupier, 7 Edenvue Court, Maghera, Londonderry, BT46 5FJ The Owner/Occupier, 70 Coleraine Road, Maghera, Londonderry, BT46 5BP The Owner/Occupier, 74 Coleraine Road, Maghera, Londonderry, BT46 5BP The Owner/Occupier, 8 Edenvue Court, Maghera, Londonderry, BT46 5FJ The Owner/Occupier, 8 Tirkane Court Maghera Londonderry The Owner/Occupier, 9 Edenvue Court, Maghera, Londonderry, BT46 5FJ The Owner/Occupier, 9 Tirkane Court Maghera Londonderry	
<b>Date of Last Neighbour Notification</b>	21st December 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1523/F Proposal: Installation of Floodlighting to MUGA Address: Maghera Leisure Centre, Coleraine Road, Maghera BT46 5BN., Decision: Decision Date:  Ref ID: LA09/2020/0469/LDP Proposal: Provision of a new 3G pitch (118m x 68m) drainage, fencing and gates, pitch furniture. Provision of a new trim trail around the existing site with associated lighting. Extension to the existing car park area/ whitelining. Demolition of boundary wall and outbuildings at former PSNI site. Upgrade to existing play area. Extension to footpath on Crewe Road. Address: Maghera Leisure Centre, Coleraine Road, Maghera. Former PSNI site, Coleraine Road, Maghera. Crewe Road (footpath extension), Decision: PG Decision Date:  Ref ID: LA09/2019/0100/F Proposal: Proposed Dwelling. Address: Adj to 22 Hawthorne Crescent, Maghera, BT46 5FT., Decision: PG	

Decision Date: 20.12.2019

Ref ID: H/2012/0174/LDP

Proposal: Proposed 3rd Generation Synthetic playing pitch and boundary fence on site of existing football pitch

Address: Adjacent to Maghera Leisure Centre at Coleraine Road, Maghera, BT46 5BN,

Decision:

Decision Date:

Ref ID: H/2002/0251/A

Proposal: Projecting Sign, Identification Crest.

Address: Maghera Police Station, 50 Coleraine Road, Maghera

Decision:

Decision Date: 24.05.2002

Ref ID: H/2000/0449/F

Proposal: Leisure centre & sports pitches

Address: Land to the rear of no.'s 44 & 50 Coleraine Road, Maghera

Decision:

Decision Date: 12.10.2000

Ref ID: H/1982/0373

Proposal: PATHS AND TRIM TRAIL

Address: COLERAINE ROAD, MAGHERA

Decision:

Decision Date:

Ref ID: H/1981/0321

Proposal: SITE OF OPEN SPACE

Address: COLERAINE ROAD, MAGHERA

Decision:

Decision Date:

Ref ID: H/2002/1043/Q

Proposal: Access arrangements.

Address: Lands off Coleraine Road, Maghera.

Decision:

Decision Date:

Ref ID: H/2006/0424/F

Proposal: Proposed change of house types to sites 79, 80, 120, 121, 122. Repositioning of sites 79 & 80 and proposed 3 no. new dwellings at sites 63, 64 & 65.

Address: Adjacent to 82 Coleraine Road, Maghera

Decision:

Decision Date: 25.01.2007

Ref ID: H/2003/0086/F

Proposal: Housing Development.

Address: Adjacent to 82 Coleraine Road, Maghera.

Decision:

Decision Date: 20.06.2005

Ref ID: H/1976/0206

Proposal: 11KV O/H LINES (C.8462)

Address: TAMNYMULLAN MULLAGH, AND CRAIGMORE, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1976/0194

Proposal: 11KV O/H LINES (C.8461)

Address: TULLYHERNA, TIRNONY, CRAIGMORE AND TAMNYMULLAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1982/0365

Proposal: SITE OF BUNGALOW AND GARAGE

Address: FIVE MILE STRAIGHT, MAGHERA

Decision:

Decision Date:

### **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

**Notification to Department (if relevant)**

Date of Notification to Department:

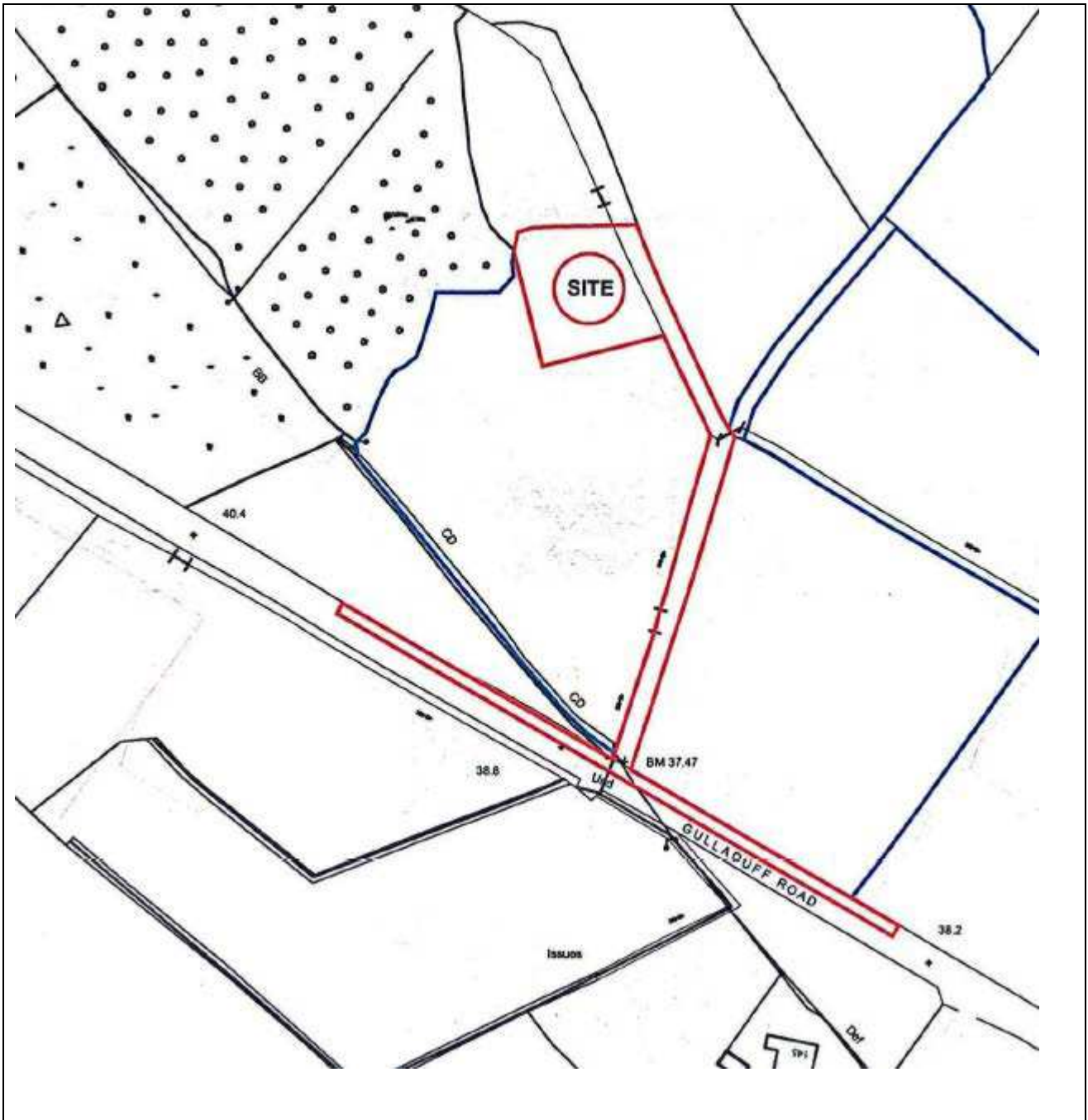
Response of Department:



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2016/1693/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed farm dwelling and garage	<b>Location:</b> 195m South West of 146 Gulladuff Road Bellaghy
<b>Applicant Name and Address:</b> Seamus McCorry 6 Clarkes Court Gulladuff Magherafelt BT45 8RH	<b>Agent name and Address:</b> Ward Design 10 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b>  Approval recommended - by virtue of time applicant is now active and established as required by Policy CTY10..	
<b>Summary of Consultee Responses:</b> no objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.9km north west of the village of Bellaghy and is within the open countryside as defined by the Magherafelt Area Plan 2015. The application is for an outline application for a dwelling and garage within a large agricultural field with no apparent farm buildings on it. The site located within a large field which is relatively flat in nature with access to the site through an existing agricultural access. The site is bounded on all sides with tall existing mature trees. The immediate location is predominately agricultural land uses with the wider setting being defined by a mix of residential dwellings and agricultural land uses.  Representations No representations received in connection with this application.	



### Description of Proposal

This is an outline application for a proposed farm dwelling and garage. The site is positioned within a large agricultural field and is stated to be 195m south west of 146 Gulladuff road, Bellaghy.

### Deferred Consideration:

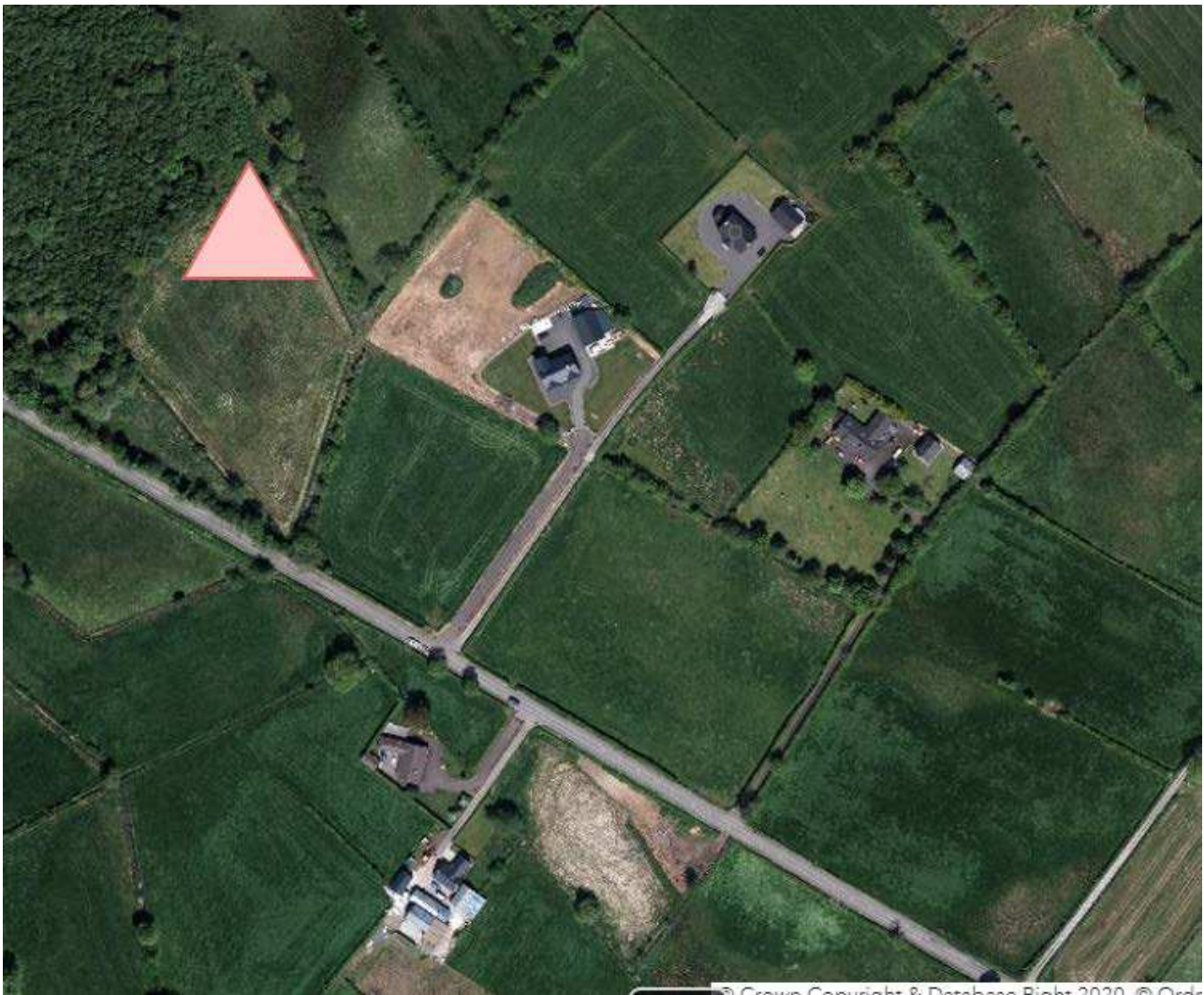
This application was submitted in 2016 on the basis of a dwelling on a farm Policy CTY10. At the time of the first report to the planning committee in July 2017, and again as a deferred case in Oct 2018, the applicants Cat 2 DARD Business Number having being given to the applicant in Jan 2014 did not meet the required 6yr CTY10 Policy requirement.

Given the time which has elapsed, and in considering additional supporting information submitted by the agent, the Business ID is now accepted as having been established for over 6yrs.



One of the other requirements of the policy is that the farm is currently active. The explanation and expansion of policy CTY10 refers to this as being as simple a test as maintaining the land in good agricultural condition. I see no reason and have no contrary evidence to suspect that at the time of writing this report that this isn't the case. The application contains evidence of maintenance of the lands and I am conscious that the policy test is that the farm business is 'currently active'.

I understand that these farm lands contain no other group of buildings in order to satisfy the clustering / visual linkage test of Policy CTY10. Whilst at the time of the previous deferral of this application it was a concern that a dwelling at 146 Gulladuff Road appeared to have been sold off the holding in 2009. At that time this would have represented a sell-off or transfer within the 10 years, this being fatal to the application at that time. Whilst Policy CTY10 states that 'no dwellings or development opportunities out-with settlement limits have been sold off from 10 years of the date of the application', in theory this aspect of the Policy is still not met given that this application was received in 2016. That said I think it is reasonable for members to consider that we are now over 10 years from the transfer and that should the applicant be applying afresh now that this matter would not arise.



The previous deferral report also raised refusal reasons relating to Policy CTY13/ 14 and CTY8. In looking at the site I note its set back without a frontage with the Gulladuff Road. The ortho image above shows that ribbon development should not arise here should a

dwelling be approved on this site (site is represented by the triangle) given the set back of other dwellings and a lack of a shared common frontage. An existing agricultural access appears to be used with the site nestling into a backdrop provided by the plantation to the NW boundary. I am satisfied that a 2 storey dwelling could be sited here which would meet the requirements of CTY13/14.

In considering the above, and that the passage of time has now established the farm business for the required 6 years, my recommendation is to approve with the below conditions.

**Conditions**

- 1 Submission of RM within 3 years
2. Ridge height of not more than 8m from ffl which should not exceed 0.35m.
3. Retention to site boundaries to west and NE, with new native species planting to undefined boundaries, including access lane.
4. Access to be in accordance with RS1 form.

**Signature(s): M.Bowman****Date: 20<sup>th</sup> Jan 2021**





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2016/1693/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm dwelling and garage	<b>Location:</b> 195m South West of 146 Gulladuff Road, Bellaghy
<b>Applicant Name and Address:</b> Seamus McCorry 6 Clarkes Court Gulladuff Magherafelt BT45 8RH	<b>Agent name and Address:</b> CMI Planners Ltd Unit C5 The Rainey Centre 80 - 82 Rainey Street Magherafelt BT45 5AG
<b>Summary of Issues:</b>  Refusal recommended - Contrary to CTY 1, 8, 13 and 14 of PPS 21.	
<b>Summary of Consultee Responses:</b> No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.9km north west of the village of Bellaghy and is within the open countryside as defined by the Magherafelt Area Plan 2015. The application is for an outline application for a dwelling and garage within a large agricultural field with no apparent farm buildings on it. The site is relatively flat in nature with access to the site through an existing agricultural access. The site is bounded on all sides with tall existing mature trees. The immediate location is predominately defined by a mix of residential dwellings and agricultural land uses.	
<b>Description of Proposal</b>  This is an outline application for a proposed farm dwelling and garage. The site is positioned within a large agricultural field and is stated to be 195m south west of 146 Gulladuff road, Bellaghy.	
<b>Deferred Consideration:</b>  The application was presented before the Planning Committee meeting In August 2017 with a recommendation to refuse based on the principle of development, the fact the farm business has not been active nor established for at least 6 years, the proposed dwellings was not visually linked	



or sited to cluster with an established group of buildings on the farm and the proposed development.

An office meeting was held on 12 October with the agent and the Planning Manager on 12 October 2017. Dr Boomer requested confirmation from the applicant himself as to how he came to be in ownership of the land. Dr Boomer also questioned if forestry activity was active on the farm land. The agent confirmed the forestry activity is not on the farmland of the applicant. He further stated there is a considerable amount of land in forestry that is outside the blue land.

In a letter to MUDC the agent then stated the land came into the applicant's possession after an uncle left it to him in his will. Mr McCorry has a Category 2 Business ID number and in January 2014 he was contacted to say he was too late to apply for a Woodland Grant Scheme but there will be other schemes available. I contacted the Grants Branch of the Forestry Service on 19 September 2018 and they confirmed that Mr McCorry has not applied for any other schemes that have been available since 2014 and that is the last correspondence he had with the Forestry Service. Therefore the applicant is not currently actively involved in a Forestry undertaking. The agent does assert he maintains the land in expectation of being accepted to the scheme, though it is clear no further applications have been made to the Forestry Service by the applicant. The agent has submitted copies of receipts for sheep wire, fencing posts, tractor repairs, hedge cutting and bills from NI Water to support the assertion that he undertakes farming activities on his farm.

Having discussed the planning history at the office meeting I have looked into this further. The applicant was granted outline planning permission in 2001 and the site was sold off in 2007 to the current owners which is more than 10 years ago. However the applicant owned a number of fields and also a dwelling at no 146 Gulladuff Road and the dwelling was subsequently sold by the applicant in July 2009 to Martin and Patricia McCorry. This is not more than 10 years ago and as a consequence it does not meet criteria (b) of Policy CTY 10 which states that *"no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application"*.

Therefore given the applicant is not an active farmer and more importantly has sold off a dwelling in 2009 I recommend a refusal of this application.

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

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active (and has been established for at least six years and the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
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.
4. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along the Gulladuff Road.



5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that (the (building) would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s):**

**Date**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/1693/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm dwelling and garage	<b>Location:</b> 195m South West of 146 Gulladuff Road Bellaghy
<b>Referral Route:</b>  Refusal recommended - Contrary to CTY 1, 8, 13 and 14 of PPS 21.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Seamus McCorry 6 Clarkes Court Gulladuff Magherafelt BT45 8RH	<b>Agent Name and Address:</b> CMI Planners Ltd Unit C5 The Rainey Centre 80 - 82 Rainey Street Magherafelt BT45 5AG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Refusal recommended - Contrary to CTY 1, 8, 13 and 14 of PPS 21.

## Characteristics of the Site and Area

The site is located approximately 1.9km north west of the village of Bellaghy and is within the open countryside as defined by the Magherafelt Area Plan 2015. The application is for an outline application for a dwelling and garage within a large agricultural field with no apparent farm buildings on it. The site located within a large field which is relatively flat in nature with access to the site through an existing agricultural access. The site is bounded on all sides with tall existing mature trees. The immediate location is predominately agricultural land uses with the wider setting being defined by a mix of residential dwellings and agricultural land uses.

### Representations

No representations received in connection with this application.

## Description of Proposal

This is an outline application for a proposed farm dwelling and garage. The site is positioned within a large agricultural field and is stated to be 195m south west of 146 Gulladuff road, Bellaghy.

## Planning Assessment of Policy and Other Material Considerations

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

### Magherafelt Area Plan 2015

#### Strategic Planning Policy Statement (SPPS)

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

#### CTY 1- Development in the Countryside

#### CTY 10 – Dwellings on Farms

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

#### CTY14 – Rural Character

#### PPS 3 - Access, Movement and Parking;

The application is for a farm dwelling and garage. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm



where all of the following criteria can be met:

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

With respect to (a) DAERA were consulted and responded to state that the farm business number has not been in existence for more than 6 years and that the business does not claim Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. This response was passed on the agent who later supplied various invoices to show agricultural activity during this time. The invoices included those from NI Water, NIE, for hedge cutting, farm machinery repairs and for wire and fencing. However in review of the invoices these dated from 31st May 2017 to 15th May 2013, from this it has failed to show agricultural activity for the 6 years and from this fails this criteria.

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 the application.

With respect to (c) there are no buildings on the site for the proposed dwelling to cluster or visually link with however the agent stated that he has chosen the best integrated site on the farm holding. Concern arose over the ownership of No.146 Gulladuff Road which is the registered address on the farm maps however the address of applicant differs on the submitted P1 form. Further concern arose that the fact No.146 Gulladuff Road was not included within the submitted blue line confirming it was under the applicant's ownership. It is worth noting that the applicant attained a planning approval for a site south of No.146 Gulladuff Road under planning reference H/2001/0702/O which appears to have subsequently sold on. Whilst the site may have the capacity to integrate into the site however the policy states that if the site is to be located away from the farm complex that there must be either health and safety reasons or verifiable plans to expand the farm business however none of which has been submitted. Therefore on this basis and in addition to failing to demonstrate that the farm business has been established and active for six years the proposal has failed to comply with CTY 10 of PPS 21 and therefore refusal must be recommended.

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. A dwelling on this site will avail of a good backdrop of the existing mature trees around the site and would be capable to visually integrate into the landscape in that all trees are to be retained. Despite this the site still fails the final criteria of CTY 13 in that in the case of a dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm and therefore does not fully fulfil CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this application has failed to show its compliance under CTY 10 therefore it is felt that as a result the proposal would create a ribbon development and therefore fails under CTY 14 and 8 of PPS 21.



Consultations were sent to TNI, NI Water and Environmental Health, all of which came back with no objection subject to conditions and informatives.

From this refusal is recommended on the basis the proposal fails CTY 1, 8, 13 and 14 of PPS 21 respectively.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

From this refusal is recommended on the basis the proposal fails CTY 1, 8, 13 and 14 of PPS 21 respectively.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active (and has been established for at least six years and the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.
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.
4. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along the Gulladuff Road.
5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that (the (building) would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	29th November 2016
<b>Date First Advertised</b>	15th December 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier,	
<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: LA09/2016/1693/O Proposal: Proposed farm dwelling and garage Address: 195m South West of 146 Gulladuff Road, Bellaghy, Decision: Decision Date:  Ref ID: H/1993/6054 Proposal: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR BELLAGHY MAGHERAFELT Address: NEAR BELLAGHY Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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> LA09/2019/0050/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed site for a dwelling and garage. Based on policy CTY 10 (dwellings on farms)	<b>Location:</b> 37m NE of 9 Annaghmore Lane Annaghmore Cookstown
<b>Applicant Name and Address:</b> Mr Noel Devlin 38 Annaghmore Lane Annaghmore Cookstown BT80 0JG	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b> Whether or not the applicants farm is currently active.	
<b>Summary of Consultee Responses:</b> DFI Roads – access is off laneway that runs straight from public road, no improvements necessary DEARA – business established for over 6 years, herd no inoperative and no claims made on land	
<b>Characteristics of the Site and Area:</b> The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 1 mile northwest of Moortown.  The site comprises a relatively rectangular shaped agricultural field located adjacent and to the south side of Annaghmore Lane. Annaghmore Lane is a minor rural road within the hinterland of Moortown and Derrychrin.  Whilst there are a number of dwellings located along it to the northeast of the site, the stretch of Annaghmore lane the site is located along, has not been adopted by Roads. It has however been identified on the P1 Form submitted alongside this application as a public right of way. The lane serving the site off the adopted road is tarmac up until a sharp bend in the lane where it passes	

the last existing dwelling on it, from this point on it continue up to and along the frontage of the site and beyond as a tractor lane.

The site is bound by a mix of mature tree and hedgerow vegetation. And the land within it rises quite steeply from its frontage along Annaghmore Lane to its southern boundary and beyond.

No. 9 Annaghmore Lane a vacant single storey dwelling exists immediately to the southeast corner of the site. A number of dwellings and ancillary buildings exist along the lane serving the site including 3 to its northeast at the opposite side of the lane which alongside an existing farmyard have been identified as being on lands within the control of the applicant. One of these dwellings no. 38 Annaghmore Lane is listed as the applicant home address.

Views of this site are limited until passing its frontage onto Annaghmore Lane. This is due to its location between two bends in Annaghmore Lane; the topography of the area; and existing vegetation along its boundaries and within the wider vicinity.

Located approx. 1 mile west of Lough Neagh shores the surrounding area is predominantly flat agricultural land interspersed with single dwellings and farm groups. That said the stretch of Annaghmore Lane accessing the site has come under considerable development pressure in recent years with a number of dwellings, ancillary buildings and farm groups located along it.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage on a farm to be located on lands approximately 37m NE of 9 Annaghmore Lane Annaghmore Cookstown.

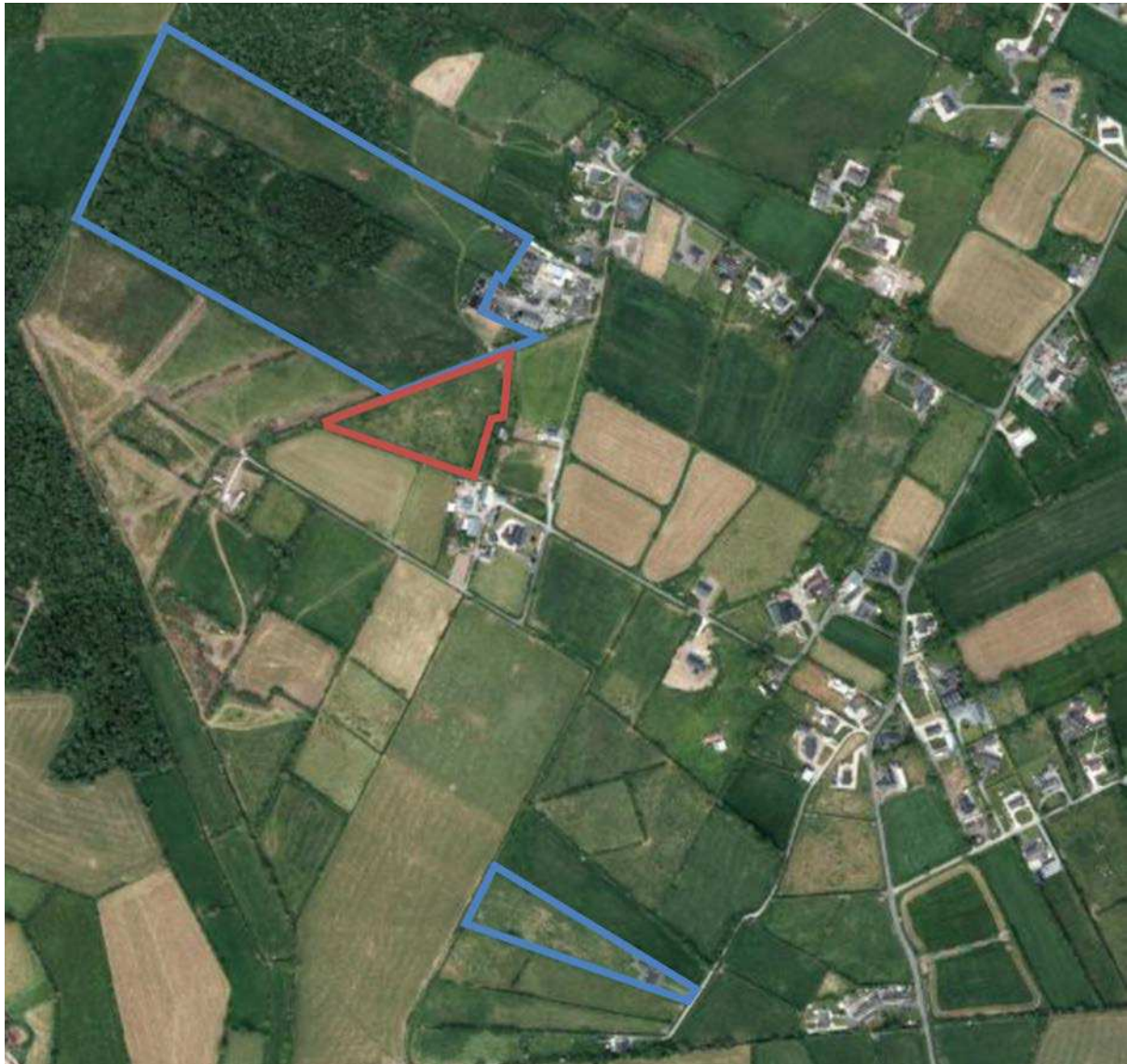
### **Deferred Consideration:**

This application was before the committee in November 2020 and it was deferred to allow a meeting with the Planning Manager. A meeting was held on 12 November where additional information about the applicants farming activities and the current status of the farm were discussed and additional information was invited to demonstrate there is a level of farming activity associated with this business.

Members will be aware from the previous report, that a dwelling located in the north east corner of the proposed site will be visually inked with buildings on the Devlin farm to the north, there have not been any sites sold off or permission for dwellings granted on the farm, or against the business ID, within the last 10 years and the farm business is established for over 6 years. The only issue that had not been demonstrated was that the farm was currently active.

DEARA have advised there is a business that was allocated over 6 years ago, it is still open. The business had a herd associated within it but as there was no stock for more than 2 years, the herd number was made non operational. There have been no claims by this farmer or any other farmer on the 11.89ha of land that are associated with this farm. The applicant and his father, Aidan, are joint owners of the farm business. There were cattle on the farm until ill health prevented Aidan from continuing to farm. Noel obtained an ONC Level 2 Certificate on Agric Business Operations in March 2017 and has been maintaining the land since. During the initial inspection of the site in March 2019 it was noted the farmland is in grass and appears to be well maintained. An attached aerial photo is the most recent for the area, it is dated 29 May 2020 and shows the land to be in good condition with tracks of machinery through the fields. Receipts have been provided

for the year 2020, which show fencing materials have been bought, this indicates some level of current business activity on the farm and I consider this meets the final criteria for CTY10.



Aerial Map dated 29 May 2020 – site in red other land owned in blue

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I consider the above information demonstrates the farm business is still active, albeit at a very low level and recommend this application is granted permission with the conditions in relation to the siting of the dwelling.



**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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. The dwelling hereby approved shall be sited in the area identified in green on the approved drawing No 01 bearing the stamp dated 11 JAN 2019, its curtilage, except for the access shall not extend beyond that area and the remainder of the field outlined in red shall be retained in agricultural use.

Reason: In the interests of visual amenity and to ensure the development integrates into the landscape.

4. A detailed scheme of structured landscaping along all the new boundaries of the site identified in green on drawing no 01 bearing the stamp dated 11 JAN 2019, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

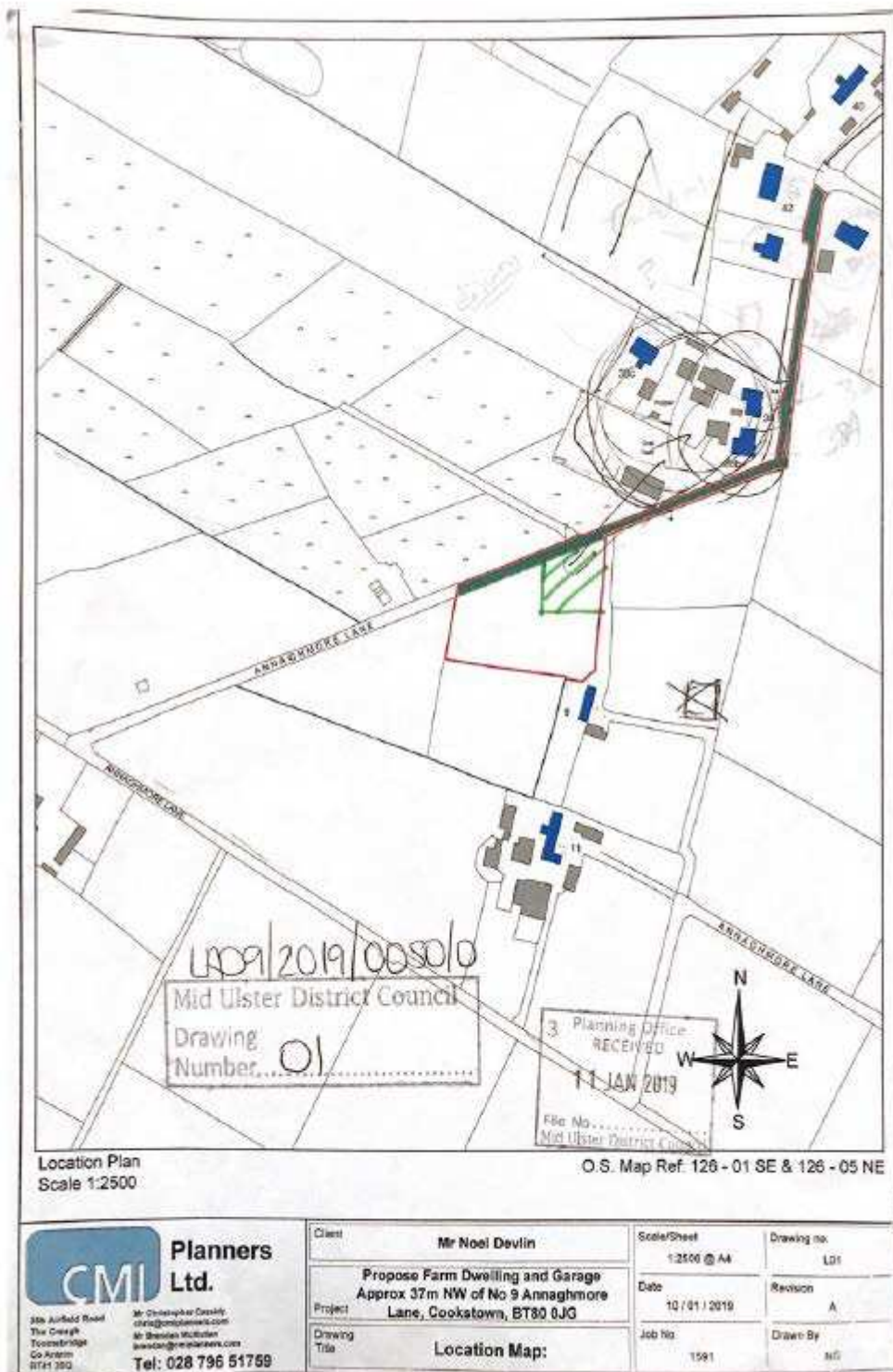
**Informatives**

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

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

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

# Drawing No 01





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> LA09/2019/0050/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage. Based on policy CTY 10 (dwellings on farms)	<b>Location:</b> 37m NE of 9 Annaghmore Lane Annaghmore Cookstown
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Mr Noel Devlin 38 Annaghmore Lane Annaghmore Cookstown BT80 0JG	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b> Outline application for a dwelling and garage on a farm.  The Department of Agriculture, Environment and Rural Affairs (DEARA) confirmed the Farm Business has been in existence for more than 6 years. However, the Farm Business has not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. That the Business was initially created in 2005 for AGRI purposes only – (before Business Categories existed) to obtain a Herd Number, and has never applied for any Grants/Subsidies. That the Herd Number quoted on the Form P1C at Q2 made Non-Operational in 2018 as it had No Stock for more than 2 years. The Proposed Site located on a LPIS 2018 Map – field where proposed site located never claimed by any Business for SFP/ SAF BPS.  The agent has been contacted on a number of occasions to address DAERA's comments and demonstrate the Business is currently active, however has failed to do so, as such: <ul style="list-style-type: none"><li>• 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.</li></ul>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	DAERA - Omagh	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

#### Description of Proposal

This is an outline application for a proposed dwelling and garage on a farm to be located on lands approximately 37m NE of 9 Annaghmore Lane Annaghmore Cookstown.

#### Characteristics of the Site and Area

The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 1 mile northwest of Moortown.

The site comprises a relatively rectangular shaped agricultural field located adjacent and to the south side of Annaghmore Lane. Annaghmore Lane is a minor rural road within the hinterland of Moortown and Derrychrin.

Whilst there are a number of dwellings located along it to the northeast of the site, the stretch of Annaghmore lane the site is located along, has not been adopted by Roads. It has however been identified on the P1 Form submitted alongside this application as a public right of way. The lane serving the site off the adopted road is tarmac up until a sharp bend in the lane where it passes the last existing dwelling on it, from this point on it continue up to and along the frontage of the site and beyond as a tractor lane.

The site is bound by a mix of mature tree and hedgerow vegetation. And the land within it rises quite steeply from its frontage along Annaghmore Lane to its southern boundary and beyond.

No. 9 Annaghmore Lane a vacant single storey dwelling exists immediately to the southeast corner of the site. A number of dwellings and ancillary buildings exist along the lane serving the site including 3 to its northeast at the opposite side of the lane which alongside an existing farmyard have been identified as being on lands within the control of the applicant. One of these dwellings no. 38 Annaghmore Lane is listed as the applicant home address.

Views of this site are limited until passing its frontage onto Annaghmore Lane. This is due to its location between two bends in Annaghmore Lane; the topography of the area; and existing vegetation along its boundaries and within the wider vicinity.

Located approx.1 mile west of Lough Neagh shores the surrounding area is predominantly flat agricultural land interspersed with single dwellings and farm groups. That said the stretch of Annaghmore Lane accessing the site has come under considerable development pressure in recent years with a number of dwellings, ancillary buildings and farm groups located along it.

### **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

Cookstown Area Plan 2010

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 15 (Revised): Planning and Flood Risk  
Planning Policy Statement 21: Sustainable Development in the Countryside  
CTY1 - Development in the Countryside  
CTY10 – Dwellings on Farms  
CTY 13 - Integration and Design of Buildings in the Countryside  
CTY 14 - Rural Character

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections were received.

### **Relevant Planning History**

On site

None

Adjacent site

I/2012/0057/F – Shed/workshop for assembly of engineering equipment - 70m N of 11 Annaghmore Lane, Coagh, Cookstown – Refused 20.11.2012 (as contrary to CTY1 and CTY14 of PPS21 and PPS3). This site is the field immediately east of the current site.

LA09/2015/0540/O – Replacement of redundant dwelling with the retention of the existing dwelling for ancillary use to the new dwelling – 9 Annaghmore Lane Cookstown – Granted 08.10.2015. This redundant dwelling is located adjacent the southeast corner of the site

### **Consultees**

1. Transport NI were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives subject to which I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. The Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with the Form P1C and Farm maps submitted alongside the application. DEARA confirmed the Farm Business Id identified on Form P1C has been in existence for more than 6 years. However, the Farm Business has not claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. DEARA added the Business was initially created in 2005 for AGRI purposes only – (before Business Categories existed) to obtain a Herd Number, and has never applied for any Grants/Subsidies. That the Herd Number quoted on the Form P1C at Q2 made Non-Operational in 2018 as it had No Stock for more than 2 years. The Proposed

Site located on a LPIS 2018 Map – field where proposed site located never claimed by any Business for SFP/ SAF BPS.

### **Consideration**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

It is located adjacent to ‘Gort Moss’ designated within the Plan as a Site of Local Nature Conservation Importance (SLNCI). A number of SLNCI’s have been designated within the Plan on the basis of their flora, fauna or earth science interest and protected under Plan Policy CON which outlines special consideration must be given to the protection of nature conservation interests on or adjacent to these sites when determining planning applications. I am content that whilst this site sits adjacent Gort Moss a dwelling on this site, which comprises improved grassland, should not have any significantly detrimental affect on its intrinsic nature conservation interests.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside, Planning Policy Statement 2: Natural Heritage and Planning Policy Statement 3: Access, Movement and Parking are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 ‘Development in the Countryside’ and include dwellings on farms in accordance with Policy CTY 10 of PPS 21 ‘Dwellings on Farms’.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where the following criteria have been met:

1. the farm business is currently active and has been established for at least 6 years,

The Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with the Form P1C and Farm maps submitted alongside the application (see ‘Consultees’ above).

DAERA confirmed the Farm Business has been established for over 6 years. However, they did not confirm it is active, they stated the Business was initially created in 2005 for AGRI purposes only to obtain a Herd Number. That the Business has never applied for any Grants/Subsidies, and that the Herd Number was made Non-Operational in 2018 as it had No Stock for more than 2 years. They added the proposed site has never been claimed by any Business for SFP/ SAF BPS. As such, I am not content Criterion (1) of CTY 10 has been met.

I had been in contact with the agent on a number of occasions (by phone 26<sup>th</sup> March 2019 and by email: 19<sup>th</sup> April 2019, 30<sup>th</sup> May 2019, 30<sup>th</sup> January 2020 and 23<sup>rd</sup> June 2020) to offer him the opportunity to address the above by providing Planning information:

- to demonstrate the Farm Business is currently active - as the information on file shows the applicant has no herd / livestock; and
- on what the applicant does as a farmer.

On the 7<sup>th</sup> July 2020 the agent emailed additional information in the form of a correspondence from DARD. The correspondence outlined that, 'According to DEARA records Mr Aidan Devlin had a fully operation Herd from 04/11/1998 – 15/05/2018. Whenever DEARA Business Id's were introduced Mr Devlin automatically obtained his on 13/11/2005. He had 8 animals at that stage. On the 27/11/2016 Mr Devlin added his son Noel to his Farm Business. Noel took over and became head of the Business. Again according to DEARA records on the 18/05/2018 Mr Noel Devlin rang to inform DEARA he had **developed a disability** and wouldn't be able to keep any animals for the foreseeable future.'

The agent added in the email, 'this I trust confirm the applicants business has been active since 1998 and that he had animals up until 2018 **when ill health** forced him to scale back. That submitted invoices confirm he continues to maintain his land. And that Mr Devlin has confirmed to him he intends to keep cattle again as soon as his **health improves**.'

Having considered the additional information submitted I believe it only affirms DEARA's formal response, that the Farm Business has been inactive from 2018. Additionally, as no invoices, as referred to above by the agent, were received, it still had not been demonstrated the Farm is Currently Active.

The agent was emailed on the 9<sup>th</sup> September 2020 and made aware of the above consideration including the fact no invoices had been received and given one last opportunity, to submit information to demonstrate the Farm is Currently Active. He was given 3 weeks to get the required information submitted to Planning on a without prejudice basis. He was advised if the information required was not received, Planning would make a recommendation based on the information currently on file and that recommendation would go to the next available Planning Committee.

To date no additional information has been received to demonstrate the Farm Business is Currently Active.

2. no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application or since PPS 21 was introduced on 25th November 2008.

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from Mr Devlin's farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

3. the new building is visually linked or sited to cluster with an established group of buildings on the farm.

I am content subject to a condition that the dwelling be sited in the northeast corner of the site it should visually link with an established group of buildings on the applicants

farm holding located just to the northeast including 3 dwellings, outbuildings/sheds and coal yard. Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character.

I am of the opinion that a dwelling and garage of an appropriate size, scale and design could integrate on this site and into the surrounding landscape without causing a detrimental change to, or further eroding the rural character of the area in accordance with the requirements of policies CTY13 and 14.

Should it be demonstrated the Farm Business is Currently Active, the details of the siting, size, scale and design of the dwelling and garage could be considered further under any subsequent reserved matter application

The only property in close proximity to the site is no. 9 Annaghmore Lane, the vacant dwelling adjacent the southeast corner of the site. Should this dwelling become occupied or be replaced (see 'Planning History') I am content subject to a suitable scheme coming forward under any subsequent reserved matters application a dwelling on this site located to its northeast corner should not adversely impact its amenity, to any unreasonable degree, in terms of over looking or overshadowing.

Planning Policy Statement 2 (PPS2): Natural Heritage – Policy NH 4 of PPS 2 'Sites of Nature Conservation Importance (Local)' outlines Planning permission will only be granted for a proposal that is not likely to have a significant adverse impact on a Local Nature Reserve or Wildlife Refuge. Proposal which could have a significant adverse impact may only be permitted where the benefits of the proposed development outweigh the value of the site.

As detailed further above (see 'Cookstown Area Plan 2010') I am content a dwelling on this site should not have any significantly detrimental affect on the intrinsic nature conservation interests of the adjacent Gort Moss designated a SLNCI under the Plan.

### **Additional considerations**

In addition to checks on the planning portal Historic Environment Division (HED) map viewer available online has been checked and there are no built heritage features of significance on site.

Flood Maps NI indicate the site is not subject to Flooding.

The site is located within SG Defence Estates relating to Met Office Radar whereby consultation to Defence Estates is required for development over 15.2m height.

### **Recommendation**

Refuse - it has not been demonstrated that the farm business is currently active.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refusal
<b>Reasons for Refusal:</b>	

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 currently active.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/1008/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of dwelling under construction	<b>Location:</b> 7 Tobermesson Road Dungannon Co Tyrone.
<b>Applicant Name and Address:</b> Conor Curran 1 Lisgobbin Road Dungannon BT71 7PT	<b>Agent name and Address:</b> J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Summary of Issues:</b>  Planning permission was granted for a replacement dwelling, the applicant does not own the dwelling to be replaced, the original planning permission was not commenced in time and the previous permission lapsed.	
<b>Summary of Consultee Responses:</b> DFI Roads – access with sight lines of 2.4m x 60.0m required to be provided	
<b>Characteristics of the Site and Area:</b>  The site contains a large two storey dwelling and the red line includes a gravel lane and a small irregular shaped plot of land which includes a small rear garden and a larger space to the front. The site is relatively open and can be viewed clearly in both directions along the Tobermesson road, however, the topography of the land and the large amount of tall trees to the rear act as a back drop.  The site lies within the open countryside outside all other areas of constraint. It is a short distance to the north of the settlement limits of Benburb in a predominantly rural area. There are a scattering of single dwellings and farm holdings located along the roadside.	



### **Description of Proposal**

The proposal seeks planning permission for the retention of the dwelling.

### **Deferred Consideration:**

This application was before the committee members on 4<sup>th</sup> February 2020 with a recommendation to refuse. The application was deferred to allow planning officials to write to the objector and the applicant and seek clarification in relation to the development that was approved on the site and establish if development had lawfully commenced on the site in accordance with approved plans. Both parties were written to on 11 June 2020 and asked to provide additional information that would be helpful to the consideration of this application.

Members will recall that outline planning permission (OPP) ref M/2003/0300/O was granted for a site for a replacement dwelling and detached garage, the existing dwelling was located off a long laneway and on higher ground to the south of the application site. The OPP was granted on 18 June 2003 and a condition was attached that required the demolition of the existing dwelling within 6 weeks of the date of occupation of the new dwelling. Approval of Reserved Matters (RM), ref M/2006/1472/RM, for Site for replacement dwelling was subsequently granted on 14 February 2007. The OPP and RM permission for the dwelling had to be begun before 14 February 2009, being the later of the dates of 5 years from OPP or 2 years from grant of RM. Finally an application for full planning permission, ref M/2007/0607/F, for 'Proposed change of house type from previously approved application no M/2006/1472' was approved on 11<sup>th</sup> September 2007. Planning Permission M/2007/0607/F had only one condition attached to it that stated 'As required by Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 2 years from the approval of reserved matters ie before the 14th February 2009.

Members are advised that Article 34 of the Planning (NI) Order 1991 allowed the Department to grant permission with a condition requiring development to be begun within 5 years of the date it was granted or to specify any other period of time, either longer or shorter. It is clear that any development on the site had to be commenced before 14 February 2009.

The dwelling that was to be replaced under the M/2003/0300/O is still intact and would still constitute a replacement dwelling, under the current policy. The original owner of this site, Mr J Madden, has advised he retains ownership of the existing dwelling and that he commenced development of the M/2007/0607/F approval. He states he submitted a building control application on 27 May 2009, which was approved by Building Control on 7<sup>th</sup> September 2009, F/2009/0275. Mr Madden advised he did not commence any works on the site until after the building control approval, which is dated 7 months after the planning permissions stated that development should have commenced.

Building Control have advised they inspected foundations for F/2009/0275 on 2 June 2009 and 3 June 2009 and there was concrete in the foundations on 26 October 2009. It would appear from this information that works were started in or around 2 June 2009, 4 months after the planning permission had expired. Any works for the construction of the foundations were therefore not unauthorised by any planning permission as the time for commencement had passed.

Mr Curran has not provided any further information in response to the letter dated 11 June to provide information about the previous permissions or to show if he has other lands that could be considered.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at **10am on the 25th March** and was to run for 8 weeks. Due to issues being faced with COVID19, this period was extended and closed at **5pm on 24<sup>th</sup> September 2020**. The representations received are now subject to a period of counter representation. In light of this the draft plan cannot currently be given any determining weight.

From the information that has been obtained, it would appear planning permission lapsed before the development was started and as such there is no legal fall back position. No other information has been presented to allow consideration against any other planning policies for dwellings in the countryside and as such I recommend this application is refused.

**Conditions/Reasons for 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.

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1008/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of dwelling under construction .	<b>Location:</b> 7 Tobermesson Road Dungannon Co Tyrone.
<b>Referral Route: Contrary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Conor Curran 1 Lisgobbin Road Dungannon BT71 7PT	<b>Agent Name and Address:</b> J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<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	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

## Summary of Issues

One objection has been received, the concerns raised include;  
the dwelling was approved as a replacement, however, the applicant does not own the replacement dwelling and therefore cannot demolish this building.  
no right of way or means of access to the land.

## Characteristics of the Site and Area

The site contains a large two storey dwelling under construction at number 7 Tobermesson Road, Dungannon. The red line includes a gravel lane and a small irregular shaped plot of land which includes a small rear garden and a larger space to the front. At time of site visit the main body of the building was constructed including the roof, and there was on going stonework finish to the front elevation. The site is relatively open and can be viewed clearly in both directions along the Tobermesson road, however, the topography of the land and the large amount of tall trees to the rear act as a back drop.

The site lies within the open countryside outside all other areas of constraint. It is a short distance to the north of the settlement limits of Benburb in a predominantly rural area. There are a scattering of single dwellings and farm holdings located along the roadside.

## Description of Proposal

The proposal seeks planning permission for the retention of a dwelling under construction.

## Planning Assessment of Policy and Other Material Considerations

### Relevant Planning/Enforcement History

M/2003/0300/O - Site for replacement dwelling & detached garage - PERMISSION GRANTED - 18.06.2003

M/2006/1472/RM - Site for replacement dwelling - PERMISSION GRANTED - 15.02.2007

M/2007/0607/F - Proposed change of house type from previously approved no. M/2006/1472 - PERMISSION GRANTED - 17.09.2007

LA09/2019/0083/CA - Development allegedly not in accordance with Planning Approval M/2007/0607/F.

The applicant was required to submit a planning application to deal with the following breaches of planning-

- Development allegedly not in accordance with Planning Approval M/2007/0607/F

This application has been submitted to deal with the above breach. He has also applied to regularise the dwelling as it was not built in accordance with the most recent planning approval (M/2007/0607/F).

The previous approval was for a small dwelling with a 6 metre ridge height and a 170m<sup>2</sup> footprint. This application seeks retention of a much larger dwelling with a 9.5 metre ridge height and a sandstone front elevation.



Our ortho mapping would indicate that the construction of the dwelling at this location began some time between 2007 and 2010.

#### Key facts

The three previous permissions were granted for a different applicant.



The current applicant purchased the portion of the site 40 metres from the roadside, a small area which covers the footprint of the dwelling and the curtilage only. This does not include the dwelling to be replaced to the rear which is still in the previous owners ownership.

The approval M/2006/1472/RM was for off site replacement and included the condition 'The existing building coloured yellow on the approved 1: 2500 scale site location plan, bearing the Planning Service date stamp received 03-MAR-2003, is to be demolished within 6 weeks of the occupation of the new dwelling and all rubble and foundations removed from the site.

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

The applicant does not own the old dwelling and cant gain permission to demolish the old building therefore cannot comply with the above condition.

The dwelling at time of last site visit was nearing completion however, the applicant cannot occupy the dwelling for more than 6 weeks without breaching planning.

The most recent approval for a change of house type does not however, repeat the conditions but merely the time condition only.

The dwelling to be replaced is approx. 240 metres from the roadside and the approved siting is only 40 metres from the roadside.



The principle of a dwelling at this location was on the basis of the removal of the existing dwelling.

There is no exception in terms of the policy considerations of PPS 21 CTY 3 to allow both dwellings to remain.

The following policies  
will be considered in this assessment:

SPPS - Strategic Planning Policy Statement for Northern Ireland  
 Dungannon Area Plan 2010  
 Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy  
 PPS 21 - Sustainable development in the countryside

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Dungannon Area Plan 2010 (CAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

Key Planning issues;  
 Planning Policy Statement 21  
 Policy CTY 1 - Development in the Countryside  
 Policy CTY 3 - Replacement Dwellings  
 Policy CTY 13 - Integration and Design  
 Policy CTY 14 - Rural character

Objections / comment received from 3rd Parties;  
 One objection has been received, the concerns raised include;  
 the dwelling was approved as a replacement, however, the applicant does not own the replacement dwelling and therefore cannot demolish this building.  
 no right of way or means of access to the land.

In this case the principle of a dwelling has been approved through the previous replacement case. I would have some design concerns with the proposed dwelling as built due to its size and massing, however, given the buildings in the surrounding area these concerns would not be overly significant. The applicant cannot comply with the pre commencement condition and therefore the dwelling cannot be occupied, the retention of the dwelling can also not be approved as this would involve the demolishing of a dwelling not within the applicants control and the owner has made clear that they do not intend to.

There is no other policy to approve the retention of the dwelling under the provisions of PPS 21. The council will also not be in a position to convert the existing dwelling as it will be contrary to policy in any case.

In addition the council would not be in a position to permit the old dwelling itself to be replaced again, which was queried by the owner in his objection letter.

Recommendation Refusal.

**Neighbour Notification Checked**

**Yes**



**Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location 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 the applicant is unable to demolish the original replacement dwelling resulting in the creation of two dwellings in this rural location.

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

<b>ANNEX</b>	
<b>Date Valid</b>	25th July 2019
<b>Date First Advertised</b>	8th August 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> Bernard Hughes 34, Artasooly Road, Dungannon, Armagh, Northern Ireland, BT71 7LP J Madden 63, Artasooly Road, Dungannon, Armagh, Northern Ireland, BT71 7LP	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1008/F Proposal: Retention of dwelling under construction . Address: 7 Tobermesson Road, Dungannon, Co Tyrone. Decision: Decision Date:  Ref ID: M/2007/0607/F Proposal: Proposed change of house type from previously approved application no. M/2006/1472 Address: 400m North west of 15 Tobermesson Road, Benburb Decision: Decision Date: 17.09.2007  Ref ID: M/2002/1071/F Proposal: Proposed replacement dwelling and domestic garage Address: 400 Metres West of 15 Tobermesson Road, Benburb Decision: Decision Date: 03.11.2003  Ref ID: M/2003/0300/O Proposal: Site for replacement dwelling & detached garage Address: 400 metres North West of 15 Tobermesson Road, Benburb Decision: Decision Date: 18.06.2003  Ref ID: M/2006/1472/RM	

<p>Proposal: Site for replacement dwelling  Address: 400m Northwest of 15 Tobermesson Road, Benburb, Co.Tyrone  Decision:  Decision Date: 15.02.2007</p> <p>Ref ID: M/2002/1029/F  Proposal: Proposed dwelling and domestic garage  Address: 400 Metres south west of junction of Derryfubble/Tobermesson Road, Dungannon  Decision:  Decision Date: 21.10.2002</p>
<p><b>Drawing Numbers and Title</b></p>
<p>Drawing No. 03  Type: Proposed Plans  Status: Submitted</p> <p>Drawing No. 02  Type: Site Layout or Block Plan  Status: Submitted</p> <p>Drawing No. 01  Type: Site Location Plan  Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:  Response of Department:</p>





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2019/1157/F	<b>Target Date:</b>
<b>Proposal:</b> Part retrospective domestic storage shed with extension of curtilage	<b>Location:</b> 5 Jacksons Drive Gulladuff Magherafelt
<b>Applicant Name and Address:</b> Paul McGarvey 5 Jacksons Drive Magherafelt	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge
<b>Summary of Issues:</b>  Following a deferred office meeting, site visits and re-assessment the proposal is now recommended as approval with conditions.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located within the development limits of Gulladuff and there are no further designations on site as designated by the Magherafelt Area Plan 2015. The site is located within an already established housing development known as Jacksons Drive, Gulladuff. Located on the site is a large garage. Located within the red line is a large 2-storey dwelling and domestic garage. The boundaries of the site are defined by concrete wall and wooden fencing with planting recently carried out to the rear. Car parking is served by the driveway located within the curtilage of the site. The surrounding character is predominantly characterised by residential properties.	

### **Description of Proposal**

The applicant seeks full planning approval for retrospective domestic storage shed with extension of curtilage at 5 Jacksons Drive, Gulladuff.

### **Deferred Consideration:**

This application was previously presented as a refusal to Planning Committee in March 2020 for the following reason ;

The proposal is contrary to SPPS and Policy EXT1 of the Addendum to PPS7 in that the proposal is not in keeping with the surrounding character and will cause a detrimental impact on surrounding properties.

There was a deferral granted by Committee members, and an office meeting was held on 12<sup>th</sup> March 2020 with the Area Planning Manager.

At the meeting the agent confirmed the shed was only to be used for domestic purposes and that finishes would be amended to ensure they matched the exiting development. A site visit was agreed to be carried out to assess the impact on surrounding neighbours.

The application is seeking planning consent for an extension to an existing dwelling curtilage and a domestic garage, 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 garage, whilst considered large has a ridge height of 5m. The change to the finish, roof tiles, ridge and flash trims are black and walls to be white render, has helped in its integration into the development.



*Shed with No.5 Jacksons Drive to right*

Criterion (b) deals with the privacy of the neighbouring residents in terms of overshadowing, loss of light and dominance.

The rear boundary, common with Hugh's Villas is defined by a tall wooden fence and partly with existing hedgerows and trees which are to be retained. It was noted at the site visit that additional planting has now been carried out along the existing wooden fence to ensure all the boundary will be now planted out. This will further aid with reducing the visual impact of the shed for the dwellings to the rear and can be conditioned.



*Additional planting to rear boundary*

No.5 Jacksons Drive is the applicants dwelling and there is a wooden fence boundary with No.8a, which has no windows on higher part of this side elevation.



*No.8a to the left of photo, shed to right*

I am satisfied that the proposal will not have a significant adverse impact on third part neighbour amenity. No objections have been received from all notified neighbours.



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. The proposal does not take any amenity space of the property as the proposal includes an extension to the curtilage of the property. Therefore I am satisfied sufficient space will be retained for recreational and domestic purposes. There will be no impact on car parking.

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

This permission will allow only private domestic use of the approved garage and does not confer approval on the carrying out of trade or business there from, this is in order to prevent an unacceptable use on the site and it will be conditioned as such.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Approval with conditions is recommended

### 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 existing planting along the north eastern boundary of the site as indicated in blue on the approved plan 02/01 date stamped 26 October 2020 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.

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

3. This permission authorises only private domestic use of the approved garage and does not confer approval on the carrying out of trade or business there from. The building should not become separated from the dwelling No.5 Jacksons Drive and should remain part of that planning unit.

Reason: To prevent an unacceptable use on the site and to protect the amenity of neighbouring properties.

**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> LA09/2019/1157/F	<b>Target Date:</b>
<b>Proposal:</b> Part retrospective domestic storage shed with extension of curtilage	<b>Location:</b> 5 Jacksons Drive Gulladuff Magherafelt
<b>Referral Route:</b> Proposal is contrary to SPPS and Policy EXT1 of the Addendum to PPS7.	
<b>Recommendation:</b>	<b>REFUSAL</b>
<b>Applicant Name and Address:</b> Paul McGarvey 5 Jacksons Drive Magherafelt	<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
<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	

## Summary of Issues

No issues raised as no petitions received.

## Characteristics of the Site and Area

The site is located within the development limits of Gulladuff and there are no further designations on site as designated by the Magherafelt Area Plan 2015. The site is located within an already established housing development known as Jacksons Drive, Gulladuff. Located on the site is a large steel frame for the proposed garage. Located within the red line is a large 2-storey dwelling and domestic garage. The boundaries of the site are defined by concrete wall and fencing. Car parking is served by the driveway located within the curtilage of the site.

The surrounding character is predominantly characterised by residential properties.

## Description of Proposal

The applicant seeks full planning approval for a part retrospective domestic storage shed with extension of curtilage at 5 Jacksons Drive, Gulladuff.

for committee consideration

*[Signature]*

18/07/2020



## Planning Assessment of Policy and Other Material Considerations

### Planning History

LA09/2019/0981/NMC - Proposed housing development with 4no. Semi Detached dwellings and private shared access road, Lands between 4 Meadow Villas and 5 Jackson drive. Repositioning of 4no. Semi Detached dwellings within the approved site - NMC refused.

LA09/2019/0124/CA - Erection of an unauthorised shed - this enforcement case is relevant to this planning application.

### Neighbour Notification

7 neighbours were notified of this planning application including nos. 4, 5, 6 Hugh's Villas, nos. 1, 3, 8a Jacksons Drive and 62 Gulladuff Road.

No letter of objection / representation were received at time of writing this report.

### Development Plan and Key Policy Consideration

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan 2015
- Addendum to PPS7 - Residential Extensions and Alterations
- 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 curtilage and domestic garage, 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 garage cannot be considered subordinate to the existing dwelling and is considered large. The proposed garage has a ridge height of 5m. The proposed structure is not in keeping with the surrounding character and is of too large a scale. It should be noted at this point that there already is an existing domestic garage within the existing curtilage of the property.

The proposal does not comply with criterion (a) of EXT1.

**Criterion (b)** deals with the privacy of the neighbouring residents in terms of overshadowing, loss of light and dominance. I am of the opinion that this proposal will have an impact on the neighbouring amenity of the dwellings in Hugh's Villas therefore is not considered acceptable. *both in terms of visual intrusion and overshadowing of the private amenity*

The proposal does not comply with criterion (b) of EXT1.

*space is  
of a summer  
evening.*

**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. The proposal does not take any amenity space of the property as the proposal includes an extension to the curtilage of the property. Therefore I am satisfied sufficient space will be retained for recreational and domestic purposes. There will be no impact on car parking. The proposed extension does not comply with the criteria of policy EXT1 of Addendum to PPS7 - Residential Extensions and Alterations.

#### Other Policy and Material Considerations

I am not satisfied that the proposal will not have a significant adverse impact on third part neighbour amenity.

**Neighbour Notification Checked**

**Yes**

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

Refusal

#### **Refusal Reasons**

1. The proposal is contrary to SPPS and Policy EXT1 of the Addendum to PPS7 in that the proposal is not in keeping with the surrounding character and will cause a detrimental impact on surrounding properties.

**Signature(s)**

**Date:**

*Ja*  
*scale*  
*curving*  
*→ design*  
*What*  
*is out of character in this residential estate and*  
*will be detrimental to neighbouring properties*  
*is a reason of overdone and*  
*over shading*



ANNEX	
<b>Date Valid</b>	4th September 2019
<b>Date First Advertised</b>	17th September 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 1 Jacksons Drive Gulladuff Londonderry The Owner/Occupier, 10 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 2 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 2 Jacksons Drive Gulladuff Londonderry The Owner/Occupier, 3 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 3 Jacksons Drive Gulladuff Londonderry The Owner/Occupier, 4 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 4 Jacksons Drive Gulladuff Londonderry The Owner/Occupier, 5 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 6 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 6 Jacksons Drive Gulladuff Londonderry The Owner/Occupier, 62 Gulladuff Road, Gulladuff, Londonderry, BT45 8NN The Owner/Occupier, 7 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 8 Hughs Villas Gulladuff Londonderry The Owner/Occupier, 8 Jacksons Drive Gulladuff Londonderry The Owner/Occupier, 8a Jacksons Drive, Gulladuff, Londonderry, BT45 8NN The Owner/Occupier, 8a Meadow Villas Gulladuff Londonderry BT45 8NW The Owner/Occupier, 9 Hughs Villas Gulladuff Londonderry	

<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  <p>Ref ID: LA09/2019/1157/F          Proposal: Part retrospective domestic storage shed with extension of curtilage          Address: 5 Jacksons Drive, Gulladuff, Magherafelt,          Decision:          Decision Date:</p> <p>Ref ID: LA09/2019/0981/NMC          Proposal: Proposed housing development with 4no. Semi Detached dwellings and private shared access road, Lands between 4 Meadow Villas and 5 Jackson drive.</p> <p>Repositioning of 4no. Semi Detached dwellings within the approved site.          Address: Lands between 4 Meadow Villas and 5 Jackson Drive, Gulladuff.,          Decision: CR          Decision Date:</p> <p>Ref ID: H/2006/0601/F          Proposal: Proposed two storey dwelling          Address: North of 3 Jackson Drive, Gulladuff, Maghera          Decision:          Decision Date: 24.10.2006</p> <p>Ref ID: H/2006/0607/F          Proposal: Prposed multi element improvements to dwelling          Address: Nos. 2,3,4,7,8,9 and 10 Hughs Villas, Gulladuff          Decision:          Decision Date: 23.11.2006</p> <p>Ref ID: H/1992/0634          Proposal: BUNGALOW          Address: ADJ TO 60D GULLADUFF RD MAGHERA          Decision:          Decision Date:</p> <p>Ref ID: H/1993/0015          Proposal: BUNGALOW          Address: ADJ TO 60A GULLADUFF RD MAGHERA</p>	



Decision:  
Decision Date:

Ref ID: H/2001/0654/Q  
Proposal: Proposed Private Housing Development.  
Address: Jackson Drive, Gulladuff, Maghera.,  
Decision:  
Decision Date:

Ref ID: H/2012/0246/F  
Proposal: Proposed housing development with 4 no. semi-detached dwellings and private shared access road  
Address: Lands between 4 Meadow Villas and 5 Jackson Drive, Gulladuff,  
Decision: PG  
Decision Date: 19.11.2012

Ref ID: H/1979/0056  
Proposal: GARAGE  
Address: 62 GULLADUFF ROAD, MAGHERAFELT  
Decision:  
Decision Date:

#### **Summary of Consultee Responses**

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

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

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:



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> LA09/2020/0315/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed 2 storey dwelling and garage on a farm	<b>Location:</b> Adjacent to No 182 Mountjoy Road Brockagh Dungannon
<b>Applicant Name and Address:</b> Mr Paul Mulholland 183 Mountjoy Road Brockagh Dungannon BT71 5EF	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Summary of Issues:</b> If the applicants farm is currently active and if the proposed dwelling and garage will integrate into the landscape and cluster with buildings on the farm.	
<b>Summary of Consultee Responses:</b> DFI Roads – safe access to have sight lines of 2.4m x 90.0m and forward sight distance of 90.0m DEARA – Cat 1 farm business established 18/05/2005, claimed by another business since 2019	
<b>Characteristics of the Site and Area:</b> The site comprises a roadside field used for agricultural purposes, it is L-shaped and rises to the west away from the road. There are mature hedges to the north, west and east boundaries and post a wire fence to the roadside. The site is accessed off Mountjoy Road and is located adjacent to and to the rear of 182 Mountjoy Road, a 2 storey dwelling with an A-line gable facing north and large dormer window in the front elevation. It has a white render to the walls and red /brown roof tiles. 180 Mountjoy Road, further to the south is a bungalow.  The surrounding area is a mix of single houses and farms and it is located to the north of the small settlement of Brockagh and Mountjoy. The Lough Neagh shoreline is close by on the east side of the Mountjoy Road. .	

**Description of Proposal**

The proposal is for a 2 storey dwelling and garage on a farm.

**Deferred Consideration:**

This application was before the committee in August 2020 and it was deferred to allow a meeting with the Planning Manager. A meeting was held on 10 September where additional information about the farming interests were presented.

The applicant owns approx. 1.23ha and has a Category 1 farm business ID. DERA have advised the business was allocated in 2005 and as such has been established for over 6 years. The applicant has provided receipts that show 2 cuts of silage from the field and hedge cutting in 2019. This shows a level of recent activity on the holding and that he has been investing in the land. At the site visit it is clear the land is maintained in good agricultural condition and I consider this demonstrates that the business is currently active.

A land registry check has been carried out and there has not been any planning permission for any dwellings granted or development opportunity sites sold off from the land in the last 10 years.

The 2 storey dwelling and garage to the front of the site are the applicants dwelling and garage and these are the only buildings on the farm. I consider a dwelling sited to the rear of this existing dwelling could be orientated in such a manner as to not impact on the amenity of the existing dwelling and would be sited to cluster with the existing dwelling and garage. I consider these buildings on the farm and as such would meet with the 3<sup>rd</sup> criteria for dwellings on farms.

In terms of CTY13 and CTY14, a dwelling and garage sited to the rear of the existing dwelling would be well screened by the existing dwellings on approach from the south and by the existing vegetation and other development when viewed from the north. I do not consider a dwelling in this location would detract from the overall character of the area and would attain a satisfactory degree of integration. I do consider it is necessary to limit the siting and condition the retention of the vegetation to ensure this level of integration is maintained.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

I consider the proposal does meet the tests in CTY10, CTY13 and CTY4 and as such I recommend this application is approved with the conditions proposed.

**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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 90m and a 90m forward sight line, shall be provided in accordance with the 1:500 site plan submitted as part of the reserved matters application. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. The dwelling hereby approved shall be sited in the area identified in green on the approved drawing No 01 bearing the stamp dated 03 MAR 2020, its curtilage, except for the access shall not extend beyond that area and the remainder of the field outlined in red shall be retained in agricultural use.

Reason: In the interests of visual amenity and to ensure the development integrates into the landscape.

5. The dwelling hereby permitted shall have a ridge height not exceeding 7.5 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure the dwelling integrates into the landscape.

6. The existing boundary vegetation along the field boundary identified in yellow on drawing no 01 bearing the stamp dated 03 MAR 2020 shall be retained at a height no lower than 6 metres above the level of the adjoining field.

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

7. A detailed scheme of structured landscaping along all the new boundaries of the site identified in green on drawing no 01 bearing the stamp dated 03 MAR 2020, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be

implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

8. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

**Informatives**

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

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

**Signature(s):**

**Date**

# Drawing 01



Location Plan  
Scale 1:2500

O.S. Map Ref 142-11-SE

As issued to client for approval - 19.02.20

**CMI** Planners Ltd.  
Unit C6  
The Railway Centre  
45-47 Railway St  
Weymouth  
DT94 6AG  
Tel: 028 7563 2350

Client	Mr Paul Mulholland	Scale/Sheet	1:2500 @ A4	Drawing no.	LR1
Project	Adjacent to 182 Mountjoy Road, Bruckagh, Dungannon.	Date	Feb 2020	Revision	A
Drawing Title	Location Map	Job No.	1835	Drawn By	SL



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0315/O	<b>Target Date:</b> 16/06/20
<b>Proposal:</b> Proposed 2 storey dwelling and garage on a farm	<b>Location:</b> Adjacent to No 182 Mountjoy Road, Brockagh, Dungannon
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Paul Mulholland 183 Mountjoy Road Brockagh Dungannon	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt
<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
Statutory	DAERA - Omagh	Substantive Response

### Representations:

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

### Characteristics of the Site and Area

The site is located in the rural countryside as depicted within the Dungannon and South Tyrone Area Plan 2010. The settlement limit of Brockagh and Mountjoy is located in close proximity to the south of the application site. However, the surrounding area is largely rural in character with agricultural fields interspersed with detached dwellings and farm holdings. The shores of Lough Neagh are in proximity to the east and the Castlebay Community Centre and Brockagh Emmetts GFC is located approximately 175m to the NE of the site.

The site comprises a substantial roadside field used for agricultural purposes. The site is currently accessed directly from the Mountjoy Road and is located adjacent to No.182 and No.180 Mountjoy Road, a 1 ½ storey dwelling and bungalow respectively. The site is bound along its rear and side boundaries by a mix of scattered mature trees and hedgerow vegetation. The site is bounded to the front by post and wire fencing. There is

a natural incline and the land gradually rises from the east to the west of the application site.

### **Description of Proposal**

This is an outline planning application for a 2-storey dwelling and garage to be located on lands adjacent to 182 Mounjoy Road, Brockagh, Dungannon,

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 10 Dwelling on a Farm.

### **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

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation period will close on 5pm on 24<sup>th</sup> September 2020. In light of this the draft plan cannot currently be given any determining weight.

### **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.

### **History on Site**

M/1990/0479 - Erection of dwelling – Adjacent to 182 Mountjoy Road, Coalisland – Permission Refused

### **Key Policy Considerations/Assessment**

Dungannon and South Tyrone Area Plan 2010 – the site is located in the rural countryside outside any designated settlement. The site lies within the designated Lough Neagh Shore and Environ Countryside Policy Area. Plan Policy CTY 2 Countryside Policy Areas states development proposals will be determined in accordance with the provisions of prevailing regional planning policy. The plan identifies the Mountjoy Road northeast of Brockagh/Mountjoy has seen significant pressure for individual dwellings which has resulted in the erosion of rural character. The Department considers that additional development along these roads will further erode the rural character and landscape quality of the area, as well as having unacceptable adverse effects on the important nature conservation interests of the Lough and its shoreline.

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. 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.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21. It is my opinion the current proposal falls under one of these instances, the development of a dwelling on a farm in accordance with Policy CTY10 – Dwellings on Farms.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- 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 a farm business ID owned by Mr Con Mulholland. DAERA have confirmed the business ID has been in existence for more than 6 years, however advised that the farm business has not claimed payments in each of the last 6 years and the proposed site is located on land claimed in 2019 by another farm business. However, the agent has submitted further information to accompany the application which include invoices for hedge trimming, silage and bailing on the site from the period of June 2014 to November 2019.

With respect to (b) the agent submitted a cover letter along with the application which advised the applicant has been unable to obtain farm maps from DAERA however submitted a field survey map. I contacted the agent on 17/06/20 and again on 17/07/20 requesting the relevant farm maps however to date I have received no response. In the absence of this information, it cannot be established where any dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With respect to (c), the proposal is not located in proximity to established farm buildings however is located adjacent to the existing dwelling of No.182 and garage. As stated previously, I have contacted the agent on 17/06/20 and 17/07/20 requesting the relevant farm maps however to date these have not been received. In the absence of the relevant farm maps or clarification from the agent that there are no other farm buildings on the

farm holding, it cannot be demonstrated the proposal meets the requirements of this criterion of policy.

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 or that no dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

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 proposal site comprises a roadside agricultural field with a gentle incline from east to west. It has not been demonstrated the proposed dwelling would visually link or site to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape. The site will be open to public views and the front boundary of the site lacks established natural screening to provide a suitable degree of enclosure for the building to integrate into the landscape. CTY13 states a new building will be unacceptable in the case of a proposed dwelling on a farm where it is not visually linked or sited to cluster with an established group of buildings on a farm. I consider the proposal is contrary to Policy CTY 13.

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. Dungannon and South Tyrone Area Plan 2010 identified that within 'The Lough Neagh Shore and Environs CPA' additional development along B161 Mountjoy Road northeast of Brockagh/ Mountjoy will further erode the rural character and landscape quality of the area, as well as having unacceptable adverse effects on the important nature conservation interests of the Lough and its shoreline. In my opinion, the proposal would create and reinforce a built-up appearance along Mountjoy Road and the proposal would appear prominent and detrimentally impact the surrounding rural character.

Planning Policy Statement 3 (PPS 3 Revised Feb 2005) Access, Movement and Parking advises that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic; and the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The application site will require a new access onto Mountjoy. DfI Roads have been consulted and have no objection subject to standard conditions. It is considered proposal complies with Policy AM2 of PPS 3.

#### **Additional considerations**

In addition to checks on the planning portal, Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online have been checked and identified no built heritage assets or natural heritage interests of significance on site.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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<b>Summary of Recommendation:</b>
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The proposal is recommended for refusal, as it does not comply with CTY10, CTY13 and CTY 14 of Planning Policy Statement 21.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and 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 insufficient information has been provided to demonstrate that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
2. The proposal is contrary to the Strategic Planning Policy Statement and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that insufficient information has been provided to demonstrate visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling will appear as a prominent feature in the landscape and is not visually linked or sited to cluster with an established group of buildings on the farm.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would further erode rural character as a consequence of a build-up of dwellings.

**Signature(s)**

**Date:**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2020/0862/F	<b>Target Date:</b>
<b>Proposal:</b> Off-site replacement dwelling and garage	<b>Location:</b> site 400m East of Fairview 221 Hillhead Road Castledawson
<b>Applicant Name and Address:</b> Jason Thompson and Julie Espie 23 Salters Bridge Magherafelt	<b>Agent name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b> Following a deferred office meeting, site visit and re-assessment the proposal is now recommended as approval in line with CTY3.	
<b>Summary of Consultee Responses:</b> No objections.	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural countryside outside the settlement limits of Castledawson in an open agricultural field. The site is within a SLNC with two unscheduled monuments nearby. There is a long existing laneway to access the site from Hillhead road and no defined curtilage surrounding the building on site. The off- site is proposed to the south of the building, and there is a post and wire fence to the eastern boundary. There is a forested area to the east.	

## Description of Proposal

Full application for off-site replacement dwelling and garage

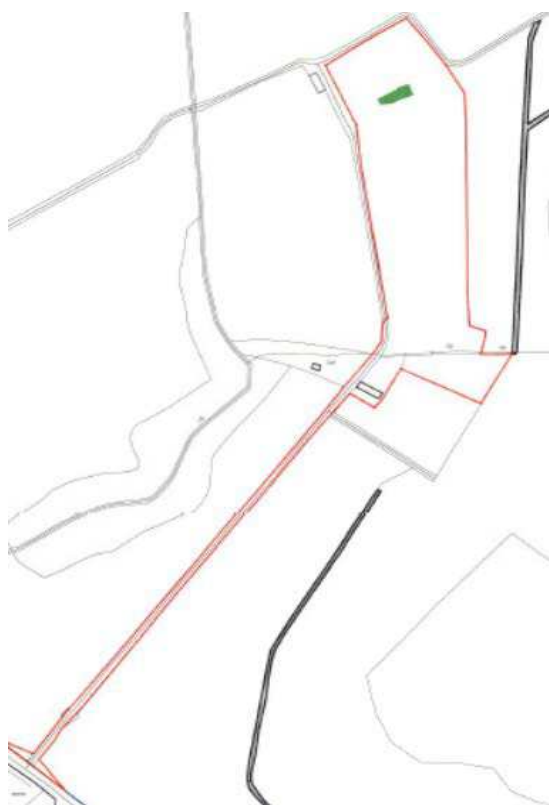
## Deferred Consideration:

This application was previously presented as a refusal to Planning Committee in December 2020 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 CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be replaced does not exhibit the essential characteristics of a dwelling and cannot be considered a replacement dwelling.

There was a deferral granted by Committee members, and a virtual office meeting was held on 19<sup>th</sup> Dec 2020 with the Area Planning Manager.

At the meeting it was agreed a site visit would be carried out to establish if the building to be replaced could be considered as replacement category and if the off-site location would be acceptable. It was also agreed the whole of the building would be shaded green and if approved would be retained for agricultural use only. The agent submitted amended plans to reflect this on 15<sup>th</sup> Dec 2020.





Following a site visit, the images below show the building on the site which is to be replaced. CTY3 states permission will only be granted where a building exhibits the essential characteristics of a dwelling, and as a minimum all external structural walls are intact.







The above images show the external walls are intact and there is evidence of window openings and a fireplace indicating the building was once a dwelling. Historical maps had

also been provided showing a building had been located on the site for many years, although not showing the use of the building, from the remains on site I would be content the building has the essential characteristics of a dwelling.

CTY3 goes on to say the proposed replacement dwelling should be sited within the established curtilage of the existing dwelling unless it can be shown that an alternative position nearby would result in demonstrable heritage access or amenity benefits. In this case the existing laneway is in bad condition and the proposed location which lessens the need to use this, it will not have any significantly greater visual impact than what is existing, from public interest viewpoints and there is a good backdrop of vegetation at the proposed location with a dense forested area to the east.

The applicant has expressed they wish the existing building to be retained to be used only for agricultural purposes ancillary to the dwelling and so can be conditioned as such.

In terms of CTY13 and CTY14 there are no planning issues regarding integration or build-up of development. A dwelling here would not create any ribbon of development. NIEA-HED have no objections in relation to PPS6 and SPPS.

As this is a full application, full design details have been submitted. The siting, size and finishes of white render walls, natural stone and timber hardwood for the dwelling and garage are acceptable in this rural location and are in keeping with the rural design guide. The landscaping plan ensures sufficient integration for the dwelling.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

Approval with conditions 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. Upon occupation of the new dwelling, the dwelling to be replaced, coloured green on the approved plan date 01/01 stamped 15 December 2020, shall no longer be used or adapted for purposes of human habitation and may only be used for the purposes of agriculture or storage incidental to the enjoyment of the approved dwelling house.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in this location.

3. All hard and soft landscape works shall be carried out in accordance with the approved details on stamped plan 02 dated 20 July 2020. The works shall be carried out prior to the occupation of any part of the dwelling in accordance with this plan.

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

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.

**Signature(s):**

**Date**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0862/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling and garage	<b>Location:</b> site 400m East of Fairview 221 Hillhead Road Castledawson
<b>Referral Route:</b>  Refusal- Contrary to Policy CTY 1 and Policy CTY 3 of PPS 21.	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Jason Thompson and Julie Espie 23 Salters Bridge Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NIEA	Substantive Response Received

### Representations:

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

### Summary of Issues

Contrary to Policy CTY 3.

### Characteristics of the Site and Area

The site is located within the open countryside, approximately 1.7km north west of the settlement limits of Castledawson as per the Magherafelt Area Plan 2015. The site is located adjacent to a Site of Local Nature Conservation Importance as identified within the Magherafelt Area Plan and two unscheduled archaeological sites & monuments are located within close proximity. The red line of the application includes access to the site via an existing agricultural laneway from the Hillhead Road and includes a large agricultural field. The building, which is proposed to be replaced in this application, is shaded in green on the above site location plan. The building currently on site has no defined curtilage and is located within the open field. The application is proposing to relocate the building to a southern portion of the field, which is shaded in yellow on



the above site location plan. Within the site, there is an old stone building with the remainder of the field being undeveloped and used for agricultural purposes. The eastern boundary of the site contains a strong mature treeline, which is part of the site of Local Nature Conservation Importance. The southern portion of the site where the proposed replacement dwelling is to be sited contains some natural planting. A post and wire fence defines the eastern boundary. The surrounding area is mainly agricultural with a former dwelling, now being used as a game lodge located adjacent to the site at the north western corner.

### **Description of Proposal**

This is a full planning application for the proposed replacement dwelling and garage. The application is proposing to relocate the dwelling to a southern part of a field.

### **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

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. For the purposes of this policy, all references to 'dwellings' will include buildings previously used as dwellings.

Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy.

Favourable consideration will however 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.





Figure 1: Current building

During the site visit it was clear to see that the building on site was a very old building built from stone. Figure 1 above shows how it has become very overgrown with vegetation and trees growing around and inside the remains of the building. Although it is clear to see there is an old building on site, the building does not exhibit the essential characteristics of a dwelling. There is an external entrance on one of the external walls and internal walls are in place within the building (figure 2).

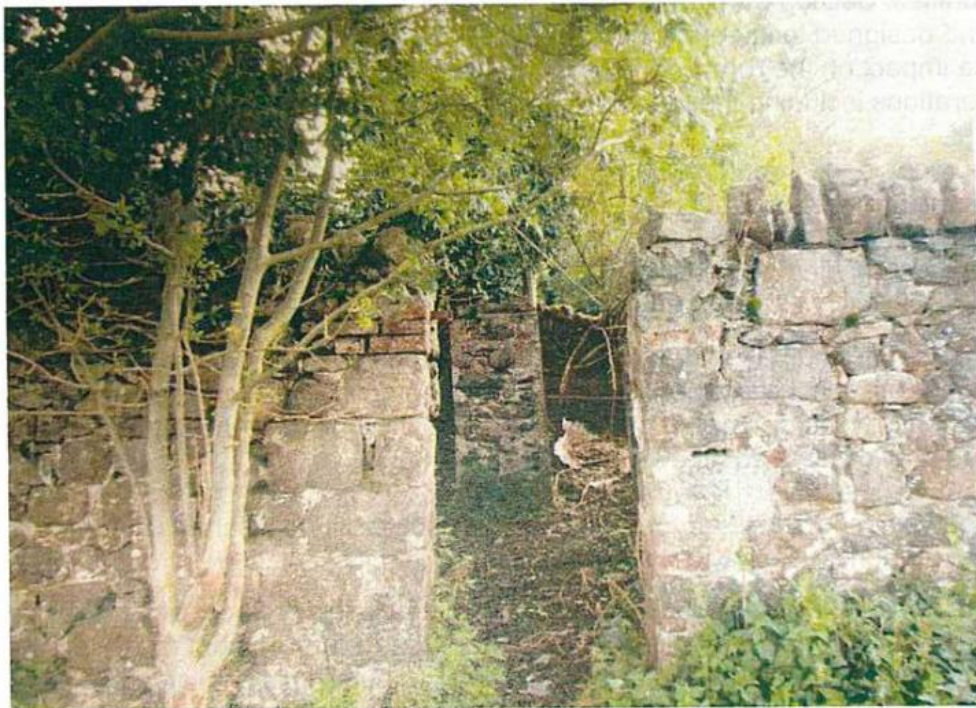


Figure 2: Entrance door and internal wall

There does not appear to be any external windows on the building, the walls are built to a substantial height and no external windows are visible. In terms of internal features, there are



From this, I do not believe the building to be replaced exhibits the essential characteristics of a dwelling and fails to meet this criteria of Policy CTY 3.

Following a group discussion, further information was submitted by the agent who provided additional context surrounding the building and historical maps. Although the historical maps do show a building had been located here for many years, it does not provide any clarification around the use of the building in the past. The agent has stated that for many years the building has been used as a shelter for farm animals and hunting dogs, having previously been used as a dwelling. Following the group discussion having reviewed the further information provided, it was agreed that the information provided does not provide sufficient evidence to prove the building exhibits essential characteristics of a dwelling.

Furthermore, Policy CTY 3 states that all proposals for a replacement dwelling will only be permitted where a list of criteria are met including; the proposed replacement dwelling should be sited within the established curtilage of the existing building, 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.

The building that is proposed to be replaced does not have a defined curtilage as it is located within a larger agricultural field. This application proposes to relocate the building to a southern portion of the field. I feel that this is an acceptable location, as it will provide benefits in terms of landscaping as a dwelling would integrate well in this location.

I am content that the proposed dwelling would meet all other policy criteria listed in Policy CTY3.

The proposal is also subject to the policy criteria of Policy CTY 13 and Policy CTY 14 of PPS 21. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that the proposed dwelling will not be a prominent feature in the landscape as it benefits from the existing landscape and natural boundaries benefited to the site. The views from the public road or any other neighbouring property are also very limited. I am content the proposal complies with the Policy Criteria of CTY 13.

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. I am content the proposal will not be a prominent feature in the landscape, it will not result in a sub-urban style build-up of development and it will not create or add to a ribbon of development.

#### **Other Material Considerations**

The site is located adjacent to a Site of Local Nature Conservation Importance as identified by the Magherafelt Area Plan 2015. Policy CON 3, which sets out the policy relating to these sites, states, 'Within designated Sites of Local Nature Conservation Importance planning permission will not be granted to development proposals that would be liable to have a significantly adverse effect on the nature conservation interests of these sites.' As the site is located outside of the designated site and not within the site, this policy does not apply. I am content a dwelling of this scale in the proposed location would have no impact on the site adjacent.

#### **PPS 6- Planning, Archaeology and the Built Heritage**

The site is located close to an Archaeological site and Monument so HED were consulted on the proposal. HED responded to say they have assessed the application and on the basis of the information provided is content the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.



internal walls and door openings, including an opening for what may have been a front door. There is no external fireplace within the building and no external chimney is visible on the building. There appears to be a small opening which at the bottom of one of the internal wall, which the agent has stated, was an old fireplace, however it does not appear to be a fireplace. (Figure 3).

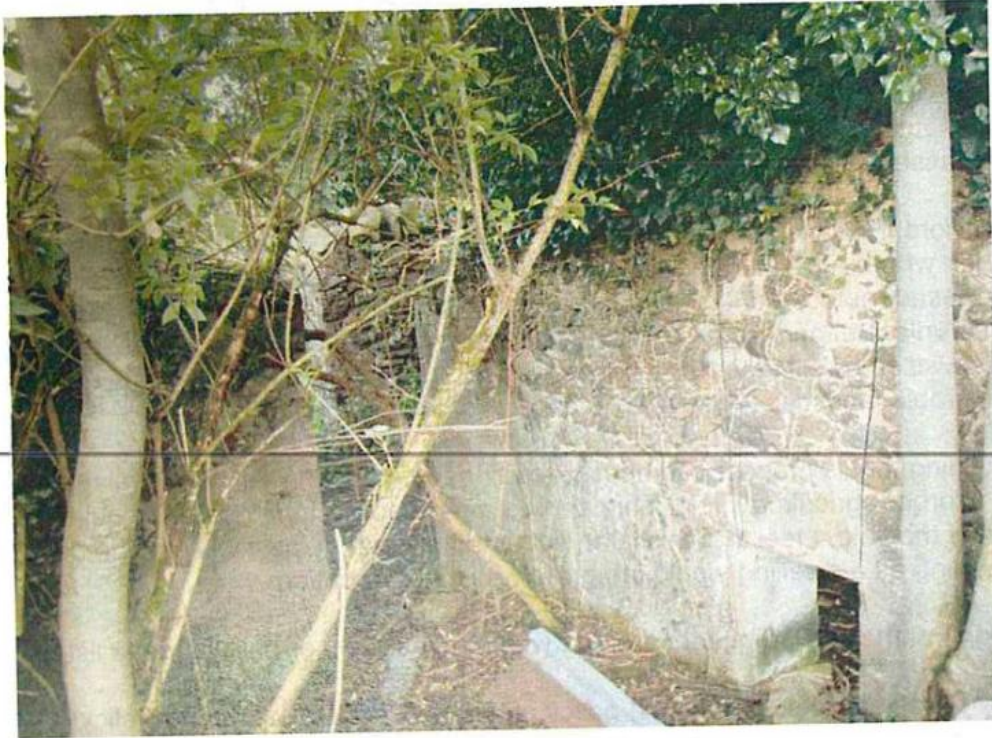


Figure 3: Internal walls and opening

There is no roof on the building and no chimney is visible however, there were a number of slates located at the site as on the image below.

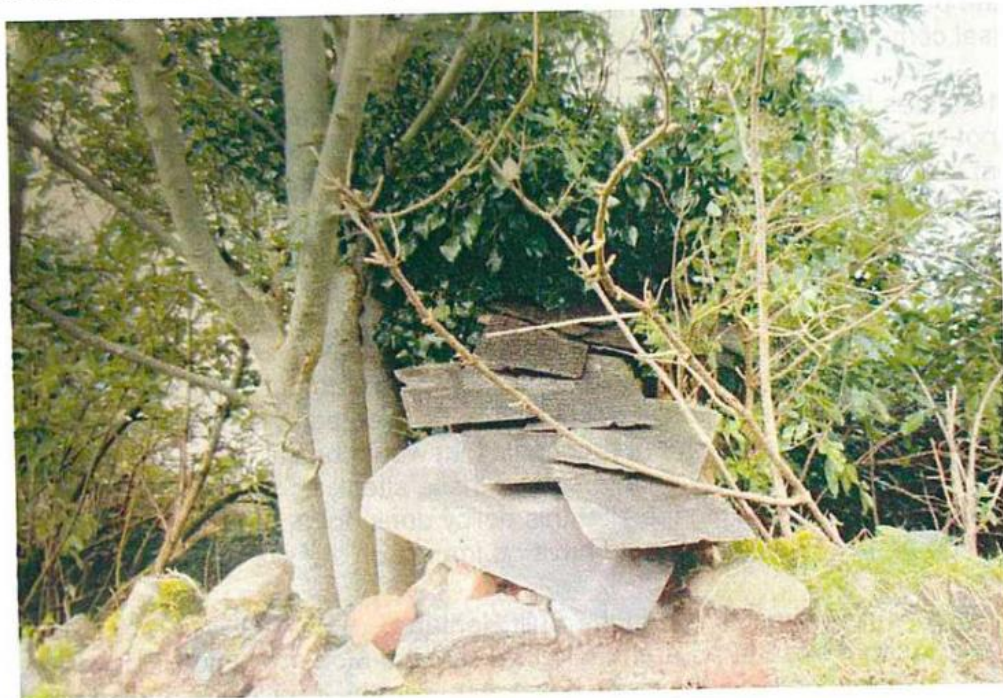


Figure 4: Slates

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that building which is proposed to be replaced does not exhibit the essential characteristics of a dwelling and cannot be considered a replacement dwelling.

**Signature(s)**

**Date:**



## ANNEX

<b>Date Valid</b>	20th July 2020
<b>Date First Advertised</b>	4th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 204 Hillhead Road, Castledawson, Londonderry, BT45 8EE The Owner/Occupier, 221 Hillhead Road Castledawson Londonderry	
<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: LA09/2020/0862/F Proposal: Proposed replacement dwelling and garage Address: site 400m East of Fairview, 221 Hillhead Road, Castledawson, Decision: Decision Date:  Ref ID: H/2005/0524/F Proposal: Dwelling & garage Address: Adjacent to 205 Hillhead Road, Castledawson Decision: Decision Date: 10.04.2006  Ref ID: H/1997/0596 Proposal: 11 K/V O/H LINE (BM11624/97) Address: FROM 219 HILLHEAD ROAD(GOING 380M SE) CASTLEDAWSON Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	

<b>Drawing Numbers and Title</b>
<p>Drawing No. 01  Type: Site Location Plan  Status: Submitted</p> <p>Drawing No. 02  Type: Proposed Plans  Status: Submitted</p> <p>Drawing No. 03  Type: Garage Plans  Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:  Response of Department:</p>





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2020/1027/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed infill site for 2 dwelling and garages	<b>Location:</b> Between 11B & 11E Hillside Road, Upperlands.
<b>Applicant Name and Address:</b> Danny McMaster 103 Glen Road MAGHERA	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  Following a deferral, further site visit and re-assessment the application does not comply with CTY1, CTY8, & CTY14.	
<b>Characteristics of the Site and Area:</b>  The site is located between dwellings No.11B and 11E and is located outside the settlement limits and is within the rural countryside as defined in Magherafelt Area Plan 2015.  It is currently an agricultural field. The site is accessed by an existing laneway which serves two existing dwellings off the Hillside Road. The northern, eastern and western boundaries are defined by mature vegetation and hedgerows and the southern boundary, along the access, is defined by mature hedging and scattered trees.	
<b>Description of Proposal</b>  Full application for 2 infill dwellings and garages under CTY8.	

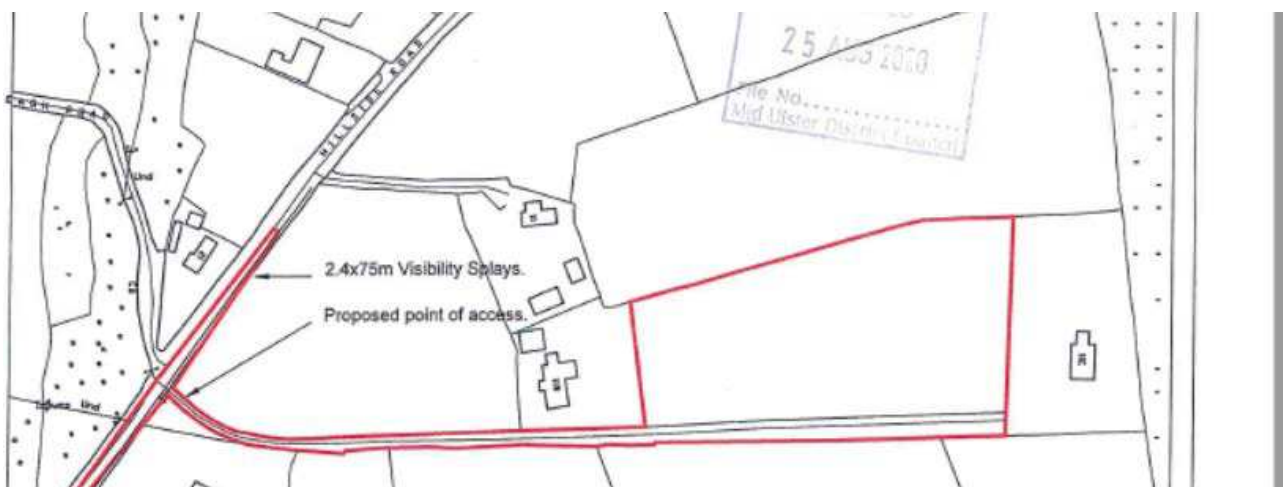
### Deferred Consideration:

This application was presented as a refusal to Planning Committee in December 2020 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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and the proposed gap site is not a 'small gap sufficient to accommodate up to a maximum of two houses' as described in CTY8. If permitted would result in the addition of ribbon development.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the design is not appropriate to the surrounding area and would cause detrimental harm to the existing character of the area.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that; the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings; and the building would if permitted add to a ribbon of development and would result in a detrimental change to further erode the rural character of the countryside.

It was subsequently deferred for an office meeting which was held on 10<sup>th</sup> Dec 2020 with the Area Planning Manager.

Following a site visit, assessing the proposal against the relevant policy CTY8, there is no substantial or continuous built up frontage of 3 or more buildings along this part of the Hillside Road. There are only 2 dwellings, 11B and 11E, which are accessed by the existing laneway, with No.11 being accessed directly off Hillside Road.



Policy CTY8 goes on to say that 'an exception will be permitted for the development of a



small gap sufficient to accommodate up to a maximum of two houses'. In this case the gap could not be considered 'small'. It would be capable of accommodating at least 3 dwellings while remaining in keeping with the existing plot sizes located adjacent to the site. The site frontage is 140m, with 11B (west) at 50m and 11E (east) at 56m, two sites at 70m would be out of keeping with the plot sizes, whereas 3 plots of 46.5m each could be accommodated.

It therefore fails to meet the criteria of CTY8 and it would create a of ribbon development in the area.

As this is a full application detailed drawings have been submitted and in terms of design, there are no issues in principle to the size, scale and finishes of the proposed dwellings. They are modest single storey houses and would have no detrimental impact on the existing dwellings in terms of overlooking or on privacy and amenity. Although they are have been positioned to front the laneway rather than the main road, I do not feel this would affect the existing character of the surrounding area so they would not be contrary to CTY13 in terms of their design.

The proposal is however contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a building on this site would cause a detrimental change and further erode the rural character of the area. It would result in a suburban style build-up of development when viewed with the existing buildings and would add to a ribbon of development.

Objections were received from dwellings 11B and 11E Hillside Road. These stated the site did not meet the criteria for an infill and that No.11 does not use the existing laneway for access, issues over design and siting, traffic concerns and potential for ribbon development.

All comments have been fully considered and taken into account through the assessment and re-assessment of the proposal. DFI Roads were consulted and offered no objections.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.

The proposal is recommended for refusal under CTY1, CTY8 and CTY14.

### **Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of

three or more buildings along a road frontage in this case and the proposed gap site is not a 'small gap sufficient to accommodate up to a maximum of two houses' as described in CTY8. If permitted it would result in the addition of ribbon development.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that; the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings; and the building would if permitted would create a ribbon of development and would result in a detrimental change to erode the rural character of the countryside.

**Signature(s):**

**Date**



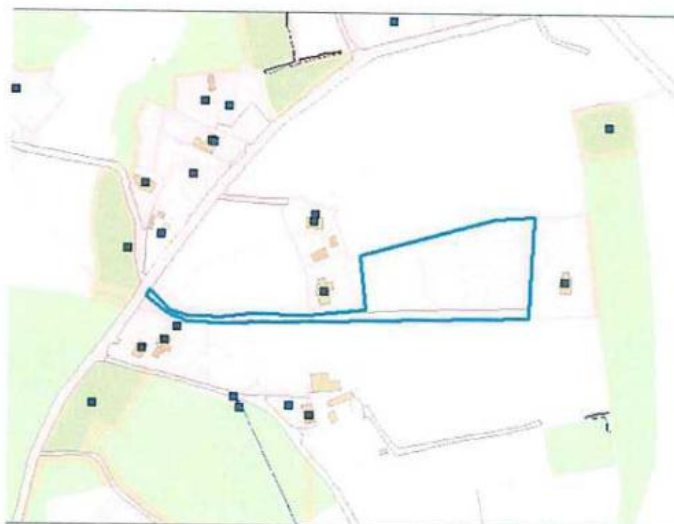
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 01/12/2020	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1027/F	<b>Target Date:</b> 08/12/2020
<b>Proposal:</b> Proposed infill site for 2 dwellings and garages	<b>Location:</b> Between 11B and 11E Hillside Road Upperlands
<b>Referral Route:</b>  Refusal- contrary to PPS 21 Sustainable Development in the Countryside and objections have also been received.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Danny Mc Master 103 Glen Road Maghera	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

## Site Location Plan

**Consultations:**

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division (HED)	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**

Third party representations were received during the assessment of this application (2No Objections) . All material considerations have been addressed within the determination below.

**Characteristics of the Site and Area**

The site is located between 11B & 11E and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is located along a agricultural type private lane, leading off the Hillside Road. This lane also appears to serve

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Conditions/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.

2)The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and the proposed gap site is not ' a small gap site sufficient to accommodate up to a maximum of two houses' as described in CTY 8. If permitted, result in the addition of ribbon development and

3)The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, in that the design is not appropriate to the surrounding area and would cause detrimental harm to the existing character of the area.

4)The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
- the building would, if permitted add to a ribbon of development

and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s)**

**Date:**



The Policy further stipulates in paragraph 5.33 that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. There are two dwellings along this lane, 11B & 11E, No 11 is not accessed along this laneway, instead it is also accessed directly via the Hillside road. The applicant has shaded this and marked it as 'Site 4' on the drawing number 02 dated stamped 25th August 2020, however this can not be considered a potential site.

The other dwellings located along this laneway (11B & 11E) have various frontages not in line with the requirements of Policy CTY 1 & CTY 8. These two dwellings have frontages facing West whereas the proposed dwellings in this application have frontages which face north, towards the proposed garages with the rear facing south. There is no substantial or built up frontage or line of three or more buildings along a road frontage in this case. Also, it would add to ribbon development in the area.

Also, in terms of the application site itself, the Policy <sup>CTM</sup>PPS 8 states that 'an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses.' This site is a very large field, 1.25 hectares, which is capable of accommodating 3 or more dwellings and therefore fails to meet the criteria set out in this policy.

The proposal is also contrary to Policy CTY 13 as the design is not considered appropriate when viewed against the surrounding area. Changes were not requested at this time as it was being recommended for refusal based on other policy criteria,

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a building on this site would cause a detrimental change to or further erode the rural character of the area as it would cause an urban type sprawl of development. It would result in a suburban style build-up of development when viewed with the existing buildings and as previously mentioned it would add to a ribbon of development.

### Objections

Two objections have been received in regard to this application. One from the occupiers of the dwelling at 11E and one from the occupiers of 11B. The objectors have raised concerns regarding issues of design and siting and the size of the site as well as the proposed dwellings. They have raised concerns that the proposal does not meet the Policy CTY8 and creates ribbon development in the area. The objectors have also raised issues over the expected increase of the volume of traffic on this private lane. It has also been highlighted that the dwelling at number 11. Hillside road has no access onto this private lane and instead is accessed via Hillside road directly. It is noted that DFI Roads were consulted on this application and were content subject to conditions. All of the issues raised have been taken into consideration.

### Conclusion

Ref ID: H/2001/0536/O

Proposal: Site of dwelling and garage

Address: Adjacent to 11 Hillside Road, Upperlands

Decision:

Decision Date: 30.10.2001

Ref ID: H/2007/0150/F

Proposal: Proposed change of house type and garage on previously approved site under planning application ref: H/2002/0120/F.

Address: Adjacent to 11 Hillside Road, Upperlands

Decision:

Decision Date: 26.04.2007

Ref ID: H/1978/0444

Proposal: HV AND MV O/H LINE (BM 2443)

Address: UPPERLANDS AND KEADY, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2008/0272/F

Proposal: Proposed single storey side extension

Address: 15 Hillside Road, Upperlands

Decision:

Decision Date: 15.08.2008

Ref ID: H/2002/0120/F

Proposal: Dwelling & Garage

Address: Adjacent to 11 Hillside Road, Upperlands

Decision:

Decision Date: 24.05.2002

Ref ID: H/2004/0554/O

Proposal: Site of dwelling

Address: 150m South East of 11 Hillside Road, Upperlands

Decision:

Decision Date: 22.12.2004

Ref ID: H/2003/0815/O

Proposal: Site Of Dwelling

Address: 70 Metres South East Of 11 Hillside Road, Upperlands

Decision:

Decision Date: 07.01.2005



<b>ANNEX</b>	
<b>Date Valid</b>	25th August 2020
<b>Date First Advertised</b>	8th September 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Hillside Road Upperlands Londonderry Orla Lagan 11 Hillside Road, Upperlands, Londonderry, BT46 5SD The Owner/Occupier, 11b Hillside Road Upperlands Bernard & Donna Mellon 11b Hillside Road, Upperlands, Londonderry, BT46 5SD The Owner/Occupier, 11e Hillside Road Upperlands Michael Kearney 11e Hillside Road, Upperlands, Londonderry, BT46 5SD The Owner/Occupier, 12 Hillside Road Upperlands Londonderry The Owner/Occupier, 13 Hillside Road Upperlands Londonderry The Owner/Occupier, 15 Hillside Road Upperlands Londonderry	
<b>Date of Last Neighbour Notification</b>	25th September 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1027/F Proposal: Proposed infill site for 2 dwellings and garages Address: Between 11B and 11E Hillside Road, Upperlands, Decision: Decision Date:  Ref ID: H/2007/0177/RM Proposal: Proposed dwelling and garage Address: 150m S.E. of No. 11 Hillside Road, Upperlands Decision: Decision Date: 19.07.2007	

the dwelling at No11B and 11E. The site is larger agricultural field, the boundary to the north, east and west is comprised of mature vegetation and hedgerows and the boundary to the south is comprised of mature hedgerow and scattered trees. The elevation of the site rises from the roadside.

### **Description of Proposal**

This application seeks outline planning permission for an infill site for two and garages dwelling

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

#### **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) PPS21 -Sustainable Development in the Countryside

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

#### **Planning History**

There is no planning history relevant to the determination of this application.

#### **Representations**

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. At the time of writing, 2No third party objections were received.

#### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that 'an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements'. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.



Ref ID: LA09/2020/1027/F

Proposal: Proposed infill site for 2 dwellings and garages

Address: Between 11B and 11E Hillside Road, Upperlands,

Decision:

Decision Date:

Ref ID: H/2007/0177/RM

Proposal: Proposed dwelling and garage

Address: 150m S.E. of No. 11 Hillside Road, Upperlands

Decision:

Decision Date: 19.07.2007

Ref ID: H/2001/0536/O

Proposal: Site of dwelling and garage

Address: Adjacent to 11 Hillside Road, Upperlands

Decision:

Decision Date: 30.10.2001

Ref ID: H/2007/0150/F

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Ref ID: H/1978/0444

Proposal: HV AND MV O/H LINE (BM 2443)

Address: UPPERLANDS AND KEADY, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2008/0272/F

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Address: 15 Hillside Road, Upperlands

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Decision Date: 15.08.2008

Ref ID: H/2002/0120/F

Proposal: Dwelling & Garage

Address: Adjacent to 11 Hillside Road, Upperlands

Decision:

Decision Date: 24.05.2002

Ref ID: H/2004/0554/O  
Proposal: Site of dwelling  
Address: 150m South East of 11 Hillside Road, Upperlands  
Decision:  
Decision Date: 22.12.2004

Ref ID: H/2003/0815/O  
Proposal: Site Of Dwelling  
Address: 70 Metres South East Of 11 Hillside Road, Upperlands  
Decision:  
Decision Date: 07.01.2005

Ref ID: LA09/2020/1027/F  
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Ref ID: H/2003/0815/O  
 Proposal: Site Of Dwelling  
 Address: 70 Metres South East Of 11 Hillside Road, Upperlands  
 Decision:  
 Decision Date: 07.01.2005

#### **Summary of Consultee Responses**

HED - Content  
 Ni Water - no objection  
 DFI Roads- Content subject to conditions

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

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 06  
Type: Proposed Plans  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

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:





**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 11 January 2021 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present**

Councillor S McPeake, Chair

Councillors Bell\*, Black\*, Brown\*, Clarke\*, Colvin\*, Cuthbertson, Glasgow, Kearney\*, Mallaghan, McFlynn\*, McKinney, D McPeake\*, Quinn\*, Robinson\*

**Officers in Attendance**

Dr Boomer, Planning Manager  
Ms Doyle, Senior Planning Officer\*\*  
Ms Donnelly, Solicitor\*\*  
Mr Marrion, Senior Planning Officer\*\*  
Ms McCullagh, Senior Planning Officer\*\*  
Ms McKearney, Senior Planning Officer\*\*  
Ms McNamee, ICT Support\*\*  
Mrs Grogan, Democratic Services Officer

**Others in Attendance**

**Applicant Speakers**

LA09/2019/1305/F	Mrs Mary McElroy*
LA09/2019/1305/F	Mr Aidan Kelly*
LA09/2020/0108/F	Mr Gerard Scullion*
LA09/2020/0108/F	Mr Eunan Cassidy*
LA09/2020/0108/F	Mr Joe McErlean*
LA09/2019/0784/F	Mr Chris Cassidy*
LA09/2019/0608/O	Mr Martin Kearney*

Councillor S McGuigan\*\*

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

The meeting commenced at 7.03 pm.

*The Chair, Councillor S McPeake welcomed everyone to the meeting and those watching the meeting through the Live Broadcast. The Chair, in introducing the meeting detailed the operational arrangements for transacting the business of the Committee in the Chamber and by virtual means, by referring to Annex A to this minute.*

The Chair also referred to addendum which had been circulated earlier in the day and asked if those joining remotely had seen this document and had time to read it.

Members joining remotely confirmed that they had seen the addendum and had time to read it.

**P001/21 Apologies**

Councillor Gildernew.

## **P002/21      Declarations of Interest**

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

The Chair, Councillor S McPeake declared an interest in agenda item 4.4 – LA09/2020/0108/F – 1 No. 1 2/3 storey dwelling house & associated screened utility yard at 50m N of 53A Ballymacombs Road, Portglenone for Eunan Cassidy.

The Chair, Councillor S McPeake declared an interest in agenda item 5.1 – LA09/2019/0784/F – Farm shed to include feeding & shelter area, storage area and underground slurry tanks and new access to be taken from Drumlamph Lane at approx. 130m SE of 9 Drumlamph Lane, Castledawson for Cathal Shivers.

The Chair, Councillor S McPeake declared an interest in agenda item 5.5 – LA09/2020/0801/0 – Dwelling & detached domestic garage at site adjacent to & S of 19 Ballymaguigan Road, Magherafelt for Niamh Young.

Councillor Kearney declared an interest in agenda item 4.4 – LA09/2020/0108/F – 1 No. 1 2/3 storey dwelling house & associated screened utility yard at 50m N of 53A Ballymacombs Road, Portglenone for Eunan Cassidy.

Councillor Cuthbertson declared an interest in agenda item 4.5 – Variation of condition 11 of previous LA09/2016/0470/F to allow extension scheme of time at 111 Ballynakilly Road, Coalisland for Formac Limited.

Councillor McFlynn declared an interest in agenda item 5.5 - LA09/2020/0801/0 – Dwelling & detached domestic garage at site adjacent to & S of 19 Ballymaguigan Road, Magherafelt for Niamh Young.

In response to a potential Declaration of Interest request, the Planning Manager advised Councillor Cuthbertson that if he wished to speak in relation to an application he should not be making a Request to Speak as there was a difference as you cannot be part of the committee or general discussion otherwise.

Councillor Cuthbertson advised that he wished to speak on agenda item 4.1 – LA09/2019/0152/F – Retention of the storage building for packaging and storage of handmade dog treats at 19 Major's Lane, Moy for Bernard Mackle.

## **P003/21      Chair's Business**

The Planning Manager drew members attention to Planning Performance Figures on the Department's website which showed that MUDC's objectives were not achieved for the first 6 months of this financial year, but it did show that planning applications ranked one of the highest in Mid Ulster compared to other areas. It also showed that this Council and was 3<sup>rd</sup> highest in Northern Ireland and the 4<sup>th</sup> highest on performance of getting out our decisions which he was more than pleased to report. He said however, that he was not pleased about the accumulation of applications

which was not going to decrease due to Covid and restrictions being in place making it quite hard to make the progress that his department would like to make. He stated that in the meantime officers would manage to keep things going.

He referred to the addendum which provided information for members including the decision on Lough Neagh planning decision.

The Chair agreed that the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda item 4.6 – LA09/2020/0864/F – Car parking and block of semi-detached dwellings at lands approx. 50m W of 39 Charlemont Street, Moy for Hemel Ltd

Agenda item 4.7 – LA09/2020/0991/O – Dwelling and domestic garage at 200m W of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon for Plunkett Nugent

Agenda item 4.8 – LA09/2020/0992/O – Dwelling and domestic garage at 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon for Plunkett Nugent

Agenda item 4.11 – LA09/2020/1082/O – Site for dwelling at 35m W of 33 Gortnaskea Road, Stewartstown for Dr Rogers

Agenda item 4.13 – LA09/2020/1115/O – Site for dwelling at lands NNW of 162b Washingbay Road and E of 152a Cloghog Road, Coalisland for Mr Brendan Corr

Agenda item 4.14 – LA09/2020/1140/O – Infill dwelling and detached garage between 104 Ballygawley Road and an agricultural building 100m NE of 104 Ballygawley Road, Glenadush for Bernard McAleer

Proposed by Councillor Mallaghan  
Seconded by Councillor Glasgow and

**Resolved** That the planning applications listed above for deferral be deferred for an office meeting.

## **Matters for Decision**

### **P004/21 Planning Applications for Determination**

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

**LA09/2019/0152/F Retention of the Storage Building for Packaging and Storage of Hand Made Dog Treats at 19 Major's Lane, Moy for Bernard Mackle**

Members considered previously circulated report on planning application LA09/2019/0152/F which had a recommendation for approval.

Councillor Cuthbertson advised that it was previously stated that Roads Service had been consulted regarding this application and reading over the report tonight he could not see any advice received back from them. He said that this was an area which he represented and could confirm that Major's Lane was a small rural laneway on a small rural country road which now had a dog food factory which was been stated on the planning application and did not believe it was suitable for a storage site to extend the business which was operating. He stated that he would have a lot of concerns regarding the movement of traffic as this was consulted with Roads Service at the time the house was being built for a dwelling house, not for a dog food factory and by reading the planning history reports, a CLUD was granted for a dog food factory and felt that just because the business has become a success and a CLUD granted, it doesn't make it right that this business was allowed to extend on site. He felt that there were plenty of industrial estates which could accommodate a site, not a rural lane in a country setting on a small country road.

Mr Marrion (SPO) provided members with an overview of the resume of the application.

Proposed by Councillor Mallaghan  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2019/0152/F be approved subject to conditions as per the officer's report.

**LA09/2019/1305/F 8 Two Storey Apartments within 2 Blocks at 63 Thomas Street, Dungannon for Farasha Properties Ltd**

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2019/1305/F which had a recommendation for approval.

The Chair advised that a request to speak against the application had been received and invited Mrs McElroy to address the committee.

Mrs McElroy advised members that she lives at 6 Castlefields right beside the proposed site, lot 2 of the development and was also speaking for the residents of No's 1, 2 and 4 Castlefields. She advised that she would be disagreeing with everything that the Case Officer had said and felt there was a lack of integration to the surrounding area and the officer's report states that the proposed development was well integrated and this may be true of block 1 but certainly not true of block 2 which was their concern. The report focuses largely on block 1 but the surroundings of block 2 on Castlefields were entirely different to the rear of the site and physically more on the Castlefields laneway. It's different from block 1 as it was a stand-alone and would have a different postcode to block 1 and was at the rising point of the highest site and even with the reduction of roof height, it was going to be an overpowering building in terms of scale and height compared to all the bungalows within the environs. She advised that it fronts onto her property and backs onto No. 1 Castlefields and would disagree with the Case Officer as she felt that it would still overlook the residents to

the front side, resulting in a loss of privacy and light and potentially increase noise levels.

Mrs McElroy advised that Castlefields had seven single family dwellings with 5 being bungalows, so the nature of block 2 was entirely out of sympathy with its surroundings. She raised concern about the lack of parking provision, with the Case Officer reports indicating that the area was surrounded by car parks and that may well be the case but there were six and not a single one of them would be available to residents of that site and felt that 8 car parking spaces would not be inadequate when there could be potentially 32 people vying for parking on that site. She referred to Case Officer's report regarding the issue of on road parking and stated that this would not be an option as Thomas Street was a busy arterial route into Dungannon town centre which had the Crown Buildings directly opposite it and was always chock-a-block and a lack of available parking at normal times. Castlefields Lane is a cul-de-sac and has no viable turning area, inadequate lighting, no footpath, private roadway which has to be maintained by residents as the Council hadn't adopted it. She concluded by saying that although she was pleased that the fencing was increased, the residents of Castlefields would be of the opinion that there would be temptation to still park at the site.

The Chair advised that a request to speak in support of the application had been received and invited Mr Kelly to address the committee.

Mr Kelly said that the case officer had provided a good overview of the application but would like to reinforce the following couple of items:

- 1) Bungalows opposite are at a similar level to block 2 on the proposed documents and not at an elevated position as suggested
- 2) The proposed replaces a number of existing buildings including a two storey dwelling, a former surgery and outbuildings with access onto Thomas Street and Castlefields Road.
- 3) From the outset of our design process it has been proposed to close the access onto Castlefields that the site has the right to use.
- 4) All construction traffic and access for the development is proposed from Thomas Street, therefore there cannot be any over spill parking within Castlefields Road. During the process of the planning application he believed they have addressed any concerns raised by planning for the design of the project and endeavour to take into account local residents concerns.

Mr Kelly concluded by saying that they were happy to accept the conditions proposed for an approval.

Councillor Cuthbertson stated that Thomas Street was a major road into Dungannon and the main route coming from Cookstown direction and concurred with the objector 100% as there was no availability of on-street parking along that stretch of road. He requested a site meeting for this application as this Council had a property very close to the proposal (Ranfurly House) and would like to see it turning into something bigger and better in the future and said that a site meeting would be beneficial but was aware of the restrictions in place presently and may be the case of waiting until February.

Councillor Cuthbertson proposed that a site meeting be held.

The Planning Manager stated that by listening about the issues raised which was all about the character of the area; two sets of issues, one was about car parking and the other about the character of the area. In relation to car parking for occupancy of a two bedroom flat so there could be an issue of requiring more than 8 car parking spaces and obviously in a town centre situation there is an ability to lower standards and no issue raised by Roads Service. The second issue was the keeping in character of the area and given that there is a dispute he felt that it was quite reasonable for members to go and have a look for themselves. He advised if members wished to go down the route of a site meeting then it would be wise to go after the mid-term break to keep in line with the current restrictions put in place.

Councillor Mallaghan thanked the two previous speakers which provided a bit more insight into this planning application and said that although it seems to meet all the criteria of planning policy and ticked all the boxes in terms of statutory consultees up until this point, the first thing that he sees when looking at the drawing was a problem with car parking. He said that first thing that was going to happen after the buildings were erected after a few years was disputes between neighbours regarding parking of cars and by reading the report he would agree that the applicant has went to great lengths to try and deal with objections brought forward and has made numerous changes to the application, but if the committee looks down through the report there is a drawing for 14 car parking spaces and that was something which has been changed due to not enough open green space on the site and appeared to him to be a better concept. He said that people which lived in 2 bedroom apartments didn't always require lots of garden space as they were there most likely for professional reasons. He advised that he wasn't opposed to a site meeting in this instance, but would be unsure whether it would show anything more from the drawing presently as this could be better and felt that the applicant could have possibly went too far with the open space to deal with the objections. The problem here for the objectors was it met the planning policy and something will be built here one way or another and objectors may never find anything acceptable about it, but something will be placed on the site eventually and thinks in this instance it was good but not great.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2019/1305/F be deferred for site meeting with Members.

**LA09/2019/1318/O Site of Replacement Dwelling and Detached Domestic  
Garage at 440m SE of 28 Leitrim Road, Castledawson for  
Mr R J Mawhinney**

Members considered previously circulated report on planning application LA09/2019/1318/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2019/1318/O be approved subject to conditions as per the officer's report.



**LA09/2020/0108/F 1 No. 1 2/3 Storey Dwelling House & Associated Screened Utility Yard at 50m N of 53A Ballymacombs Road, Portglenone for Eunan Cassidy**

The Chair, Councillor S McPeake withdrew from the meeting and the Vice Chair, Councillor Glasgow took the Chair.

The Chair, Councillor Glasgow advised members that a late objection had been received and asked the Case Officer to update the committee.

Ms McCullagh (SPO) presented previously circulated report on planning application LA09/2020/0108/F which had a recommendation for approval but advised that a late objection had been received with issues raised which were mainly the same; farm business ID which has been addressed, sell off issues and an explanation as to why the dwelling cannot be linked to existing farm buildings, so overall it was felt that the dwelling provided adequate privacy to the objectors property and the criteria of CTY10 has been met entitling to them for a dwelling on the farm and has been recommended for approval with conditions.

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

Mr McErlean advised that the applicant and himself have a good neighbourly relationship and when the proposal was first mentioned to him it was described as a small retirement house and when he saw the published initial plans this was not the case. He said that some minor compromise had been achieved and revised plans of July 2020, it was suggested that if the screened utility yard was moved to the North elevation of the proposed dwelling this would further the ridge height from 53C and position the house behind the trees, but both these suggestions were not accommodated. In accurate drawings the proposed dwelling was not sited behind the trees on 53C's southside and 8 metres overlooking a low hedge which were not illustrated in the current drawings. He felt that these drawings needed updating and 8 metres of trees removed which don't exist and if the proposed dwelling was sited correctly behind the trees then this would increase the distance from 23 metres to 31 metres which was more amenable. Privacy of a large first floor bedroom window with non-obscure glass directly overlooking 53C and felt that this window could be removed and the window on the south side extended as bedrooms were used extensively for homeworking and school remote learning, especially with older children. This window directly overlooks his kitchen, sunroom and patio where majority of the time is spent. Shading of photovoltaic panels due to the proposed dwelling residing at a higher altitude approximately 4 metres than his shed. This shed had eastern facing photovoltaic panels, these panels will lose sunlight particularly in the autumn and winter when the sun is lower and shading on any of these panels will mean that the panels will be at their lowest use capacity as it works on an array system. Ridge height of proposed dwelling is approximately 8 metres and closer to 53C than to 53A and felt that this was not acceptable and impedes his family's privacy and shading more than 53A. No building in the area of Ballymacombs Road or Forestry Lane is separated at a separate distance of 23 metres which was contrary to CTY14, Part 5.7.9. This proposal if permitted will result in three houses immediately adjacent to each other and

three separate entrances onto Forestry Lane and is contrary to ribbon development CTY14, Part B, the proposed dwelling is more prominent on the landscape and view of Ballymacombs Road or the Forestry Lane or either 53A or 53C which was contrary to CTY13 and CTY14. He advised that there were alternative sites on Mullaghnemoyagh Road which were visually linked to the original farmyard to comply with CTY10, Part C and had requested site visits in previous letters to explain concerns, but no communication has been received at all from any Planning Officer and asked that members vote for a deferral to provide an opportunity to meet with a Planning Officer at the site to explain concerns and not be discriminated and excluded from the decision making process. The latest letter submitted on the 18<sup>th</sup> of December was not published and asked if the Officers were aware of this letter and with Planning now being a local authority from 2015, there was an impression that the planning process was open and transparent allowing everyone's opinions to be considered. He advised that this process has caused a lot of stress over the past year and currently on the list for major surgery since December 2019 which has been delayed due to the pandemic.

In conclusion Mr McErlean said that he would kindly ask that his points are kindly considered during the committee's decision making process.

The Planning Manager advised that he had picked up on a couple of things which Mr McErlean raised and advised that when a planning application was made and an objection received a Planning Officer has to consider all aspects and this was what was happening here with things being open and transparent. In referring to the upstairs window he asked Mr McErlean in relation to his privacy, if the window was removed and the window in the hallway obscured glass would this elevate his concern.

Mr McErlean advised if the bedroom window was moved to the south side that would address his concern or semi opaque. He said that he had a further issue relating to the other bedroom window and in relation to the accuracy of the drawings as the trees were not 8 metres in size.

Mr Scullion advised that he didn't have a lot to add on from the Planners report and extensive goings on back and forth, with the objector writing in and the applicant and himself responding which the Planner has dealt with. He said the application was re-sited, rotated and altered so the corridor the other way with opaque glazing. In dealing with the privacy issue in regards to the CTY10, it meets the criteria for a dwelling on the farm, so he felt that he had nothing much further to add as it was an appropriate site and was supportive of the planning decision and the would be agreeable to removing the bedroom window as was suggested earlier.

The Planning Manager advised that the gable bedroom window was the issue which the objector had concern and that this window did not face his property. He asked Mr Scullion if he would be prepared to remove the window facing the property.

Mr Scullion advised that the applicant would be amenable to removing the small bedroom window but not the gable window.

Proposed by Councillor Mallaghan  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2020/0108/F be approved subject to conditions as per the officer's report.

Councillor S McPeake returned to the Chair.

**LA09/2020/0147/F Variation of Condition 11 of Previous LA09/2016/0470/F to Allow Extension of Time, at 111 Ballynakilly Road for Formac Limited**

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2020/0147/F which had a recommendation for refusal.

The Planning Manager said that it was his understanding that the work had been done for the new access and if this has been carried out to Roads Service satisfaction there shouldn't be an issue as it met the conditions. He suggested that the application be deferred until Officers check this out.

Proposed by Councillor Glasgow  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2020/0147/F be deferred for one month.

**LA09/2020/0864/F Car Parking and Block of Semi Detached Dwellings at Lands approx. 50m W of 39 Charlemont Street, Moy for Hemel Ltd**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0991/O Dwelling and Domestic Garage at 200m W of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon for Plunkett Nugent**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/0992/O Dwelling and Domestic Garage at 150m W of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon for Plunkett Nugent**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1055/F Renovation and Extension of Existing Clogher Workhouse Admin Building and Surroundings to Accommodate New Childcare Centre including the Demolition of the Existing Mobile Classrooms, Outbuildings and Walls at 6-7 Tullybroom Road, Clogher for Early Years**

Members considered previously circulated report on planning application LA09/2020/1055/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2020/1055/F be approved subject to conditions as per the officer's report.

**LA09/2020/1059/LBC Renovation and Extension of Existing Clogher Workhouse Admin Building and Surroundings to Accommodate New Childcare Centre including the Demolition of the Existing Mobile Classrooms, Outbuildings and Walls at 6-7 Tullybroom Road, Clogher for Early Years**

Members considered previously circulated report on planning application LA09/2020/1059/LBC which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2020/1059/LBC be approved subject to conditions as per the officer's report.

**LA09/2020/1082/O Site for Dwelling at 35m W of 33 Gortnaskea Road, Stewartstown for Dr Rogers**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1101/O Dwelling at 286m NW of 1 Loveshill, Castledawson for Noel and Marie Lennon**

Members considered previously circulated report on planning application LA09/2020/1101/O which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2020/1101/O be approved subject to conditions as per the officer's report.

**LA09/2020/1115/O Site for Dwelling at Lands NNW of 162b Washingbay Road and E of 152a Cloghog Road, Coalisland for Mr Brendan Corr**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1140/O Infill Dwelling and Detached Garage between 104 Ballygawley Road and an Agricultural Building 100m NE of 104 Ballygawley Road, Glenadush for Mr Bernard McAleer**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2019/0784/F Farm Shed to include Feeding & Shelter Area, Storage Area and Underground Slurry Tanks and New Access to be taken from Drumlamph Lane at approx. 130m SE of 9 Drumlamph Lane, Castledawson for Cathal Shivers**

The Chair, Councillor S McPeake withdrew to the public gallery and Councillor Glasgow took the Chair.

The Planning Manager brought members attention to the previously circulated report on planning application LA09/2019/0784/F which had a recommendation for refusal and advised that there seems to be a lot of confusion on what was being asked as this application was for a small farm shed and farm sheds can be associated with ammonium nitrate. He said that the agent had refused to make a submission of any further information. In this case a determination of whether a full ammonium nitrate report had not been requested, what had was sufficient information to determine whether such a report was needed. He understood that the department had received some information and Ms McCullagh confirmed that the NIEA stated that it wasn't adequate for them to come back with a conclusion yet with the agent stating that he wouldn't send anything more in.

The Planning Manager asked if the agent would be happy to provide the necessary information required so that a decision can be made.

Mr Cassidy advised that he would be agreeable to the request to provide the required information.

Proposed by Councillor McKinney  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2019/0784/F be deferred until all the relevant information is received.

Councillor S McPeake returned to the Chair.

**LA09/2019/1402/O Site for a Dwelling & Domestic Garage at approx. 50m NE of 45 Moneyneany Road, Draperstown for Mr Michael McWilliams**

Members considered previously circulated report on planning application LA09/2019/1402/O which had a recommendation for approval.

Proposed by Councillor Bell

Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2019/1402/O be approved subject to conditions as per the officer's report.

**LA09/2020/0022/O Dwelling in an Infill Site at Land Adjacent to and S of 14 Drumkee Road, Dungannon for Mr Noel Stephenson**

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2020/0022/O which had a recommendation for refusal.

Proposed by Councillor Mallaghan  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2020/0022/O be refused on grounds stated in the officer's report.

**LA09/2020/0608/O Dwelling and Garage at Site Adjacent to 9a Falgortrevy Road, Maghera for Shaun Kelly**

*Councillor Cuthbertson left the meeting at 8.03 pm.*

Ms McCullagh (SPO) presented previously circulated report on planning application LA09/2020/0608/O which had a recommendation for refusal.

The Chair advised that a request to speak in support of the application had been received and invited Mr Kearney to address the committee.

Mr Kearney said that the character of the Drumkee Road was that all the dwellings were positioned on the northern side of the road and standing at the crossroads between the Tartlaghan Road and Greenagh Lane is 9A is very much connected to the dwellings plus to the dwellings on the map labelled Milltown. The reasons why the lands between 9 and 9A were never developed was due to the fact that the majority of the lands were a large mill damn which a small pond still exists. In relation to the landscape the area shown on the overhead map to be heavily wooded to the side of 9A and to the north of No. 9 and No. 7, these trees provide strong character for which this target crossroads was a focal point. With the site being a triangle and a boundary of No. 9A and to the north west of the site No. 9 so cannot see how the site can be any less bound. As the policy states it doesn't have to be a development to be a building and does see that this old mill damn does constitute a historic development. He said that it was evident on the map that all the houses heading to the north of Drumkee Road, the area of the mill damn and the pond is all bound into the north by the GAA club for which the strip provides a strong focal point for the entire area and not only for a pedestrian and should be considered in the event of driving a car as speed was of now a different essence.

He referred to the neighbouring residential amenity and stated the power of full design was valued and believed that any worries or concerns can be dealt with either with reserve matters or full application and which all replacements would be key, however the high level design and added advantages of new buildings fences would also assist

the acoustic barrier towards this site and for this he would request either a member's site visit or to approve the site.

The Chair felt the site was well bound and said that he knew the general area but never looked at the specifics and felt that it may be useful for members to see for themselves.

The Planning Manager in referring to the presentation felt the agent may have focussed his attention on what wasn't the issue as integration wasn't the reason for the refusing of the application but more to do with the fact that an adequate reason hasn't been provided inside the countryside. The test that is being argued was that it was within an existing cluster and can see clearly by looking at the road that this doesn't rate as an existing cluster and the reason for that is that the existing cluster on the other side around the GAA club is that this is basically a field with a house on one side and enquired if there were buildings on one side or both sides.

In response Ms McCullagh referred to the overhead map and said that there was a dwelling to the left hand side and that was it.

The Planning Manager stated that test requires not only a cluster, be should be bound at the two sides and in terms of integration he couldn't see a huge deal but couldn't understand why anyone wished to live beside a main road with the noise of fast moving traffic was confusing for him.

He said that it was hard to link the site to the policy, but if it had a farm case source or another reason for exception, this would be a different matter.

The Chair said that looking back to the past there were a lot of similarities to this application and as it was coming out onto a little side road that it was not a major issue.

Councillor McKinney stated that he knew the lands well and not in his wildest dreams would he have envisaged anyone wanted to build a house at this location due to its closeness to the road and noise from fast moving and heavy traffic.

The Planning Manager said that although sympathy would like to be shown the application didn't meet policy.

Councillor Colvin agreed that the committee wished to show some degree of sympathy but concurred with Councillor McKinney's comments and proposed to accept the Case Officer's recommendation for refusal.

Proposed by Councillor Colvin  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2020/0608/O be refused on grounds stated in the officer's report.

**LA09/2020/0801/O Dwelling and Detached Domestic Garage at Site adjacent to & S of 19 Ballymaguigan Road, Magherafelt for Niamh Young**



The Chair, Councillor S McPeake withdrew to the public gallery and Councillor Glasgow took the Chair.

Members considered previously circulated report on planning application LA09/2020/0801/O which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2020/0801/O be approved subject to conditions as per the officer's report.

Councillor S McPeake returned to the Chair.

**LA09/2019/1484/O Dwelling & Garage 50m E of 91 Aughrim Road, Magherafelt for Keith Fulton**

Ms McCullagh advised that due to a typo error the application should read LA09/2019/1484/O and not LA09/2020/1484/O.

Members considered previously circulated report on planning application LA09/2019/1484/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2019/1484/O be approved subject to conditions as per the officer's report.

**Matters for Information**

**P005/21 Minutes of Planning Committee held on 1 December 2020**

Members noted minutes of Planning Committee held on 1 December 2020.

*Live broadcast ended at 8.15 pm.*

**Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Glasgow  
Seconded by Councillor McKinney 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 P006/21 to P014/21.

**Matters for Decision**

- P006/21 Receive Report on Correspondence from Fermanagh & Omagh Council
- P007/21 Receive Response to DfI's Consultation on the Draft Transport Study for Mid Ulster District
- P008/21 Receive Response to Derry and Strabane District Council's Consultation for the Submission of Counter Representations
- P009/21 Receive Report on DfI Correspondence on Consultation from the Civil Aviation Authority (CAA)
- P010/21 Receive Enforcement Report

**Matters for Information**

- P011/21 Confidential Minutes of Planning Committee held on 1<sup>st</sup> December 2020
- P012/21 Enforcement Cases Opened
- P013/21 Enforcement Cases Closed
- P014/21 Miscellaneous Matters

**P015/21 Duration of Meeting**

The meeting was called for 7 pm and concluded at 8.42 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## **Annex A – Introductory Remarks from the Chairperson**

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.



<b>Report on</b>	The lodgement of a Non-determination Planning Appeal on application LA09/2020/0951/F
<b>Date of Meeting</b>	2 <sup>nd</sup> February 2021
<b>Reporting Officer</b>	Malachy McCrystal
<b>Contact Officer</b>	Chris Boomer

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To inform the Planning Committee that an appeal has been lodged for the non-determination of planning application LA09/2020/0951/F.
<b>2.0</b>	<b>Background</b>
2.1	Planning application LA09/2020/0951/F is an application under section 54 of the Planning Act (NI) 2011 in respect of Planning Approval LA09/2018/1510/F comprising of 33 dwellings. Application seeks to vary Condition No. 09 to replace stamped approved drawing No. 22/1 which required the provision of a right hand turning lane on Coolshinney Road to drawing no. 120-068-P-100 which shows the creation of T-junction in lieu of the right hand turning lane.
<b>3.0</b>	<b>Main Report</b>
3.1	<p>The Planning Appeals Commission (PAC) wrote to Mid Ulster District Council for its view on whether the application should be approved with conditions or refused with draft refusal reasons.</p> <p>The Planning Department are recommending the application be refused for the following reason:-</p> <p>1. The proposed development is contrary to the Magherafelt Area Plan 2015 Zoning MT 08 Key Site Requirement to provide a right turn lane on Coolshinney Road which must not compromise a right turn lane into site MT 15.</p> <p>Dfi Roads also objected to the proposed development and advised Mid Ulster District Council that the application should be refused for the following reasons:-</p> <p>2. 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 would lead to an unacceptable level of conflict by</p>

	<p>reason of the increased number of vehicles entering and leaving the proposed access.</p> <p>3. 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 would cause an unacceptable increase in traffic movements on Moneymore Road.</p>
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial:      None
	Human:        None
	Risk Management:      None
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications:      None
	Rural Needs Implications:      None
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	It is the recommended that the Planning Committee endorse the actions of the Planning Manager by sending a letter contained in the appendix to the Planning Appeals Commission.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
	Appendix 1 – copy of letter



Date: 21<sup>st</sup> January 2021  
Your Ref: 2020/A0123  
Our Ref: LA09/2020/0951/F  
(Please quote at all times)



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

Planning Appeals Commission  
Park House  
87/91 Great Victoria Street  
Belfast  
BT2 7AG

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

Please contact: Mr M McCrystal  
Telephone: 03000 132 132

Dear Sir/Madam

#### **Planning Act (Northern Ireland)**

#### **APPEAL: Valor Homes Ltd.**

Application under section 54 of the Planning Act (NI) 2011 in respect of Planning Approval LA09/2018/1510/F comprising of 33 dwellings. Application seeks to vary Condition No. 09 to replace stamped approved drawing No. 22/1 which required the provision of a right hand turning lane on Coolshinney Road to drawing no. 120-068-P-100 which shows the creation of T-junction in lieu of the right hand turning lane.

Development lands at 14 Moneymore Road situated adjacent and South West of Oakvale Manor adjacent and North East of Thornhill Avenue between Coolshinney Road and Moneymore Road Magherafelt.

I refer to the above planning appeal and advise that in considering this application, it is Mid Ulster District Council's view that if it were to determine this application it would issue a decision to refuse planning permission.

Draft refusal reasons are as follows:-

1. The proposed development is contrary to the Magherafelt Area Plan 2015 Zoning MT 08 Key Site Requirement to provide a right turn lane on

DCS004MW

Coolshinney Road which must not compromise a right turn lane into site MT 15.

2. 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 would lead to an unacceptable level of conflict by reason of the increased number of vehicles entering and leaving the proposed access.
3. 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 would cause an unacceptable increase in traffic movements on Moneymore Road.

I can also advise that Dr Boomer – Planning Manager, will be discussing the planning appeal with Mid Ulster District Council's Planning Committee, on Tuesday 2<sup>nd</sup> February 2021, to ensure the Committee are in agreement with the recommendation to refuse.

All additional information requested by the Planning Appeals Commission will follow separately.

Yours faithfully



Planning Manager

Cc. Turley, Hamilton House, Joy Street, Belfast, BT2 8LB