



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

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

<b>Summary</b>	
<b>Committee Meeting Date:</b> 6th August 2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1027/F	<b>Target Date:</b>
<b>Proposal:</b> Demolition of existing porch area, relocation of existing smoking area (Amended plans)	<b>Location:</b> 86 Chapel Street Cookstown
<b>Referral Route:</b> REFUSAL	
<b>Recommendation:</b> REFUSAL	
<b>Applicant Name and Address:</b> Kilmegan Ltd 53 Main Street Coalisland	<b>Agent Name and Address:</b> Clarman and Co Unit 1 33 Dungannon Road Coalisland BT71 4HP
<b>Executive Summary:</b> Taking into account history on the site and objections to the proposal, and consultations responses, refusal has been recommended for the proposal as detailed in the report.	
<b>Signature(s):</b>	

Case Officer Report		
Site Location Plan		
		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NIEA	Consulted in Error
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Environmental Health Mid Ulster Council	Content
Statutory	Environmental Health Mid Ulster Council	
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	30	

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 at no.86 Chapel Street, Cookstown. Currently contained within the site is a Licensed Premises- a mid-terrace two storey building finished in a smooth white render, black framed windows with a slate tile roof. The building is located to the South of the town centre and fronts directly onto the Eastern side of Chapel Street. There is a two storey projection located centrally to the front facade of the building which provides the main entrance to the premises. There is a projection to the rear- a two storey section which then drops down to single storey towards the Eastern boundary of the site.

The adjoining property to the South of No.86, fronting onto Chapel St, is an off licence whilst another adjoining property to the rear fronting onto the Fountain Road is a vacant commercial unit. The proposal is to extend the licenced premises into the area of the demolished vacant retail outlet, which had been an electrical shop. Currently deliveries to the existing bar would seem to be serviced via a right of way, which also provides access the rear of other properties on Chapel Street as well as some residential properties on Fountain Road.

The surrounding area is urban in character. The site is located to the South of Cookstown Town Centre and within the development limits as designated in the Cookstown Area Plan 2010, but outside the town centre. The site fronts onto the A29 Protected Route.

There is a mixture of land uses in the immediate vicinity, residential and commerical; To east; semi detached dwellings with detached dwellings to rear of same.

To south; vacant car sales garage and associated compound, with detached residential units beyond on Fountain Road.

To west; existing two story building with off sales to ground floor. Beyond that Chapel Street and residential properties beyond again.

To north; residential properties, some of which have rear access from the adjoining right of way.

### **Description of Proposal**

Demolition of existing porch area, relocation of existing smoking area.

History on the site includes;

Demolition of single storey retail unit and construction of a single storey extension to existing bar - I/2012/0324/F

23.12.2013 refused

I/2014/0193/F - Proposed alterations and single storey extension to Moe's Bar.  
06.05.2015 refused for two reasons;

1. The proposal is contrary to DES 2 of the Department's Planning Strategy for Rural Northern Ireland, Planning Policy Statement 1: General Principles, and DCAN 7 Public Houses in that the proposal would if permitted unduly affect the amenity of the existing adjacent and nearby residents to the site by reason of nuisance and general disturbance.

2. The proposed development is contrary to PPS 3 - Access, Movement and Parking and would, if permitted, prejudice the safety and convenience of road users since provision cannot be made clear of the highway for the parking, turning, loading and unloading of vehicles which would be attracted to the site

On 28.04.2016 - appeal on the above dismissed.

Only reason 2 was upheld. This has been included in Annex A.

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

Regional Development Strategy

Strategic Planning Policy Statement for NI (SPPS)

Cookstown Area Plan 2010

PPS3 Access, Movement and Parking

PPS6 - Planning, Archaeology and The Built Heritage

DCAN7 - Public Houses

The main issues in regard to this application are the impact on the amenity of nearby residents by reason of noise, nuisance and general disturbance and parking/road safety issues.

#### **Parking and road/traffic issues**

Parking Standards document sets out the parking standards that should be taken into regard in assessing proposals for new development. The principle objective is to ensure that in assessing development proposals, appropriate consideration is given to the accommodation of vehicles attracted to the site within the wider government policy aimed at promoting modal shift to more sustainable forms of transport.

Currently there is no parking provision at the property. They rely on using on-street parking entirely. In paragraph 6.14 of the appeal decision (Appendix A), the Commission carried out a detailed site visit of the premises to take account of parking movements, and concluded a 'particularly localised parking demand generated by the appeal property at the busy Chapel Street/Fountain Road junction. With no parking provision the proposal is likely to exacerbate the situation to the detriment of the safety and convenience of road users'.

Therefore the provision in the Parking Standards, which in that case was a shortfall of 10 spaces, was not to be set aside and refusal for that reason was sustained.

Whilst there is disagreement on the exact extent of the new bar floorspace, I have calculated it based on the following, Under Parking Standards 'Non-residential' ;

Existing floor space is 338.38m<sup>2</sup>

Adding the proposed outdoor/smoking area of 80m<sup>2</sup> and then minusing the existing smoking/beer garden area of 28m<sup>2</sup> (which is to be demolished), equals an increase of 52m<sup>2</sup>.

This equals a proposed total of 390.38m<sup>2</sup>.

Bars inside the development limits =1 space per 5m<sup>2</sup> NFA.

so using 1 space per 5m<sup>2</sup> for the 52m<sup>2</sup> increase = (10.4 spaces), therefore 11 spaces are required.

Allowing 4 spaces for the existing electrical shop of 80m<sup>2</sup>, using 'Class A1 : Shops , non-food retail = 1 space per 20m<sup>2</sup> GFA' ,

Whilst recognising the difficulties in being able to provide car parking, there is still a shortfall of 7 spaces, which the Council still feel is unacceptable and a reason to refuse on this basis.

DFI Roads state in their response of 2<sup>nd</sup> August 2018 that the PAC considered there was a lack of parking required for application I/2014/0193/F. The PAC here ruled there was no reason to set aside the provisions set out in Car Parking Guidelines and that no additional parking would likely exacerbate the parking situation to the detriment and safety and convenience of road users and therefore they sustained the refusal reason under PPS3. This stated this application is similar in the previous application in that the required additional parking is not being provided, therefore to be consistent with the PAC decision they again recommend refusal.

There has been no change to policy or guidance in the intervening period and I have no basis to take a different view. The PAC decision is a material consideration to which I feel weight should remain determining.

### **Noise and general disturbance**

Members in considering the previous application I/2004/0193/F felt that nuisance should be added to its decision to refuse the proposal. In considering the appeal the commissioner adopted a different view and justified his decision on the following basis; that guidance note DCAN7 states that public houses can be a source of annoyance due to problems of noise and disturbance. The appeal sites context is that of an existing public house in a mixed use area at a busy junction. Whilst the Council have sympathy for the residents, this is not a noise sensitive location and it is an area where a degree of disturbance is inevitable.

Paragraph 6.8 of the appeal decision acknowledges an open courtyard would be a new source of noise along Fountain Road, different in character from the existing noise of traffic.

There have been further design changes since previous application, to aid in reducing noise and disturbance on this part of the street including the replacement of a parapet roof with a more permanent roof structure.

No noise impact assessment was submitted with this application, however proposed walls and structures are similar to application I/2014/0193/F, where the noise impact assessment was accepted by Environmental Health (EH) and Commissioner and that even with open railing the noise generated at peak times would not be excessive to justify refusal of the application for this reason.

Amended plans show acoustic door lobbies on the front and side entrances which EH have stated will reduce noise breakout from the premises. It is also noted that plans show no amplified music or PA system to be used in external smoking area.

EH have viewed the objector letters and having assessed the amended scheme have provided conditions to be attached to any planning approval.

Anti-social behaviour raised by objections is outside the remit of Planning or Environmental Health and so was not commented on.

In-sufficient information exists to indicate that the public house is causing health problems for nearby residents. This was the same view as the Commissioner in the appeal decision 2015/A0057.

Overall, and in considering the previous appeal decision on this matter, the design changes and Environmental Health's comments, the location of the site at an already busy mixed use area, general noise and disturbance for residents is not a reason for refusal which I feel can be sustained.

### **Other considerations:**

#### **HED consultation:**

Historic Env Division (HED); Historic Buildings were consulted due to the close proximity of No.84 Chapel Street, Cookstown listed building (Grade B2). They considered the impacts of the proposal on the building and considers it satisfies policy BH11, PPS6 and SPPS. They welcome the proposal to demolish the existing porch and the return to a traditional bar front design and considers the proposal will make a positive contribution to the setting of adjacent listed building and overall streetscape. I would be in agreement with their findings.

#### **Entertainment licence:**

The agent has stated that the smoking area is ancillary to the bar use and does not come under consideration within the entrainment license figures. So whether a bar has a smoking area or not will not impact on numbers licensed by a local authority.

The licensing section of Council confirmed normally they issue an Indoor licence so outdoor spaces are not licensed per se and are not seen as additional spaces, rather they are 'accommodating' spaces to service the indoor patrons.

However, there may be circumstances where this may not be the case, for example where an outdoor area is also licensed for outdoor entertainments and has additional means of escape- this would have to be addressed then in their Fire Risk Assessment how they

propose to manage ensuring that either area does not become overcrowded/ overcapacity.

But at Moe's the smoking area at the front of the bar on the main street is not licensed for entertainment – there should never be any more than the permitted numbers INSIDE the bar so it is up to management to ensure that if the bar is 'full' then those in the smoking area should not be permitted access again until there is room for them inside or that no one else is permitted into the bar in the meantime so that the internal capacity is not exceeded.

Also it should be noted that in the appeal decision, it was raised under paragraph 4.15 the appellants proposed condition restricting the maximum number of patrons to that in the entrainment license, would set an unrealistic burden on the council's enforcement section. This cannot be relied on as a means of controlling the patrons as per the previous appeal decision as stated in paragraph 6.7.

### **Objections:**

A number of objections/representations have been received in relation to this proposal. The main issues raised relate to traffic/parking, Noise, amenity/health and safety and anti-social behaviour. The objectors state the proposal has the potential for an increase in late night activity, events and number of patrons in the premises. Neighbouring residential properties already have to deal with customers/taxis/buses parking, and increased traffic especially in the early hours of the morning. Problems also occurring with delivery vehicles blocking access to the properties served by alley (right of way) to the rear (East) of the premises. Noise levels from the public house/disco/live bands as well as outside after closing time is identified as an existing problem that will only be exacerbated by an increase in floor space and activity.

These issues have been addressed in the case officer report and Environmental Health were consulted.

Objections also describe instances of anti-social behaviour such as;  
 -trespassing, urinating and litter on streets and private property.  
 -anti social and indecent behaviour.  
 -criminal damage to both property and vehicles.  
 -fighting inside and out of premises with police and ambulance in attendance.  
 -taxis and cars on footpath and parking on private spaces.

Anti-social behaviour outside of the premises is beyond the remit of the Department, however any possible loss of amenity due to external noise is a valid planning consideration. Access, Delivery and Parking issues have been dealt with through consultation with DFI Roads.

It has been raised that the proposal has no significant changes from I/2014/0183/F and so therefore should have the same outcome as it. The report details the design differences, and differences in car parking shortfall, as well as PAC decision which has been decided since, all of which are material considerations. The current application

must be assessed on its own merits and all planning histories are relevant in reaching a final decision.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Whilst the Council have a degree of sympathy with the residents, the PAC did not uphold the appeal on the grounds of noise and disturbance.

The roads safety and traffic issues remain the same and the Council are of the same opinion of DFI Roads and the previous PAC decision.

On balance, refusal is being recommended on roads safety grounds.

**Refusal Reasons**

1. The proposed development is contrary to PPS 3 - Access, Movement and Parking and would, if permitted, prejudice the safety and convenience of road users since provision cannot be made clear of the highway for the parking, turning, loading and unloading of vehicles which would be attracted to the site.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	2nd August 2017
<b>Date First Advertised</b>	17th August 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
Teresa and Martin Coyle 1, Church Street, Cookstown, Tyrone, Northern Ireland, BT80 8HT	
Colm McCaffrey 1, Fountain Close, Cookstown, Tyrone, Northern Ireland, BT80 8QR	
D Hoy 10 Fountain Road, Cookstown, BT80 8QF	
Esther E Hopper 11, Church Street, Cookstown, Tyrone, Northern Ireland, BT80 8HT	
Rodney Parke 12, Fountain Road, Cookstown, Tyrone, Northern Ireland, BT80 8QF	
Iris Parke 12, Fountain Road, Cookstown, Tyrone, Northern Ireland, BT80 8QF	
Rodney Parke 12, Fountain Road, Cookstown, Tyrone, Northern Ireland, BT80 8QF	
Peter Barta 13, Church Street, Cookstown, Tyrone, Northern Ireland, BT80 8HT	
Anne McKenn 15, Church Street, Cookstown, Tyrone, Northern Ireland, BT80 8HT	
The Owner/Occupier, 2 Fountain Road, Gortalowry, Cookstown, Co Tyrone BT80 8QF	
The Owner/Occupier, 2-10 Church Street Gortalowry	
The Owner/Occupier, 4 Fountain Road, Gortalowry, Cookstown, Co Tyrone BT80 8QF	
Victor Stewart 47 Church Street, Cookstown,BT80 8HT	
Edmund Slaine 56, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD	
The Owner/Occupier, 6 Fountain Road, Gortalowry, Cookstown, Co Tyrone BT80 8QF	
Ignatius Grimes 8 Fountain Road, Cookstown, Tyrone, Northern Ireland, BT80 8QF	
Ignatius Grimes 8 Fountain Road, Cookstown,BT80 8QF	
Ignatius Grimes 8 Fountain Road, Cookstown,BT80 8QF	
The Owner/Occupier, 8 Fountain Road, Gortalowry, Cookstown, Co Tyrone BT80 8QF	
The Owner/Occupier, 8, Fountain Road, Cookstown, Tyrone, Northern Ireland, BT80 8QF	

The Owner/Occupier,  
 80 Chapel Street Gortallowry Cookstown  
 The Owner/Occupier,  
 82 Chapel Street Gortallowry Cookstown  
 John McGahan  
 82 Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 John McGahan  
 82 Chapel Street, Cookstown,BT80 8QD  
 John McGahan  
 82, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 John McGahan  
 82, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 John McGahan  
 82, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 John McGahan  
 82, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 Mary McCaffrey  
 82, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 The Owner/Occupier,  
 84 Chapel Street Gortallowry Cookstown  
 Gary McCaffrey  
 84, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 Mary McCaffrey  
 84, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 M McCaffrey  
 84, Chapel Street, Cookstown, Tyrone, Northern Ireland, BT80 8QD  
 The Owner/Occupier,  
 86 Chapel Street Gortallowry Cookstown  
 The Owner/Occupier,  
 88 Chapel Street Gortallowry Cookstown  
 E A Slaine  
  
 E A Slaine  
  
 Nishie Grimes  
  
 Betty Hopper  
  
 Roisin Grimes

<b>Date of Last Neighbour Notification</b>	08.03.19
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	No

## Planning History

Ref ID: LA09/2016/1639/A

Proposal: Moving Display Sign

Address: Moes Bar, 86 Chapel Street, Cookstown,

Decision: WITHDR

Decision Date: 02.03.2017

Ref ID: LA09/2017/1027/F

Proposal: Demolition of existing porch area, relocation of existing smoking area

Address: 86 Chapel Street, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2017/0645/NMC

Proposal: Create double door access from the existing building to the smoking area

Address: Moe's Bar, Chapel Street, Cookstown,

Decision: CG

Decision Date:

Ref ID: I/2000/0364/O

Proposal: Dwelling & Garage

Address: Adjacent to 4 Fountain Close, Cookstown

Decision:

Decision Date: 07.09.2000

Ref ID: I/2010/0238/F

Proposal: Telecommunications development comprising of replacing existing 14.4m high mk2 streetworks pole with 1 no 14.8mk3 streetworks pole with 3 no vodafone and 3 no 02 antennas within shroud (relocated approximately 1m west of pole to be removed) and adding 1 no spitfire equipment cabinet and development ancillary thereto

Address: Footpath of Fountain Road approximately 15m east of junction of Fountain Road and Chapel Street Cookstown

Decision:

Decision Date: 13.08.2010

Ref ID: I/1988/0241

Proposal: EXTENSION TO SHOP

Address: 6 FOUNTAIN ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2004/0718/F

Proposal: Alterations & Extension to Existing Shop.

Address: 2 - 4 Fountain Road, Cookstown

Decision:

Decision Date: 19.02.2007

Ref ID: I/1987/0161

Proposal: PROPOSED NEW PITCHED ROOF TO SHOP

Address: 6 FOUNTAIN ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2012/0324/F

Proposal: Demolition of single storey retail unit and construction of a single storey extension to existing bar.

Address: 86, Chapel Street, Cookstown,

Decision: PR

Decision Date: 23.12.2013

Ref ID: I/2007/0500/O

Proposal: Erection of 2 No. detached dwellings max ridge height 6m from floor level to ridge level. Additional information.

Address: Land adjacent to & immediately east of No.4 Fountain Close, Cookstown (accessing onto Fountain Road via Fountain Close).

Decision:

Decision Date: 03.01.2008

Ref ID: I/1979/040401

Proposal: CONVERSION OF DWELLING HOUSE TO PUBLIC HOUSE

Address: 86 CHAPEL STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2005/0965/F

Proposal: Retention of first floor apartment dwelling and minor alterations to front of building.

Address: 86 Chapel Street, Cookstown

Decision:

Decision Date: 15.03.2007

Ref ID: I/1985/0346

Proposal: CONVERSION OF FIRST FLOOR OF PUBLIC HOUSE (FORMERLY A DWELLING)

Address: 86 CHAPEL STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1979/0404

Proposal: CONVERSION OF DWELLING HOUSE TO PUBLIC HOUSE

Address: 86 CHAPEL STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1992/0491

Proposal: Sign

Address: 86 CHAPEL STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1990/0278

Proposal: Six Illuminated Signs and Canopy Sign

Address: 86 CHAPEL STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2014/0047/PREAPP

Proposal: Extension to the existing bar at 86 Chapel Street, Cookstown

Address: 86 Chapel Street, Cookstown,

Decision: ESA

Decision Date:

Ref ID: I/2002/0192/A

Proposal: Shop sign

Address: Conway Inn, 86 Chapel Street, Cookstown

Decision:

Decision Date: 16.08.2002

Ref ID: I/2003/0499/F

Proposal: Change of use to 1st floor of building from restaurant to apartment dwelling with minor alterations to front of building

Address: 86 Chapel Street, Cookstown (1st floor)

Decision:

Decision Date: 02.01.2004

Ref ID: I/1979/0144

Proposal: CONVERSION OF GROUND FLOOR DWELLING TO TELEVISION SHOWROOM

Address: 86 CHAPEL STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1980/0290

Proposal: ERECTION OF WALL BETWEEN FOOTPATH AND LISTED BUILDINGS

Address: 88 CHAPEL STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1996/0376

Proposal: Alterations and Extensions to Shop and Flat

Address: 88 CHAPEL STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1990/0124

Proposal: Change of use from Shop to Amusement Arcade

Address: 88 CHAPEL STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1996/0410

Proposal: Alterations/Extension to Shop and Flat

Address: 88 CHAPEL STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2008/0618/F

Proposal: Telecommunications development comprising of the installation of 1 No. 12m high Streetworks pole, 3 No. Tri-sector shrouded antenna (1.9m high), 1 No. 0.3 diameter dish, 1 No. 3107 equipment cabinet and 1 No. Lucy AC Pillar

Address: Footpath adjacent to Central Electrical Supplies, Fountain Road, approximately 15m from junction of Fountain Road and Chapel Street, Cookstown

Decision:

Decision Date: 12.03.2009

Ref ID: I/2014/0193/F

Proposal: Proposed alterations and single storey extension to Moe's Bar.

Address: 86, Chapel Street, Cookstown,

Decision: AD

Decision Date:

Ref ID: I/2014/0194/A

Proposal: Digital Sign

Address: 86 Chapel Street, Cookstown,

Decision: CR

Decision Date: 10.12.2014

Ref ID: I/1975/0218

Proposal: ERECTION OF UTILITY ROOM

Address: 88 CHAPEL STREET, COOKSTOWN

Decision:

Decision Date:

**Appendix A – PAC DECISION 2015/A0057**

**PLANNING APPEALS COMMISSION**

**THE PLANNING (NORTHERN IRELAND) ACT 2011  
SECTION 58**

**Appeal by MMD Leisure LLP against the refusal of full planning permission for proposed alterations and single storey extension to Moe's Bar.**

**No. 86 Chapel Street, Cookstown.**

**Report  
by**

**Commissioner A Beggs**

**Planning Service Reference: I/2014/0193/F  
Procedure: Informal Hearing on 11 February 2016  
Report Date: 18 April 2016**



## **1.0 BACKGROUND**

1.1 The Department of the Environment (DOE) received the application on 4 June 2014 and consulted Cookstown District Council on it in October 2014 with a recommendation for refusal – the application was deferred. On 5 May 2015 the application was presented to Mid Ulster District Council with a recommendation for approval. The planning committee rejected this recommendation and a decision notice dated 6 May 2015 refused consent for the following reasons:-

1. **The proposal is contrary to DES2 of the Department's Planning Strategy for Rural Northern Ireland (PSRNI), Planning Policy Statement 1: General Principles (PPS1) and Development Control Advice Note 7: Public Houses (DCAN7) in that the proposal would if permitted unduly affect the amenity of the existing adjacent and nearby residents to the site by reason of nuisance and general disturbance.**
2. **The proposed development is contrary to Planning Policy Statement 3 – Access Movement and Parking and would, if permitted, prejudice the safety and convenience of road users since provision cannot be made clear of the highway for the parking, turning, loading and unloading of vehicles which could be attracted to the site.**

1.2 The Commission received the appeal on 26 May 2015.

## **2.0 SITE AND SURROUNDINGS**

- 2.1 The appeal site comprises two elements. Firstly, a public house comprising a mid terrace two storey building fronting onto the east side of Chapel Street, just north of that street's traffic light controlled junction with Fountain Road. This property extends back to Fountain Close, a narrow shared right of way with one point of egress and access. The Close serves a number of residential properties, including nos. 82 and 84 which front Chapel Street, and private stores as well as the rear of the public house. Three other residential properties also take access from the Close. The second element of the appeal site is a vacant commercial unit fronting onto Fountain Road.
- 2.2 The land uses in the vicinity of the junction are a mix of residential and commercial. Immediately north of the public house on Chapel Street are residential properties. The adjoining property to the south is an off licence. To the south of Fountain Road, at its junction with Chapel Street is an unused car show room and large parking area. Moving east of Fountain Close the nature of the area becomes residential.

## **3.0 PLANNING AUTHORITY'S CASE**

- 3.1 The proposal seeks to demolish the unused retail unit on Fountain Road which abuts the existing bar and replace it with an extension to the bar. As this appeal application was considered to be significantly different to the previously refused planning application, I/2012/0324/F, for the same site the Council saw no justification to refuse to consider it under the discretionary powers afforded by Section 46 of the 2011 Act.

- 3.2 The Appellant's amended plans as submitted in their Statement of Case can be accepted as material considerations under Section 59 of the 2011 Act. The proposed further amendment to make the window sizes uniform along the Fountain Road elevation would be acceptable.
- 3.3 The Committee members heard that Transport NI (TNI) had advised that there was insufficient space on site for parking and for vehicles which would serve the proposal, and that if the proposal was permitted it would prejudice the safety of road users. The Committee noted the large volume of objection and were particularly concerned about disturbance as an issue due to the close proximity of residential properties. A spokesperson for the residents spoke of the disturbance it would cause them. It was felt by them that the crowds attracted by the extension would overspill into the beer garden and cause unacceptable disturbance, further harming the amenity of the neighbours by general disturbance. Although the plans indicate approximately 18 new seats this would actually be a much greater number of patrons in reality due to the additional beer garden space. The P1c form states that there may be 50 additional patrons on a daily basis and this increase would contribute to disturbance.
- 3.4 As the planning manager noted at Committee the arguments were balanced, and Committee responded to the passionate and reasonable arguments of objectors and overturned the recommendation of approval.
- 3.5 Policy DES2 requires to be given a liberal interpretation and detrimental amenity impacts could warrant a refusal. The Council's Environmental Health Department (EHD) was aware that the Appellant's noise assessment was the same one as submitted in relation to application I/2012/0234/F. They saw no material differences between this application and the previous one and saw the assessment as sufficient to address the appeal application's plans. They had no objection to the proposal and suggested conditions as per their comments on application I/2012/0234/F.
- 3.6 The reasons for refusal should have been more precise and the second one should have specifically referred to Policy AMP 7 – *Car Parking and Servicing Arrangements* of PPS3. It is noted that the totality of the transport evidence before the Councillors were two letters from Transport NI (TNI) which did not set out the TNI calculations. The Council's Planners agreed with the Appellant's assessment that the parking requirements were like for like.
- 3.7 The TNI witness at the hearing advised that as required under Policy AMP7 they had regard to the published parking standards found in the document *Parking Standards*. The existing net floorspace of the bar is about 124 sq metres. A net floor area for the extended area of about 103sq metres was calculated and having regard to the parking standards this would lead to a requirement for 21 car parking spaces – 1 space for every 5sq m. This requirement can be reduced by 8 spaces due to the proposed demolition of the existing retail unit – its area of about 151sq metres generates a requirement for 1 parking space for every 20sq m. This leaves a shortfall of 13 spaces in the vicinity of a busy light controlled junction including Chapel Street a protected route. Vehicles parking would interfere with the free flow of traffic. .
- 3.8 The area taken into account when calculating the net floor area of the extension includes areas where alcohol can be consumed – the internal bar area, the lobby

and courtyard. The interpretation section on page 3 of *Parking Standards*, where it refers to net floorspace, refers only to net retail floorspace. TNI would take the measurement of the courtyard area up to the internal side of its exterior wall.

- 3.9 The figures in the *Parking Standards* are not made up and have been subject to public consultation. The guidance in the document takes cognisance of whether a proposal is inside or outside the settlement limit and it sets out a lower parking requirement for bars in town centres. As regards the Appellant's use of the TRICs database, it is a database used to generate figures for traffic volume. However, based on knowledge of similar types of development there are no concerns raised on this proposal's impact upon the surrounding road network. A TRICs assessment is therefore not required.
- 3.10 There are no designated drop off points for taxis and taxis stopping illegally will affect the free flow of traffic, especially where there is little car parking availability late at night due to residents being at home and using available spaces. TNI see no justification in this location to reduce the *Parking Standards*. TNI are not party to the licensing regulations and have not looked at the maximum number of people allowed under the Entertainments Licence. The proposal has been considered in terms of the plans and current planning policy and guidance.
- 3.11 In terms of delivery vehicles no designated parking areas are provided. The net floor area increase suggests that there would be 2-3 deliveries a week.

#### **Conditions**

- 3.12 As regards the Appellants' suggested condition restricting patrons to the maximum 130 allowable under the Entertainment's Licence, it is doubted whether this is workable. While the Council is a corporate body such a condition's enforcement is via the planning process which considers land use impacts, not EHD who are looking at a statutory regulatory regime.
- 3.13 Conditions are suggested to restrict delivery vehicles to no more than 4 a week between hours of 7.00 am and 19.00pm. Post completion sound tests should be conditioned to ensure noise does not exceed  $L_{Aeq}$  95dB (5 min) inside the premises, and external plant noise should be restricted to restriction to  $L_{Aeq}$  40 dB (5min). Conditions are also suggested to relation to the standard of double glazing on the Chapel Street and Fountain Street facades, and the restriction of access and egress to the front door only after 21.00 hrs.

#### **4.0 OBJECTORS' CASE**

- 4.1 The appeal application is substantially the same as an earlier refused planning application, I/2012/0324/F. The appeal application was made within two years of this refusal. The Commission should rule, under Section 46 of the 2011 Act, that the Council should have considered the appeal application as invalid.
- 4.2 The removal of the proposed side door to the courtyard area on Fountain Road and its replacement with a window is welcome and removes a number of residents' concerns. While the amendments included in the Appellant's statement of case should have been made earlier they can be accepted under Section 59 of the 2011

Act. The Appellant's further suggestion of making all the windows on this elevation the same size would be acceptable.

- 4.3 The key remaining aspects of the proposal are (1) the proposed uncovered smoking area along Fountain Road and (2) the lack of adequate car parking to cater for the intensification of the use. The average of 70 patrons should be considered the Appellant's fallback number and not the 130 allowed under the Entertainment Licence. The more patrons the more comings and goings and the more problems. The Commission should err on the side of caution and support the residents.
- 4.4 The existing public house's use rights are finely balanced with the rights of residents which are key noise receptors. Residents live only metres away. The Council rightly refused the proposal on grounds of DES2, PPS1 and DCAN7. While the Strategic Planning Policy Statement 2015 (SPPS) has replaced PPS1 it advises that the planning system has a role to play in minimising potential adverse impacts upon sensitive receptors. PSRNI Policy DES2 endorses this position. It advises that where there is an inherent incompatibility with neighbouring developments or where remedial action cannot be made effective, applications will normally be refused. Objections are grounded in paragraph 14 of DCAN 7 as the external noise and disturbance likely to be caused is difficult to resolve and the extension should only be allowed in exceptional circumstances. Other uses on Chapel Street, eg. a tanning salon and takeaway are more compatible with residential uses.
- 4.5 The volume of objection proves the current premises have a detrimental impact. This predominantly residential area outside the town centre was a pleasant place to live. Residents were aware that there would be slight social problems living next to a public house. Most problems though have arisen more recently when 'Moe' took over the premises. The proposals would only increase existing problems. Long standing and decent families (some elderly) would be forced to uproot and move to other locations rather than withstand an increase in verbal abuse from those leaving the premises; damage to cars, property and gardens; litter and smashed glass; and sleepless nights from incessant noise, people running around and shouting. Problems used to be worst just after closing time with people leaving, bins being filled, and loud music from taxis and cars. One man exposed himself to urinate in front of a grandchild. There has been frequent street fighting which has required the attendance of the PSNI and ambulances. The PSNI have had to be called to 8 incidents at the bar since May 2014 and do not have the resources to police disorder outside these premises. Current problems would make disposal of homes difficult. The bar is not run in accordance with the Local Government (Miscellaneous Provisions) (NI) Order 1985 as offences occur on a regular basis. It should be shut down.
- 4.6 One elderly resident, adjacent the public house, often has to leave to stay with friends during weekends to get rest, and the stress has made her ill health worse. She cannot have friends over at the weekend. Her son suffers from a mental illness which causes paranoia and cannot come home as it aggravates his condition. The bar has contributed to his condition. Another son who used to stay full time at home spends almost all his time away from home due to the amount of noise. The objector feels unsafe and isolated. Appeal decision 2009/A0168 demonstrates the significance given to the effect on living conditions of adjoining residents in respect of noise and disturbance.

- 4.7 The proposed smoking area is not needed as there is an existing smoking area to the front of the premises. The smoking area is essentially a beer garden, an attractive feature for public houses. It could hold 70 people and it will be used by people drinking, especially in times of good weather. As it is only partly enclosed by proposed umbrella features it is open to the air and it will create noise and nuisance as there will be no noise attenuation. The nearest residential property is 20 metres away from it.
- 4.8 The Appellant's noise assessment relates to the 2012 application, not the appeal proposal. As page 2 of the assessment indicates it is very specific to the plans as submitted – the consultants cannot accept responsibility for variation from the specification. The appeal plans show a much larger courtyard area closer to residential property. There will be more noise as a result. Nowhere did EHD advise that the application should be approved and they noted that it was unclear what the material differences were from the previous application. The typical noise levels of 75-80dB are an average. Patrons shouting loudly will break the standards and such sharp noises will wake people up. Shouting would have a noise level of 120dB. The more people the more likely noise will exceed standards set out in World Health Organisation (WHO) guidelines. This will be hell for local residents. The Appellant's noise consultant at the hearing has no measurements or calculations and is presenting new evidence. Less disturbance should be expected in an area such as this outside a town centre.
- 4.9 At present the pub frontage is only onto Chapel Street, where much of the trouble is focussed. The proposal creates a courtyard area frontage along Fountain Road and will create a brand new loss of amenity for people in the evening. As well as courtyard noise people and taxis will be encouraged down the road by the frontage. Manoeuvring and waiting taxis will cause disturbance. The presence of windows on this new frontage will only exacerbate the issue.
- 4.10 In relation to the traffic impacts, it is conceded that Policy AMP 2 of PPS3 is not relevant here. In relation to PPS3 Policy AMP7, whilst current parking arrangements may not meet current standards there is a requirement upon the applicant to satisfy current standards. The site is outside the town centre and would not benefit from any reduced allowance on that basis. This proposal is completely reliant on on-street car parking. Residents rely on these bays and while in the daytime there is ample parking, in the evening when they return home the lack of car parking will lead to illegal parking from patrons and taxi visiting the pub. The daytime parking demands for the retail use did not conflict with the after 8pm parking demands of the public house. The Appellant's transport witness has not seen the site after 8pm.
- 4.11 While no surveys have been produced, residents know the reality of the situation. They are denied access to and from their homes by inconsiderate customers, musicians and bar staff. A keep clear notice was put up but ignored by staff. Delivery lorries constantly block Fountain Close, the only access for 5 families. This is distressing and pictures of the problem are submitted. Families are ignored and compelled to wait for the blockage to be removed. Sometimes patrons of the bar do not react kindly to requests for a vehicle to be removed. On one occasion a car blocked the close and no member of staff could be found for two hours. This is a health and safety issue. In an emergency residents and emergency vehicles could

neither access nor leave the Close. There is no need for deliveries to be a problem if the Appellant co-operated.

- 4.12 When vehicles are parked in the small lay-by to the right of the Fountain Close the seriously restrict visibility in the vicinity of a busy junction. Photographs of the situation are submitted. It is common for 4 to 6 taxis to park in a line on the footpath at the front entrance to Moe's Bar in late evening at weekends. They impede the free flow of traffic. Pedestrians are denied access to use the footpath One resident's granddaughter had to jump back inside the gate to avoid a taxi driving down the footpath. She no longer feels safe entering the home through the front door. Taxis weave in and out of the traffic
- 4.13 The Council Planners in considering the parking requirement erred in ignoring the beer garden where people will congregate to drink. The lobby area also should be included in calculations. It is not a narrow corridor and people will stand in it to drink. This bar has lots of drinks promotions, it is a fast drinking pub, and as a result will have a greater patron turnover. It is questioned whether the TRICs database has any relevance to this situation.
- 4.14 As not all the information on the application was on the planning portal, due to changes between the Planning Service and the Council, objectors were unaware and unable to respond to information and to changes from the original recommendation to refuse the application. Had they been able to respond the planners may have changed their conclusion. The Committee refused the application by 14 votes to 0, with 1 abstention.

### Conditions

- 4.15 The Appellant's proposed condition restricting the maximum number of patrons to that in the Entertainment Licence would place an unrealistic burden on the Council's enforcement section and it would in turn be passed to the EHD. A question is also raised about whether it is possible to get around the number in the Entertainments Licence depending upon the nature of entertainment provided. To ensure that no future openings / alterations are made in the courtyard wall permitted development rights should be removed. This restriction should also include the wall between the internal bar area and the courtyard.

## 5.0 APPELLANT'S CASE

- 5.1 Section 46 of the 2011 is a discretionary power of the Council and the Council's decision to accept and determine the application cannot be reviewed now.
- 5.2 The statement of case includes amended plans to alleviate third party concerns by removing the side doorway from the Fountain Road elevation. Accordingly the amendment is permissible under Section 59 of the 2011 Act as it is the consequence of exceptional circumstances.
- 5.3 The scale of the proposal has been reduced from application I/2012/0324/F. The case officer's assessment was correct, as was its recommendation to approve the application in accordance with the Cookstown Area Plan 2010 (CAP) and policy and guidance. The CAP is neutral on the proposal - the site is whiteland within the

settlement limit, but outwith the town centre, and Chapel Street (A29) is identified as a protected route. Fountain Road is identified as a safe route to school.

- 5.4 PPS1 has been superseded by the SPPS which indicates that development in accordance with the development plan should be approved. The SPPS sets out a presumption in favour of development and the Council must show demonstrable harm if it is to sustain its case. The proposal would represent betterment over the existing situation. It would provide a designated and purpose built enclosed space for smokers in tandem with reducing the potential for congregating at the exposed frontage of Chapel Street where the existing smoking area is too small. This would avoid the potential for conflict with adjacent residential uses. It also removes a commercial unit that could operate without restriction with the potential for associated footfall, servicing and parking.
- 5.5 Large parts of PSRNI Policy DES2 are unlawful as they seek for proposals to make a positive contribution to the townscape. However, this is not a conservation area. Each application is to be assessed against the three main elements of land use, amenity and design. This is a long established public house in a mixed use area and its design is acceptable to the Council. In relation to amenity it is only where there is an inherently incompatibility with neighbouring developments or where remedial action cannot be made effective that applications will normally be refused. This is a robust and high hurdle to demonstrate. This is an area where general nuisance and disturbance is unavoidable.
- 5.6 Published in 1983 DCAN 7 is an old document and as guidance, sits below policy. The planners and EHD correctly considered the effects of the intensification of the existing use on the surrounding area. The modest extension will not intensify the use to the point of being detrimental. The recently renewed Entertainment Licence for the public house allows a maximum 130 people – an increase of 5 over the last Licence. This number was determined by the EHD after an inspection and is predicated on stringent regulations. This is what the public house can hold and it is a fall-back position for people attending the premises. If the Commission has any doubts on intensification of use the appellant would accept a condition limiting the maximum number of patrons on the premises (bar and courtyard) to that number. It would be inappropriate to force that number down as it comes from a statutory document. Presently an average of about 70 plus patrons would be in the public house at a time. That figure would increase for bigger events such as St Patrick's Day. The Appellant however hopes to increase patron numbers against that background average but not beyond what the Entertainment Licence allows.
- 5.7 From the reason for refusal it is evident that noise is no longer a material concern, for the Council, but rather the issue of general disturbance. The Council's planners and EHD were satisfied with the appellant's noise assessment – they were clear on the amendments from the earlier application and that the assessment was satisfactory to deal with the appeal plans. The comments on page 2 of the noise assessment are standard practice. The objectors have not presented technical evidence to challenge the assessment. This assessment has been reviewed by the Appellant's noise witness at the hearing. He has not presented new evidence, but confirmed that he has visited the site and agrees with the noise assessment. While the courtyard may be larger than in the earlier application it will not alter the sound landscape. It will still

be sheltered by proposed and existing structures from the direct line of sight from any houses. The courtyard wall would still provide a screening of about 10dB.

- 5.8 The assessment looked at a worst case scenario. In relation to the smoking area, conservative typical average levels for loud conversation and patron activity would be of the order of 75-80 dB L<sub>Aeq</sub>. The impact at property facades are calculated to be in the order of 41-46dB L<sub>Aeq</sub>. The predicted impact is similar to the existing ambient levels recorded in the vicinity of the properties. With reference to WHO guidelines and BS8233 a partially opened window will provide up to 15db attenuation. Therefore predicted noise impacts from the smoking area may be in the order of 26-31 dB L<sub>Aeq</sub>. This is below the targets presented by WHO and BS8233. There could be higher noise levels of short duration above the average noise levels, so it would require good management practice to ensure that no anti social behaviour occurs in the smoking area to ensure no excessive noise levels are generated such as singing and shouting. A level of 120dB is typical of a gunshot not shouting.
- 5.9 Events taking place outside the bar cannot be controlled by planning. The appellant is not aware of any noise complaints to the Council and no evidence of such has been presented. In relation to the litany of complaints raised by objectors, none can be linked to the premises in question. The PSNI have been called to 7 incidents at the bar since June 2014. One of the incidents referred to by the objectors was a double recording of the same incident. The last incident was in April 2015, and of these incidents it was established that one did not take place and only one occurred outside the bar.
- 5.10 As the main door is on Chapel Street, and the presence of a courtyard wall and the presence of windows would not attract people down Fountain Road. The courtyard itself is only accessible through the bar which is only accessible by patrons through the front door.
- 5.11 The PPS3 and *Parking Standards* are guidance, not statute and all criteria must be considered in the round. The Council planners correctly judged the TNI assessment to be flawed and agreed with the appellant. Policy AMP 7 requires the amount of parking to be determined on the basis of published parking standards and the characteristics of the site. The latter element allows for the general NI wide standards to be tailored to each proposal. Paragraph 5.41 of PPS3 identifies that reduced parking provision can be acceptable in locations which are highly accessible and well served by public transport, which includes many town and district centres. The document also indicates that on street car parking can be relied on. PPS3 seeks servicing from the rear of properties where practicable, recognising that historic settlement patterns can restrict this.
- 5.12 The existing net floorspace area of the pub is about 124sq m and under the *Parking Standards* it theoretically requires 25 parking spaces. The existing retail unit of about 153sq metres would theoretically require 8 spaces. That makes a total of 33 spaces. None of these spaces is currently provided, nor is it necessary under current policy. The proposed net floor area of the pub is about 165sq m when the additional internal bar area of 40sq m is included. The parking standards of 1 space for every 5 sq.m. means that it theoretically requires 33 spaces. Thus there is no change from the existing situation.

- 5.13 In terms of deliveries, the parking Standards set out a requirement for 1 lorry space for the existing retail unit and none for the pub. For the appeal proposal no lorry spaces would be required.
- 5.14 As you cannot purchase alcohol in the open courtyard it should not be included in the calculations. The licencing courts do not approve of hatching corridor or access areas such as the lobby. Page 3 of the Parking Standards while referring to supermarkets, considers that net floorspace shall be calculated by way of internal measurement to the inner face of the wall. The courtyard is all external.
- 5.15 It is not known if there is any scientific basis for the Parking Standards, and in trying to estimate a real parking calculation for a public house TRICs database was used. Parking. The database is based on information from developments in the UK and Ireland, and has been used to estimate parking demand at the appeal property on predicted arriving and departing vehicles. Assessing the existing premises as a pub the peak parking demand is 9 spaces between 20.00 and 21.00 on a Saturday. Assessing the site as a pub/restaurant enables the peak demand to be estimated at 17 spaces at the same time. An existing parking demand of between 9-17 spaces in a busy town would not seem unrealistic given the maximum permissible at a similarly sized remote village pub would be 25 spaces. In relation to the appeal proposal the TRICS assessment estimates parking demand to be between 11 and 21 spaces on a Saturday evening, an increase on the existing of 2-4 spaces. The weekday increases are very low, 1 space. Given the removal of the retail unit there would be an overall reduction in parking demand when assessed over an entire week.
- 5.16 TRICS shows that servicing demand will be low. Demand for servicing both existing uses would peak between 10 and 11 am. Two businesses means deliveries could overlap and given the proximity of the site to the A29 this could be problematic. The removal of the retail unit would remove this issue. The larger pub would require larger deliveries from the same vehicles as at present, but not more deliveries. The existing pub deliveries are lawful and not subject to control. However, the Appellant would accept conditions to restrict the number and timing of deliveries, and even a condition to restrict deliveries to via the front door only – though that is onto a protected route. Bike parking has been provided for on the plans as TNI requested, however the appellant is happy to remove it if not required.
- 5.17 The Council and objectors' evidence is weak, as they have not provided any surveys. There is no evidence of cars or taxis causing a problem from either the Council, PSNI or TNI. There is no evidence of non-compliance with the requirements of public agencies. The Appellant's transportation witness has seen only 15 cars parked on the streets and saw ample parking available at lay-bys. The site was visited during the hours of 3 to 5pm and 8pm. The area is able to cope with the limits set in the Entertainments Licence - it is a fall back that TNI must have regard to. Blue light services can ask for obstructions to be moved and the Appellant has been reminded of the importance of keeping the Close clear.
- 5.18 Appeal decision 2007/A0545 indicates that anti-social behaviour is a matter controlled by separate legislation which is entirely enforceable.

### Conditions

- 5.19 It is inconceivable that the Council as a corporate body could not enforce a condition restricting the maximum number of patrons. It is a condition relevant to planning. Conditions on numbers were judged appropriate for the Casement Park Stadium. The Council's potential enforcement notices and stop notices are as least as stringent as the Entertainment's Licence regime. An extension would require a new or amended licence. The Licence operates even when piped music is on.
- 5.20 In relation to other conditions delivery restrictions from 9.30am to 7pm would be acceptable. This avoids the am peak hours. The suggested sound test should have timescales and implementation clauses. The windows on Fountain Road could be opaque, but their removal would not be aesthetically appropriate. Conditions should allow for emergency and delivery use of the Fountain Close entrance. The suggested removal of PD rights from the Fountain Road elevation is acceptable, but there is no reason to remove the right to make alterations to the wall between the courtyard and the internal bar area.

## 6.0 CONSIDERATION

- 6.1 The powers under Section 46 of the 2011 Act are discretionary powers of the Council which the Commission has no locus to review. The Appellant's proposed amended plans remove an area of contention, are material to the appeal, and raise no new issues. As there is no prejudice to other potentially interested parties they are considered in this appeal.
- 6.2 The main issues in this appeal are residential amenity and traffic impacts. The issue of information not being posted on the planning portal is a matter to be raised with the planning authority.
- 6.3 The CAP contains no policies relevant to this appeal. The SPPS has replaced PPS1, and it indicates that sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
- 6.4 While the Council's first reason for refusal refers to 'nuisance and general disturbance' these are broad terms encompassing noise. It is in any event an issue discussed at the hearing.
- 6.5 As regards PSRNI Policy DES2 this is an existing public house use in a mixed use area. The extension would not alter the land use character of the area. The design concerns raised essentially relate to potential amenity impacts rather than intrinsic design matters. In reading the DES2 paragraph on amenity its second sentence states that where there is an inherent incompatibility with neighbouring developments, or (my emphasis) where remedial action cannot be made effective, applications will normally be refused. Given this, and in reading the paragraph as a whole DES2 requires the decision maker to weigh amenity impacts and consider if they are acceptable or not.
- 6.6 The guidance in DCAN 7 is over 30 years old, but it remains a material consideration. It acknowledges that public houses can be a source of annoyance

due to problems of noise and disturbance and that public houses will only be acceptable in exceptional circumstances when located in a noise sensitive situation, for example opposite or adjacent residential property. Notwithstanding the number and proximity of residential uses the appeal site's context is that of an existing public house in a mixed use area at a busy junction. This is not a noise sensitive location and it is an area where a degree of disturbance is inevitable.

- 6.7 The maximum number of patrons allowed by the Entertainment Licence is acknowledged and it seems that on occasions that number can be close to being reached. While the figure was referred to as a fallback, presently the average number attending the premises is fewer than this, and the purpose of the extension is to encourage more patrons. Inevitably there would be increased attendance at, and increased comings and goings from the premises.
- 6.8 The proposed open courtyard smoking area is of a design that would allow it to function as a beer garden. It will therefore be a new source of noise along Fountain Road, different in character to the existing noise environment dominated by traffic noise. However, given the nature of the proposed walls and structures between the courtyard and residential property there is no persuasive reason to suggest that the Appellant's noise assessment does not hold true for the appeal plans. There is also no technical evidence to contest the assessment that potential noise impact will be similar to the existing ambient noise levels recorded in the vicinity. From visiting the site on a Saturday night, 9.15pm to 12 midnight, noise from the existing smoking area to the front of the public house, with its open railings, was even at its loudest not audible from Fountain Road until near to Chapel Street. It was noted that the loud conversation generated by youths attending a house at Fountain Road were clearly audible over some distance when they were outside and in front of that house. However, when they were to the side of the house the conversation was only audible when coming close to the front of the house. Average noise levels from the courtyard are therefore unlikely to cause a problem for residents in this environment dominated by road noise coming from the busy Fountain Road and the nearby junction. Shouting and singing however could create excessive noise levels and even with good management there will be occurrences of this. However, with appropriate management it is unlikely to be at a level to justify refusal of the application.
- 6.9 There is no direct medical evidence to indicate that the public house is causing health problems for some residents. Also, given the location not all the incidents experienced by residents are likely to be down to patrons of the appeal property. During my night-time visit many of the people walking down Fountain Road were neither going to or from the public house. The nosiest and most disturbing episodes came from youths with no connection to the public house. Nevertheless, objectors' evidence that patrons have caused problems cannot just be set aside. While it can be argued that, for example, external disturbances are matters for the PSNI the potential for such disturbances remain a consideration. The proposed removal of the not unattractive smoking area at the front door will reduce the potential for disturbance there, but overall the increased patronage of the pub is unlikely to reduce the potential for problems. All-in-all however, there is insufficient evidence to conclude that the additional patronage would cause a significant adverse increase in anti-social behaviour along Chapel Street where the front entrance to the pub is situated. In relation to Fountain Road and Fountain Close the presence of a pub frontage, even without an entrance, would be likely to encourage some activity in this

direction. However, given the overall juxtaposition with residential properties here it is unlikely to be a significant issue.

- 6.10 The first reason for refusal is not sustained.
- 6.11 In relation to the second reason for refusal, Policy AMP7, as the area is not an area of parking restraint the precise amount of car parking must be determined according to the characteristics of the development and its location having regard to the published parking standards which accompanied PPS3's publication.
- 6.12 In considering the supplementary guidance in the *Parking Standards* document the existing net floor area of the public house would require a standard of 25 spaces. There is no parking provision at the property presently. In considering the proposed extension to the premises the area between the lobby and the office means it would effectively be an access area rather than an area of congregation. It can be excluded from the calculations. As regards the courtyard, the interpretation at page 2 of the *Parking Standards* relates to retail areas and is of little assistance here. The courtyard area of 56.5 sq m would be an area in which to consume drink and would in effect be an extension of the bar. It is logical to take it into account in considering any parking requirement. The Appellant noted that the net area of the existing pub excluded the bar counter area. On the same basis the proposed extended bar area would be about 30sq m. The additional area to be considered is therefore about 86.5 sq m. This would require a standard of 18 parking spaces, of which the 8 spaces required for the retail unit to be demolished can be taken. This leaves an overall requirement of 10 spaces for the new extension.
- 6.13 It is borne in mind that the TRICS database is a standard method for measuring the likely trips generated by developments and are commonly used to understand the impact of proposals on the road and public transport network. However, despite the Appellant's TRICS assessment I am not persuaded this methodology has much significance in considering the parking requirement for something like the appeal proposal, or that it reduces the weight to be given to the *Parking Standards*.
- 6.14 Policy AMP 7 identifies circumstances where a reduced level of car parking may be acceptable. In this case while not in a town centre the area is in a relatively accessible location by vehicle, bike and by foot. There is however no evidence of the nature or timings of public transport before the appeal. In terms of paragraph 5.43 of PPS3 the proposal and the existing premises are not small scale development relying on using on-street parking for a proportion of their parking provision. They are entirely dependent upon on-street parking provision. The Appellant supplied a plan showing the extent of on street car parking in the area, and during my night time visit most of the parking identified remained available for parking. However, the available parking bays along Fountain Road were largely used. A number of these spaces were being used by patrons of the bar and patrons were being dropped off and picked up along Fountain Road close to the junction. Occasionally this occurred at the access to Fountain Close, but only for limited times. Where no spaces were available vehicles were seen to turn around and drive off back in the direction of the junction. On occasion vehicles waiting for people leaving the public house parked right at the junction on the Fountain Road footpath beside the off-liscence and others executed turns (including) three point turns relatively close to the junction when leaving a parking space. At one time a parked vehicle at the

back door of the public house meant a car accessing another property in Fountain Close had to drive carefully to get past, but it was not blocked and the attended parked vehicle moved soon thereafter.

- 6.15 On Chapel Street the area of on street parking beside and closest to the public house was also relatively well used after 10pm. Part of this usage was down to patrons, and the area was also used as a drop off / pick up point for the premises. At this point taxis drove up onto the wide footpath (a footpath / cycle path) and drove along it past front gates right up to the entrance of the public house. A queue of taxis was then seen to form back along the footpath parallel to the vehicles on the on-street parking. At one point 7 taxis were seen queuing on the footpath. The taxis when departing the appeal premises then have to leave the footpath at the controlled junction. On one occasion as a taxi tried to leave the queue through a space left by cars in the on-street parking another vehicle tried to park in the same on-street space. There remained at all times plenty of on-street parking outside of the areas referred to above, but patrons did not appear to use these areas for parking to any significant extent.
- 6.16 The above observations suggest a particularly localised parking demand generated by the appeal property at the busy Chapel Street / Fountain Road junction. They also back up the concerns of objectors as to the behaviour of taxis on Chapel Street. While there is no evidence of complaint from statutory agencies, with no parking provision the appeal proposal is likely to exacerbate the situation to the detriment of the safety and convenience of road users. Overall there is no reason to set aside the provisions set out in the *Parking Standards*.
- 6.17 In terms of deliveries to the site more will be delivered to the site, but the number of deliveries is unlikely to increase beyond the existing. The removal of the retail unit will remove any possible overlap with deliveries to that premises. On that basis the situation for residents of Fountain Close would not alter.
- 6.18 The second reason for refusal is sustained insofar as is set out above.

## **7.0 RECOMMENDATION**

- 7.1 I recommend to the Commission that the appeal be dismissed and full planning permission be refused.
- 7.2 This recommendation relates to the following plans stamped refused by the planning authority on the 6 May 2015:

<u>Plan Auth Ref:</u>	<u>Scale:</u>	<u>Dwg. No:</u>	<u>Title</u>
01	1:1250	01	Location Plan
02	1:1250	01-01	Site Survey
03	1:100	02-01	Existing Plans & Elevations

And the following plan received by the PAC on 18 February 2016:

<u>Scale</u>	<u>Dwg. No:</u>	<u>Title</u>
1:100	02-02 Rev D	Proposed Plan and Elevation

2015/A0057

List of Appearances

Planning Authority:	Mr Bowman, Mid Ulster District Council, Planning Ms McCullough, Mid Ulster District Council, Planning Mr Hackett, Transport NI Ms McNally, Mid Ulster District Council, Solicitor
Appellant:	Mr Beattie QC, instructed by TLT Solicitors Mr Bell, Clyde Shanks Mr Agus, MRA Partnership Mr Ryan, TLT Solicitors Mr Carr, Marshall Day Ms Jackson, Clyde Shanks
Third Parties:	Mr S McGahan, Mc Kinty and Wright Solicitors on behalf of Mr J McGahan of no. 82 Chapel Street. Mr McCaffery, no. 1 Fountain Close

List of Documents

Department:-	"A" Statement of Case
Appellant:-	"B" Statement of Case & associated appendices. "B1" Entertainment Licence
Third Parties:-	"C" Statement of Case and appendices submitted on behalf of Mr J McGahan "D" Statement of Case – Mr Grimes "E" Statement of Case – Ms Hopper "F" Statement of Case – Mr G McCaffery "G" Statement of Case – Ms M McCaffrey "H" Statement of Case – Mr McCrea MLA "I" Statement of Case – Mr C McCaffrey "J" Statement of Case – Mr McKenna





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> LA09/2018/0248/F	<b>Target Date:</b>
<b>Proposal:</b> Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment.	<b>Location:</b> 116 Deerpark Road Toomebridge BT41 3SS.
<b>Referral Route:</b> Objections received	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> SOC Trailers Ltd 116 Deerpark Road Toomebridge BT45 3SS	<b>Agent Name and Address:</b> Vision Design 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

committee doc

[Redacted]

2018/19

## Case Officer Report

### Site Location Plan



#### **Consultations:**

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

Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and siQnatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b> Approval recommended  Objections received from owner/occupier of No 114b & 114c Deerpark Road.		
<b>Characteristics of the Site and Area</b>  This application relates to SOC Trailers site located at 116 Deerpark Road, Toomebridge. The proposal includes new extension to an existing workshop on site, roof infill to part of the existing yard and additional ventilation stacks. The proposal site has a long established industrial use.		
<b>Description of Proposal</b>  Full application for Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment.		
<b>Planning Assessment of Policy and Other Material Considerations</b>  I have assessed this proposal under the following:  SPSS Magherafelt Area Plan 2015 Planning Policy Statement 3 - Access, Movement and Parking Planning Policy Statement 4 - Planning and Economic Development Planning Policy Statement 21 - Sustainable Development in the Countryside  The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.  Consultees: - Environmental Health were asked to comment and responded on 21.06.2019 following the consideration of the submitted acoustics report and all necessary information. Within their response they have advised that post development noise monitoring be included. (An acoustic report was submitted 20.02.2019).		

NI Water were asked to comment and responded on 17.09.2018 with no objections subject to informatics.

DfI were asked to comment and responded on 09.04.2019 offering no objection to the proposal based on the information provided (A TAF was submitted with the proposal dated 14.03.2019)

**Neighbours:** Owners/Occupiers of Nos 8, 9, 10, 12 & 14 Aughrim Lane were notified of the proposal on 12.09.2018, Owners/Occupiers of Nos. 112, 114 and 114a Deerpark Road were notified of the proposal on 12.09.2018 and Nos 114b & 114c were notified on 21.03.2019.

In line with legislation this proposal was advertised in the local press on 08.03.2018

#### Objections received:

Objections have been received from D & MJ Scullion dated 28.03.2019 and 18.04.2019. The main points raised within these are:

- concerns over the date he was neighbour notified
- concerns over the 'already congested' site
- referred to past development on site which no land owners were notified about
- concerned further development on site will add more pressure on the 'totally inadequate' waste water disposal arrangements
- refers to flooding already occurring.

Having considered the points raised I would comment that the neighbour notification was carried out following ongoing discussions with Mid Ulster District Enforcement team who have an ongoing complaint from this objector regarding SOC Trailers.

Following a site visit I would be of the opinion that this proposal is not considered as over development on the site and is an acceptable proposal for this established site.

I will not be commenting on neighbour notifications of previous applications.

According to submitted information surface water created will be disposed of via existing soakaway and foul sewage will be disposed with via a septic tank. In addition NI Water and Environmental Health were both consulted on the proposal and neither have identified any issues.

Following consultation with the Rivers Agency flood maps it does not appear that the proposal site is within a recognised flood zone.

Whilst it should be noted that the works described under this proposal are retrospective it should be mentioned that upon submission of the application originally the works were only partially completed and as such the description at that time was considered acceptable and not misleading to any parties. It is noted that the objector is aware that the development is retrospective.

According to policy the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the area and there is no major increase in the site area of the enterprise. The proposal complies with this provision of Policy PED 3 of Planning Policy Statement 4 (Planning and Economic Development).

It is my consideration that the proposal does indeed respect the scale, design and materials of the original building(s) on the site. This is not considered as a major expansion proposal.

In addition the criteria of PED 9 of PPS4 should also be taken into consideration, whereby it states that the proposal should be compatible with surrounding land uses, should not harm the amenities of nearby residents, should not adversely affect features of the natural or built heritage ; should not be located in an area at flood risk or cause or exacerbate flooding. The proposal should not create a noise nuisance, be capable of dealing satisfactorily with any emission or effluent and the existing road network should be able to safely handle any extra vehicular traffic the proposal will generate. In addition adequate access arrangements, parking and manoeuvring areas should be provided along with a movement pattern and appropriate

boundary treatment and means of enclosure provided. The proposal should also be designed to deter crime and promote personal safety and there should be satisfactory measures to assist integration into the landscape.

An established industrial business exists at the site and the character of the area is mix of industry and residential properties. It is considered in the context of the area that the development proposed is acceptable and will not detract from the existing character of the area and will be visually acceptable. Having considered all of the points raised by the objections it is my consideration that this proposal will not harm the amenities of neighbouring residents, that all necessary consultees have been asked to comment and none have proposed any objections to the proposal thus with the use of appropriate conditions and informatics I feel an approval should be granted.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval 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. Following completion of this development and within 3 months of the opening of the A6 dual carriageway, the applicant shall provide a noise impact assessment in writing in accordance with BS4142: Methods for Rating and Assessing Industrial and Commercial Noise detailing background noise levels for noise sensitive receptors situated around the factory site.

Reason: To protect nearby residential amenity.

3. Within 8 weeks of a written request by Mid Ulster District Council Planning Department, following a reasonable noise complaint, the applicant shall, at their expense, employ a suitably qualified and competent person to assess and report the level of noise emissions from the site and their impact at the complainant's property. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: To protect nearby residential amenity.

4. If either report submitted, as per condition 1 or 2, indicates that noise levels from the development exceed background noise levels by more than 5 dB or impact residential amenity, then a scheme outlining corrective action with proposed timescales for their implementation shall be agreed in writing with Mid Ulster District Council Planning Department.

Reason: To protect nearby residential amenity.

**Informatics**

1. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or waterline@niwater.com, upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.

Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp)

All services within the development should be laid underground.

None of the development hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans.

None of the development shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.

Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	22nd February 2018
<b>Date First Advertised</b>	8th March 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 10 Aughrim Lane Toome Londonderry	
The Owner/Occupier, 112 Deerpark Road Toomebridge Toome	
The Owner/Occupier, 114 Deerpark Road Toomebridge Toome	
D Scullion and MG Scullion 1148 - 114C Deerpark Road, Toomebridge, BT41 3SS	
D and MJ Scullion 114B-114C Deerpark Road, Toomebridge, BT41 3SS	
The Owner/Occupier, 114a Deerpark Road Toomebridge	
The Owner/Occupier, 114b Deerpark Road	
The Owner/Occupier, 114c Deerpark Road	
The Owner/Occupier, 12 Aughrim Lane Toomebridge Toome	
The Owner/Occupier, 14 Aughrim Lane Toomebridge Toome	
The Owner/Occupier, 8 Aughrim Lane Toome Londonderry	
The Owner/Occupier, 9 Aughrim Lane Toomebridge Toome	
The Owner/Occupier, Anahorish Primary School 120 Deerpark Road Toome	
<b>Date of Last Neighbour Notification</b>	12th September 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

## Planning History

Ref ID: LA09/2018/0248/F

Proposal: Development to existing industrial and manufacturing workshops. New extension to an existing workshop to provide additional manufacturing lines. Roof infill to existing yard to provide additional onsite storage for goods. Additional ventilation stacks and associated equipment.

Address: 116 Deerpark Road, Toomebridge, BT41 3SS.,

Decision:

Decision Date:

Ref ID: LA09/2015/0903/F

Proposal: Retrospective planning for a light industrial shed

Address: 116 Deerpark Road, Toomebridge, BT41 3SS,

Decision: PG

Decision Date: 13.05.2016

Ref ID: H/2005/0163/F

Proposal: Extension to existing factory

Address: 116 Deerpark Road, Toomebridge

Decision:

Decision Date: 08.08.2006

Ref ID: H/2003/0168/F

Proposal: Proposed canopy between existing buildings.

Address: 116 Deerpark Road, Toomebridge.

Decision:

Decision Date: 08.10.2003

Ref ID: H/1994/0484

Proposal: EXTENSION TO FACTORY

Address: 116 DEERPARK ROAD BELLAGHY

Decision:

Decision Date:

Ref ID: H/1990/0087

Proposal: EXTENSION TO FACTORY

Address: DEERPARK ROAD BELLAGHY

Decision:

Decision Date:

Ref ID: H/2003/0930/0

Proposal: Site of extension to workshop.

Address: To the rear of 116 Deerpark Road, Toomebridge.

Decision:

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Decision Date: 18.04.2004

Ref ID: H/2007/0319/RM

Proposal: Retrospective extension to existing workshop.

Address: Land to the rear of SOC Trailers, 116 Deerpark Road, Toomebridge

Decision:

Decision Date: 18.08.2009

Ref ID: H/2004/1303/F

Proposal: Excavation & Levelling Of Land As Enablement Works For Future Extension To Factory.

Address: 116 Deerpark Road, Toomebridge

Decision:

Decision Date: 08.08.2006

Ref ID: H/1991/6158

Proposal: EXTENSION TO WORKSHOP DEERPARK ROAD TOOMEBRIDGE

Address: DEERPARK ROAD

Decision:

Decision Date:

Ref ID: H/1997/0281

Proposal: COVERED AREA BETWEEN STORAGE UNIT AND FABRICATION BUILDING(RETROSPECTIVE)

Address: 116 DEERPARK ROAD BELLAGHY

Decision:

Decision Date:

Ref ID: H/1994/6062

Proposal: EXT TO EXISTING FACTORY DEERPARK ROAD BELLAGHY

Address: DEERPARK ROAD BELLAGHY

Decision:

Decision Date:

Ref ID: H/1995/0224

Proposal: CHANGE OF USE FROM AGRICULTURE LAND TO STORAGE AREA FOR FINISHED TRAILERS PLUS THE ERECTION OF AN 2600MM HIGH BLOCK WALL ALONG WESTERN BOUNDARY, AND 2500MM STEEL POST AND CHAIN LINK FENCE TO THE OTHER BOUNDARIES

Address: 116 DEERPARK ROAD BELLAGHY

Decision:

Decision Date:

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Ref ID: H/1994/0572

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Proposal: CHANGE OF USE FROM AGRICULTURE LAND TO TEMPORARY  
STORAGE  
AREA AND TEMPORARY ACCESS  
Address: 116 DEERPARK ROAD BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/1995/0026  
Proposal: SECOND FLOOR EXTENSION TO OFFICES  
Address: 116 DEERPARK ROAD BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/1989/0423  
Proposal: STORE.WORKSHOP AND EXTENSION TO FACTORY  
Address: DEERPARK ROAD BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/1981/0394  
Proposal: FACTORY  
Address: DEERPARK ROAD, BELLAGHY  
Decision:  
Decision Date:

Ref ID: H/1988/0094  
Proposal: FACTORY  
Address: ADJ TO 118 DEERPARK ROAD BELLAGHY  
Decision:  
Decision Date:

Ref ID: LA09/2016/0587/F  
Proposal: Proposed Extension to existing light industrial shed to provide welding training area  
Address: 116 Deer Park Road, Toomebridge, BT41 3SS,  
Decision: PG  
Decision Date: 05.08.2016

Ref ID: H/2013/0336/F  
Proposal: Extension to existing roof extract flues and erection of 5 support structures  
Address: 116 Deer Park Road, Toomebridge,  
Decision: PG  
Decision Date: 13.02.2014

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Ref ID: H/2013/0060/F  
Proposal: Proposed paint store  
Address: 116 Deerpark Road, Toomebridge  
Decision: PG  
Decision Date: 20.05.2013

Ref ID: H/2014/0099/F  
Proposal: Proposed training room facilities.  
Address: 116 Deerpark Road, Toomebridge,  
Decision: PG  
Decision Date: 18.08.2014

Ref ID: H/2012/0177/F  
Proposal: Proposed creation of a new access from the Deerpark Road and oneway system for HGVS.  
Address: 116 Deerpark Road, Toomebridge  
Decision: WITHDR  
Decision Date: 04.09.2012

Ref ID: H/2013/0469/F  
Proposal: Proposed training room facilities  
Address: 118 Deerpark Road, Toomebridge, BT41 3SS,  
Decision: PG  
Decision Date: 28.02.2014

#### **Summary of Consultee Responses**

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

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Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Existing Plans

Status: Submitted

Drawing No. 03/1

Type: Existing Plans

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 05

Type: Proposed Plans

Status: Submitted

Drawing No. 06

Type: Existing Plans

Status: Submitted

Drawing No. 07

Type: Existing Plans

Status: Submitted

Drawing No. 08

Type: Proposed Plans

Status: Submitted

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**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> LA09/2018/0765/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> To the rear of 13 Fairhill Road Cookstown.
<b>Referral Route:</b> Refusal.	
<b>Recommendation:</b> Refusal	
<b>Applicant Name and Address:</b> Mr Paul Quinn 13 Fairhill Road Cookstown	<b>Agent Name and Address:</b> Don Sonner 26a St Jeans Cottages Cookstown BT80 8DQ
<b>Executive Summary:</b> Backland development contrary to PPS7	
<b>Signature(s):</b> M.Bowman	

## 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

### Representations:

Letters of Support	1
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

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

Proposal to site a dwelling and domestic garage in the rear portion of an elevated long rear garden plot in the middle of a long established row of semi-detached 2st dwellings located from No .1 to No 27 Fairhill Road, Cookstown.

This rear garden area associated with No 13 is slightly wider than neighbouring garden areas but of a similar depth. Adjoining private gardens largely separated by low neat hedging with evidence of some use of neighbouring gardens at their northern-most part also.

Means of access will be via side entrance with existing s/s garage to be removed to facilitate new driveway to dwelling which tightly follows the western boundary of the garden.

### **Description of Proposal**

Proposed dwelling and garage

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

This is classic backland development within an urban context. Such development always requires very careful analysis of matters primarily relating to neighbouring amenity and townscape character.

There have been no objections raised by Consultees to the proposal.

Neighbouring objections have been received and I regard the following to be the main policy and other material considerations:

As an initial starting point I can confirm that, without prejudice, the scheme was amended to depart from its original 2st proposal with an amended site plan also being sought, without prejudice, to determine how far removed from neighbouring private gardens any dwelling and its curtilage could be located.

The 2010 Cookstown Area Plan in Policy SETT 1 gives favourable consideration to development proposal within settlement limits. A number of criteria qualify this assurance including detrimental effect on amenity, development being sensitive to the size and character of the settlement in terms of scale, form design etc. Development proposal are required to be designed and implemented in accordance with prevailing regional planning policies. I will therefore further examine the proposed development in light of these policies.

SPPS

### Housing in Settlements

Par 6.133. of the SPPS states, Good quality housing is a fundamental human need that plays a significant role in shaping our lives and our communities. A home is a vital part of people's lives and contributes to creating a safe, healthy and prosperous society. The planning system can play a positive and supporting role in the delivery of homes to meet the full range of housing needs of society, within the wider framework of sustainable development.

### Regional Strategic Policy

6.136 The policy approach must be to facilitate an adequate and available supply of quality housing to meet the needs of everyone; promote more sustainable housing development within existing urban areas; and the provision of mixed housing development with homes in a range of sizes and tenures. This approach to housing will support the need to maximise the use of existing infrastructure and services, and the creation of more balanced sustainable communities.

There is clearly a presumption in favour of the principle of the proposed development, albeit in its single unit form.

PPS7

1.4 The promotion of more housing in urban areas should not be allowed to result in town cramming or damage to areas of distinctive townscape character. In established residential areas the overriding objective will be to avoid any significant erosion of the local character and the environmental quality, amenity and privacy enjoyed by existing residents.

### **Policy QD 1 Quality in New Residential Development**

Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas.

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 areas;
- (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;
- (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;
- (d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;
- (e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;
- (f) adequate and appropriate provision is made for parking;
- (g) the design of the development draws upon the best local traditions of form, materials and detailing;
- (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; and
- (i) the development is designed to deter crime and promote personal safety. Any proposal for residential development which fails to produce an appropriate quality of design will not be permitted, even on land identified for residential use in a development plan.

The proposal, representing a form of tandem development can be argued as being out of keeping with the surrounding context, albeit the degree of public interest gives the sites relatively remote location to the rear of all the dwellings on Fairhill is acknowledged. There is therefore some concerns that Criteria a of QD1 is not met.

I have commented further below on the potential for the proposal to impact upon neighbouring amenity and in that regard criteria (h) is not met.

## Addendum to PPS7

### **Policy LC 1 Protecting Local Character, Environmental Quality and Residential Amenity**

In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

- (a) the proposed density1 is not significantly higher than that found in the established residential area;

- (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and
- (c) all dwelling units and apartments are built to a size not less than those set out in

For a residential development scheme to be successful, the following issues will need to be fully considered:

- i. the extent of the surrounding area and the relevant development plan context;
- ii. context of site and surroundings, including:
  - existing densities and layouts;
  - plot sizes;
  - ratios of built form to garden area;
  - spacing between buildings;
  - scale, height, and massing of buildings;
  - architectural styles and materials;
  - landscaping and boundary treatments;
  - and • potential impacts on non-residential uses e.g. schools, open space, etc.
- iii. the potential impacts of proposals on the street scene including main views, distance from boundaries of adjoining properties, overlooking, loss of light, overshadowing, refuse and recycling storage, noise or other general disturbance;
- iv. the impact of parking provision on street scene, and the ratio of hard landscaping to soft landscaping / garden areas; and where appropriate,
- v. the size, form, function and existing character of villages and smaller settlements.

#### Policy DES2 (PSRNI)

**To require development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.**

#### Development

The physical appearance of new development will have an effect on the townscape of a settlement now and in the future. It should therefore be of sufficient quality to make a positive contribution to the townscape.

A new development will normally be required to be appropriate in use and sensitive in siting, scale, layout, design and materials both in itself and in relation to adjoining buildings, spaces and views. The main concern is to ensure that development proposals neither conflict with or detract from the character, amenity and design of an area.

#### Amenity

New development should provide reasonable standards of amenity both in terms of the environment which the development creates and in terms of the effect it has on neighbouring properties. Where there is an inherent incompatibility with neighbouring developments, or where remedial action cannot be made effective, applications will normally be refused.

#### Housing

Proposals for large residential developments are unsuitable in rural settlements and should be broken down into small discrete and separate areas. Layout designs will have to take account of "traffic calming" techniques where the requirements of the car will be

subordinate to those of the residents. Further guidance is given in the Department's Design Guide for the Layout of Housing Roads.

Houses with large back gardens are a common feature in many towns and villages. Sometimes it may be acceptable to develop back gardens for new housing provided it is in keeping with the character and quality of the local environment. Where development of back gardens or back land is considered acceptable, it will be subject to strict planning criteria defined in the development plan. There must be a proper means of access, convenient and safe for drivers and pedestrians, and adequate provision for car parking.

**'Tandem" development, consisting of one house immediately behind another and sharing the same access, is generally unsatisfactory because of the difficulties of access to the house at the back and the disturbance and lack of privacy suffered by the house at the front.**

Having visited the location to assess the proposals impacts on townscape and amenity I have reached the following conclusions.

Clearly the initial submission, seeking permission for a full 2st dwelling, was never going to be acceptable here given the above policy guidance and inability to avoid any detrimental impact on neighbouring privacy given the very close relationship between the garden and rear gardens of Nos 11 and 15 in particular. What is notable is the relative lack of any public perception beyond the front of No 13 that a new dwelling would have any presence or otherwise detract from any sense of townscape. To that extent I accept that, whilst the pattern of development is alien to this particular row of dwellings as a result of tandem development, its overall measurable harm on the street scene is minimal. Of course permitting the development could lead to a demand for other similar types of backland / tandem development once an initial first application is granted elsewhere to the rear of Fairhill , this in time leading to a potential change to the overall character of the residential area.

I did invite an amended site plan, without prejudice to any future outcome of the application, to assess how far removed development could be sited from adjoining properties. One must also be mindful of the need to impose a vehicular access to the rear of the garden, the general comings and goings associated with a normal family dwelling and how this all can have a detrimental impact on neighbouring amenity. It was also pointed out that the proposal still referred to a 2st dwelling, again this was amended to allow me to assess the impacts of a bungalow / chalet type dwelling.

It appears evident from my site visit, and the content of objections, that despite choosing to the development the northern-most portion of the garden, that neighbouring garden areas are also used at this extremities well away from the immediate rear of adjoining properties. This must be given consideration in assessing the weight afforded to the usability of these areas and the likelihood of a loss of privacy to these areas. Whilst garden boundaries are established by vegetation, there are notable gaps.

Whilst an on-line comment of support has been received from No 11 Fairhill which simply states 'support this application', in re-notifying adjoining properties of these changes 2 written objections were received from the occupants of No 15 Fairhill which I have summarised as follows:

1. That a 2st dwelling and garage will have a detrimental impact on our quality of life
2. The proposal is completely out of keeping with surrounding street pattern, context and character of the area.
3. The proposal is an unneighbourly development which will overbear adjoining property
4. Our garden is at a lower elevation and will be towered over by the proposal.
5. Impact on a large horse chestnut tree, drainage and ground stability.

Following the amendment to remove references to a 2st dwelling a further letter was received setting out the following concerns:

1. The proposal remains contrary to PPS7 in terms of character, enjoyment of privacy, no other dwellings have driveways constructed into their back gardens, the development will be loss of seclusion.
2. We've had 28 years of an expectation that our rear garden would remain quiet and private
3. Even not if 2st, a dwelling will sit elevated with garage and driveway running horizontally along the full length of the back garden. PPS7 also warns against this.
4. The existing laurel hedge has been maintained by us for 28 years. This isn't a thick coniferous hedge which would offer more privacy. Traffic moving along the hedge would be an unthinkable prospect invading our privacy.
5. We've enjoyed an orchard for 28 years in the back section of our garden.
6. Dormer windows will look into our backyard and kitchen window
7. Light pollution from new driveway and traffic fumes.
8. The scale of any excavation will have a catastrophic effect on the 50 year old horse chestnut tree which is on the boundary. This itself promotes biodiversity and enriches our environment.

Mr Quinn, the applicant, has responded to the above concerns as follows on the 6<sup>th</sup> Aug 2019.

The objector has mentioned a few points;

- 1) The chestnut tree. The tree is located on his land and below the ground level of our garden and therefore any development of the lands should not affect the tree nor the roots system and can easily be avoided.
- 2) Privacy and quiet enjoyment. There is ample vegetation for both parties to ensure that privacy is not affected. Screening can easily be increased if necessary to provide additional privacy for both parties. Only one family has access/use of our garden and this will continue to be the case in the event of a successful application. As the property at number 13 will not have any garden.
- 3) Back land development in Cookstown and other towns is very common. I can send you a list of addresses of this type of development if required, however you should be able to verify this from your records.

In considering the above matters I have already expressed concerns about the form, character of the development and in particular about the potential impact on privacy and other neighbouring amenity impacts. I have also agreed that boundary vegetation is not overly strong to an extent that would screen neighbouring garden areas from view. I do not accept that roof dormers would however directly look into liveable/ occupied rooms of adjoining property. In relation to the potential for tree damage, this could be further examined were there a recommendation to approve, but I do attach some weight to Mr Quinn's comments in relation to this matter. Mr Quinn's offer to provide more screening, whilst often a means suggested to overcome either poor integration or address privacy, whilst acknowledged, cannot in the short term satisfactorily deal with an otherwise poor level of existing hedge boundary. I also accept Mr Quinn's point in relation to other examples of this backland type of development in the town and agree on this. I have however looked at the particular localised residential of this area and have observed that the proposed development would be out of keeping with this residential area.

Having given very careful consideration to a number of options in developing the rear of No 13 Fairhill I have on balance concluded that a dwelling would be out of keeping with the established residential context of the surrounding area and further, be detrimental to the levels of amenity currently enjoyed by adjoining property by way of loss of privacy and general disturbance.

**Summary of Recommendation: Refusal.****Reason for Refusal:**

1. The proposal is contrary to the Cookstown Area Plan, the SPPS, Policy QD1 of PPS7 and Policy LC1 of the Addendum to PPS7 as well as Policy DES2 of the PSRNI in that if approved it would create a form of tandem residential development out of keeping with the established character of the immediate area therefore also impacting detrimentally on the amenity currently enjoyed by neighbouring property by way of loss of privacy, overbearing effects and general disturbance.

**Signature(s) M.Bowman****Date: 21<sup>st</sup> Aug 2019**

<b>ANNEX</b>	
<b>Date Valid</b>	1st June 2018
<b>Date First Advertised</b>	14th June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
Ray Quinn 11 Fairhill Road Cookstown Tyrone The Owner/Occupier, 15 Fairhill Road Cookstown Tyrone Gerard And Patricia Maynes 15 Fairhill Road, Cookstown,BT80 8AG Gerard & Patricia Maynes 15, Fairhill Road, Cookstown, Tyrone, Northern Ireland, BT80 8AG The Owner/Occupier, 5 Central Avenue COOKSTOWN BT80 8AJ The Owner/Occupier, 7 Central Avenue,COOKSTOWN,BT80 8AJ	
<b>Date of Last Neighbour Notification</b>	1st July 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2018/0765/O Proposal: Proposed 2 storey dwelling and garage Address: To the rear of 13 Fairhill Road, Cookstown., Decision: Decision Date:	
Ref ID: I/1978/0156 Proposal: IMPROVEMENTS TO DWELLING Address: 15 FAIRHILL ROAD, COOKSTOWN Decision: Decision Date:	
Ref ID: I/1993/0093 Proposal: Extension to dwelling. Address: 15 FAIRHILL ROAD, COOKSTOWN. Decision:	

Decision Date:

Ref ID: I/2000/0212/F

Proposal: Domestic Garage, (Retrospective permission)

Address: 13 Fairhill Road, Cookstown

Decision:

Decision Date: 01.06.2000

Ref ID: I/1979/0210

Proposal: IMPROVEMENTS TO DWELLING

Address: 11 FAIRHILL ROAD, COOKSTOWN

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No.

Type:

Status:

Drawing No.

Type:

Status: Submitted

Drawing No. 01 (REV-1)

Type: Site Location Plan

Status: Submitted

Drawing No.

Type:

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> 3 <sup>rd</sup> September 2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1249/F	<b>Target Date:</b>
<b>Proposal:</b> Extension to garage to include office, storage and WC including extension to curtilage	<b>Location:</b> 23 Dunamore Road, Cookstown
<b>Referral Route:</b> Objections received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Michael Quinn 23 Dunamore Road Cookstown BT80 9NR	<b>Agent Name and Address:</b> CQ Architects 23 Dunamore Road Cookstown BT80 9NR
<b>Executive Summary:</b> This proposal complies with Policy EXT 1 of the Addendum to PPS 7 (Residential Extensions and Alterations) and all other relevant policy. 16 objection letters have been received and have been fully considered. They raise no material planning issues that would merit the refusal of this application.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Content
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Non Statutory	Environmental Health Mid Ulster Council	
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**Representations:**

Letters of Support	None Received
Letters of Objection	16
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified of the proposal. To date there have been 16 no. objections received from the occupants of 3 properties in Conway Close. The issues raised in each objection are summarised below along with my consideration of each issue.

**From the occupants of 5 Conway Close**

Block their view  
 Unacceptable noise coming from the gym  
 Impact on their privacy and peacefulness  
 Impact from customers parking their car at the entrance to Conway Close

**From the occupants of 7 Conway Close**

Obstruction of Views  
 Noise Pollution from the gym  
 Impact on their privacy

**From the occupants of 9 Conway Close**

Noise and Visual pollution  
 Impact on their views  
 Impact on their privacy  
 Traffic generation and its impact on young children in the area

All objectors have requested that the applicant build his extension in the field to the West of number 23 Dunamore Road. A recent objection has been received to advise the Council that the unauthorised Gym continues to operate from this address.

Any concern raised about obstruction of views is not a material planning consideration as no-one has a legal entitlement to a view. The original proposal included a Gym however this element has now been removed from the proposal and Environmental Health have advised that on the basis of the revised proposal they have no concerns from a noise perspective. As the proposal no longer includes the gym the intensification of use of the access is no longer an issue. DFI Roads have been consulted and have no objections subject to the provision of 2.4 x 90m and 2.4m x 80m splay. Adequate in-curtilage parking is available for the proposal now under consideration.

Having given full consideration to the objectors concerns and having consulted objectors with all new information submitted at various stages through the processing of the application, I would advise members that in my opinion these representations raise no issues which would merit the refusal of this application. It will be necessary to attach a condition restricting the use of the garage extension for ancillary domestic purposes only. Members are also advised that there is a current live enforcement case opened on this unauthorised gym (LA09/2018/0081/CA) and that our enforcement team will pursue any unauthorised uses.

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

The application site is located at number 23 Dunamore Road, Kildress, Cookstown. It is outside the development limits of Dunamore as defined in the Cookstown Area Plan 2010. On the site is a two storey detached dwelling and a small detached single storey garage. Conway Close Housing Development is located along the Eastern site boundary and comprises 17 dwelling units which are predominantly two storey terraced type dwellings. A low level domestic hedge and a closed board wooden fence defines this boundary. The Northern boundary of the site is defined by a closed board wooden fence and the Western and roadside boundaries are defined by a domestic hedge.

This area is generally rural in character with a dispersed settlement pattern. It has an undulating topography and is recognised as being an area of archaeological importance.

### **Description of Proposal**

This is a full application for an extension to a domestic garage to include an office, storage and a WC. The proposal also includes an extension to the existing domestic curtilage to the rear and West of the existing property.

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

#### **Relevant Planning History**

LA09/2018/0081/CA - 23 Dunnamore Road, Cookstown, Tyrone, BT80 9NR. Alleged unauthorised businesses - gym and architects office. Ongoing

The following policies will be considered in this assessment:

- SPPS – Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 – Access, Movement and Parking
- Addendum to PPS 7 – Residential Extensions and Alterations

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

The SPPS has superseded PPS 1 (General Principles). In paragraph 2.3 of the SPPS it states "The basic question is not whether owners and occupiers of neighbouring properties

would experience financial loss from a particular development, but whether the proposal would unacceptably affect the amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured". This proposal for an extension to a domestic garage to include an office, storage and a WC along with an extension of the existing domestic curtilage, by its nature, will not impact on neighbouring residential amenity. The office will accommodate a small architectural practice with one employee who currently resides in the host property. This type of use will not generate any unacceptable noise, odour or fumes. The small extension to curtilage is so minor that it will not impact negatively on adjacent residential amenity.

### **Cookstown Area Plan 2010**

This site lies outside any settlement limit defined in the Cookstown Area Plan and is not subject to any Area Plan Zonings or Designations. As such, existing Planning Policy will be applied (ie) Addendum to PPS 7

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

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy is applicable to this application. This proposal is not at conflict with this policy. It is however acknowledged that no determining weight can be given to this document as it is only at early public consultation stage.

### **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 use of an existing unaltered access onto the Dunnamore Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to the provision of 2.4m x 90m splays to the East and 2.4m x 80m splays to the West. This can be dealt with by planning condition.

### **Addendum to PPS 7 – Residential Extensions and Alterations**

EXT 1 of this document is the relevant policy test for this type of development. It sets out 4 criteria which must be adhered to. This proposal satisfies all 4 criteria.

1.The scale and massing of the proposed garage extension is minor and when constructed, the garage will remain subordinate to the main dwelling house. The design and materials proposed will not detract from the appearance of the garage, the main dwelling or the rural character of the area.

2.The proposal development will incorporate a small home office for one person and a small garage extension including a store and WC. This by its nature, will not generate any unacceptable noise levels, traffic movements, fumes or odours. I am therefore satisfied that the proposal will not impact negatively on residential amenity. EH have been consulted and have raised no concerns in this regard.

3.The proposal also involves a slight extension to the existing domestic curtilage. This will not result in the loss of any vegetation and the existing hedgerow is shown to be retained. It will not harm the rural character of this area.

4.Adequate in-curtilage space exists for parking and manoeuvring as no additional traffic movements are envisaged given the domestic nature of this proposal.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approve 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 development hereby permitted shall be used only for domestic storage and for purposes ancillary to the residential use of the dwelling at number 23 Dunamore Road.

Reason: To protect neighbouring residential amenity

3. The vehicular access, including visibility splays of 2.4 x 90m to the East and 2.4 x 80m to the West shall be provided in accordance with Drg No 5 (Rev 2) dated 01/04/19 prior to the commencement of any other works or other development hereby permitted.

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

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

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

5. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

**Informative**

This permission does not allow for the use of a commercial gym or for any other commercial purpose

**Signature(s)**

**Date:**

**ANNEX**

<b>Date Valid</b>	24th September 2018
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<b>Date First Advertised</b>	11th October 2018
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<b>Date Last Advertised</b>	18th April 2019
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**Details of Neighbour Notification (all addresses)**

The Owner/Occupier,

3 Conway Close Cookstown Tyrone

The Owner/Occupier,

5 Conway Close Cookstown Tyrone

Finbarr & Anna Loughran

5 Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Finbarr & Ann Loughran

5 Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Finbarr & Anna Loughran

5, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Finbarr & Anna Loughran

5, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Finbarr & Anna Loughran

5, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Finbarr & Anna Loughran

5, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Finbarr & Anna Loughran

5, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

The Owner/Occupier,

7 Conway Close Cookstown Tyrone

Oliver McElhatton

7 Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Emmett, Oliver & Siobhan McElhatton

7 Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Emmet McElhatton

7, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Oliver & Siobhan McElhatton

7, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

Emmett, S & O McElhatton

7, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

The Owner/Occupier,

9 Conway Close Cookstown Tyrone

Noleen Breenan

9 Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU  
 Joe & Noleen Brennan  
 9 Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU  
 Joe & Noleen Brennan  
 9, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU  
 Noleen and Joe Brennan  
 9, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU  
 Joe and Noleen Brennan  
 9, Conway Close, Cookstown, Tyrone, Northern Ireland, BT80 9PU

<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	N/A

### Planning History

Ref ID: LA09/2018/1249/F

Proposal: Extension to existing garage  
 Address: 23 Dunamore Road, Cookstown,  
 Decision:  
 Decision Date:

Ref ID: I/1990/0365

Proposal: Dwelling  
 Address: 100M EAST OF DUNAMORE HOUSE DUNAMORE ROAD COOKSTOWN  
 Decision:  
 Decision Date:

Ref ID: I/2000/0836/F

Proposal: Proposed Kitchen Extension to dwelling  
 Address: 1 Conway Close, Dunamore, Cookstown  
 Decision:  
 Decision Date: 23.01.2001

Ref ID: I/1974/0163

Proposal: ERECTION OF NORTHERN IRELAND ELECTRICITY SERVICE SUB-STATION  
 Address: DUNNAMORE, COUNTY TYRONE  
 Decision:  
 Decision Date:

Ref ID: I/2012/0126/F

Proposal: Single storey side extension to dwelling  
 Address: 3, Conway Close, Dunamore Road, Cookstown,  
 Decision:

Decision Date: 19.06.2012

Ref ID: I/1990/0365B

Proposal: Dwelling

Address: 100M EAST OF DUNAMORE HOUSE DUNAMORE COOKSTOWN

Decision:

Decision Date:

### **Summary of Consultee Responses**

EH – No objections

DFI Roads – No Objections

### **Drawing Numbers and Title**

Drawing No. 03 REV 1

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 02 REV 3

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 05 REV 2

Type: Existing and Proposed Floor Plans

Status: Submitted

Drawing No. 01 REV 1

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

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

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1435/F	<b>Target Date:</b>
<b>Proposal:</b> (Amended plans received) 2 Farm sheds -1 for the storage of winter fodder and 1 for animal shelter	<b>Location:</b> 30m West South West of 55 Springhill Road Ballindrum Moneymore
<b>Referral Route:</b> Anonymous objection received.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr Kevin Moran 15 Rock Road Mawillian Moneymore	<b>Agent Name and Address:</b> Lissan Design 45 Letteran Road Moneymore BT45 7UB
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

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

Non Statutory	Environmental Health Mid Ulster Council	
<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>		
One anonymous objection has been received.		
<b>Characteristics of the Site and Area</b>		
<p>The proposal site is located within a corner of a large agricultural field. The site is positioned approx. 55metres to the rear of No 55 Springhill Road, a detached 1 1/2 storey dwelling and several farm sheds. The land within the proposal site drops down in level from that of the road level and the site is bounded on the southern and eastern boundaries by mature planting and vegetation. Access is proposed via an existing agricultural access. Located on the north, south and west is further agricultural land.</p>		
<b>Description of Proposal</b>		
2 No. farm sheds - 1 for the storage of winter fodder and 1 for animal shelter during the winter period - associated with an existing farm business.		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
I have assessed this proposal under the following:		
<p>SPSS        Magherafelt Area Plan 2015        Planning Policy Statement 21</p>		
<p>The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and Policy AFR1 - Agriculture and forestry development and development ancillary to commercial fishing are applicable to this application. The proposal is in compliance with GP 1 and AFR1 and as such in conformity with the Draft Plan Strategy even though it holds no determining weight as it is only at early consultation stage.</p>		
There is no site specific history.		
Consultees: - NI Water were asked to comment and responded on 09.11.2018 with no objections		

Environmental Health were asked to comment and responded on 18.07.2019 following an amended scheme being submitted. Following these amendments Environmental Health offer no objections to the proposal subject to advice.

DfI were asked to comment and responded on 26.11.2018 with no objections subject to conditions and informatives.

DAERA were asked to comment and responded on 13.11.2018 stating that the farm business has been in existence for more than 6 years and is currently active.

Neighbours: Owners/Occupiers of No. 55 Springhill Road were notified of the proposal on 07.11.2018.

In line with legislation this proposal was advertised in the local press on 15.11.2018 and again when amended on 11.07.2019.

One objection has been received to the proposal, no address or name has been given from the objector. The objector queried the land ownership of No 55 Springhill Road as the initial site location plan had included this address within their blue land indicating ownership. This was queried and an amended site location plan received. No further objections have been received to date.

According to CTY 12 of Planning Policy Statement 21 (Agricultural and Forestry Development) planning permission will be granted for development on an active and established agricultural or forestry holding where it can be demonstrated:

- a) it is necessary for the efficient use of the agricultural holding or forestry experience;
- b) in terms of character and scale it is appropriate to its location;
- c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- d) it will not have an adverse impact on the natural or built heritage; and
- e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

In this instance following consultation with DAERA it has been confirmed that the farm business is active and has been established for more than 6 years. According to the submitted information the proposal site is within land belonging to outlying farm land which is approx. 1 mile from the home farmstead. This outlying land has currently no buildings on the land to cater for either winter fodder/machinery storage or shelter for his heard of animals during periods of cold/wet/incipient weather at any time of the year. Thus this satisfies the requirements of criteria a).

The proposed sheds measure 56m<sup>2</sup> floorspace each and with ridge height of approx. 4.2metres. The buildings are pre-fabricated single skin box/ metal cladding and coloured green. These proposed buildings will visually integrate into the local landscape and would be appropriate to the location thus adhering to criteria's b) and c). There are no identifiable natural or built heritage implications with this proposal and so adheres to criteria d).

Although the sheds are located approx. 55metres to the rear of No 55, a dwelling outside the farm holding, it is considered that there is an adequate separation between the dwelling and the proposed sheds and due to the existing farm sheds connected with No 55 being located in between the proposal site and the dwelling and with the existing vegetation there will not be a detrimental impact on the amenity of those living at No 55 and so the proposal adheres to criteria e).

Having considered all of above I feel this proposal can comply with the requirements of CTY 12.

This proposal should also be assessed against the requirements of Policy CTY 13 - Integration and Design of Buildings in the Countryside, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This proposal is for 2 modest farm buildings and as discussed previously the proposed buildings would integrate successfully into the landscape being of an appropriate design and size for the site and its locality thus it is my consideration that the proposal adheres to the criteria of CTY 13.

Finally the proposal needs to be considered against the requirements of CTY 14 of PPS21 - Rural Character. Within this policy it states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposal would not be unduly prominent in the landscape due to the surrounding topography, vegetation and existing development and would respect the pattern of settlement in the locality. As such the proposal adheres to the requirements of CTY 14 of PPS21.

Having considered all of the above I feel this proposal is acceptable and would recommend an approval.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval recommended

**Conditions:**

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

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

2. The vehicular access, including visibility splays of 2.4 x 110m in both directions, and Forward sight distance of 110m shall be provided, prior to the commencement of any works or other development hereby permitted.

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

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

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

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

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

5. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

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

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

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

#### Informatics

1. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.

Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp)

All services within the development should be laid underground.

None of the development hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans. None of the developments shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.

Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

2.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 or verge) or on any other land owned or managed on a public roadway (including a footway or verge) or on any other land owned or managed by the Department Infrastructure for which separate permissions and arrangements are required.

3.It is the responsibility of the developer to ensure that:

- surface water does not flow from the site onto the public road;
- the existing roadside drainage is accommodated and no water flows from the public road onto the site;
- the developer should note that this planning approval does not give consent to discharge water into a DfI Transport NI drainage system.

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

A monetary deposit will be required to cover works on the public road.

5.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.

6.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.

7. The developer should be made aware of their obligation to conduct the proposed undertaking in such manner as not to cause a 'public health nuisance' at neighbouring residential properties.

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

<b>ANNEX</b>	
<b>Date Valid</b>	30th October 2018
<b>Date First Advertised</b>	15th November 2018
<b>Date Last Advertised</b>	28th February 2019
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 55 Springhill Road Moneymore Londonderry A Concerned Resident No Address Given	
<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: LA09/2018/1435/F Proposal: 2 Farm sheds -1 for the storage of winter fodder and 1 for animal shelter Address: 30m West South West of 55 Springhill Road, Ballindrum, Moneymore, Decision: Decision Date:	
Ref ID: I/2008/0479/F Proposal: Removal of existing rear return and renovation of dwelling (re-slate, new windows & doors, new stair, replaster internally & externally, new ground floor re-build chimney, new storm goods) Address: 55 Springhill Road, Moneymore, Magherafelt Decision: Decision Date: 17.09.2008	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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

Drawing No. 01/1  
Type: Site Location Plan  
Status: Approved

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

Drawing No. 03  
Type: Proposed Plans  
Status: Approved

**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> LA09/2018/1481/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed car parking facilities and designated pedestrian crossing serving Tobermore Concrete	<b>Location:</b> Approx 25m N.E of No. 2 Lisnamuck Road Tobermore
<b>Referral Route:</b>  To Committee – Approval – Exception to CTY 15 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Tobermore Concrete Ltd 2 Lisnamuck Road Tobermore BT45 5QF	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

<b>Case Officer Report</b>				
<b>Site Location Plan</b>				
				
<b>Consultations:</b>				
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>		
Statutory	DFI Roads - Enniskillen Office	Advice		
Statutory	Rivers Agency	Advice		
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>				
To Committee – Approval – Exception to CTY 15 of PPS 21.				
<b>Characteristics of the Site and Area</b>				
<p>The site is located just outside the development limits of Tobermore and therefore lies in the open countryside as defined by the Magherafelt Area Plan 2015. The proposed site is currently just an agricultural field which is located adjacent to the existing Tobemore Concrete Ltd business who in which the proposed car park is to be used by. The proposed red line covers a small portion of a much larger agricultural field which lies adjacent to the Lisnamuck Road, in which all but the eastern boundary are defined by a</p>				

mix of mature hedging and trees. To the south of the site the land use is mixed as it includes the Tobermore Settlement with to the north/east it is predominately agricultural land uses.

#### Relevant planning history

LA09/2017/1403/F – Proposed new drying store and extension of existing site curtilage for 1. Relocation and storage of all concrete recyclable materials 2. The external storage of raw materials that are produced on the factory site. – Ongoing

LA09/2019/0475/O - Phase 1 Housing Development - Ongoing

#### Representations

There were no representations received in connection with this application.

### Description of Proposal

This is a full application for the proposed car parking facilities and designated pedestrian crossing serving Tobermore Concrete, located at approx. 25m N.E of No. 2 Lisnamuck Road, Tobermore

### 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 3 Access, Movement and Parking

PPS 4 Planning and Economic Development

PPS 15 Planning Flood Risk

PPS 21 Sustainable Development in the Countryside

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. The Area Plan directs that proposals within these areas will be restricted in accordance with the provisions of prevailing regional planning policy. Development in the countryside 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 account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.79 of the SPPS relates to economic development, industry and commerce. The regional objectives include promoting sustainable development and to sustain a vibrant rural community by supporting rural economic development of an appropriate nature. Para 6.87 states that the guiding principle for policies in the countryside is to facilitate proposals likely to benefit the rural community and support rural communities, while protecting or enhancing rural character and the environment. Section 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse

impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Policy CTY 1 of PPS 21 details a range of types of development which are considered to be acceptable in principle in the countryside. Industry and business uses will be assessed in the countryside in accordance with PPS 4. I note that the intention is to expand an existing business that is located within the development limits to now be within the open countryside, therefore PED 2 applies which refers to what economic development is acceptable in the countryside. From which PED 3 also applies for the expansion of an established economic development use, along with PED 9.

With regards to PED 3 it states that the expansion of an economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. It must be first noted that the proposed application does not involve an extension of any existing building nor does it require the need for any new buildings. From such, I note that the existing enterprise is substantial and note that the site has expanded through the previous number of years wherein which there is currently a major application for the enterprise being considered by the Council. From this I am content that the proposed application would not result in a major increase in area of the enterprise.

In terms of PED 9 states that a proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all of the following criteria:

(a) it is compatible with surrounding land uses;

It is noted that the proposed car park is located near the existing parking at Tobermore Concrete however it does conflict with the current agricultural land use. But during group discussions it has been agreed that the character of the area is dominated by Tobermore Concrete that it is deemed as compatible with the surrounding land uses on balance.

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

Due to the separation distances between the site and nearby residents I am content that the proposal will not cause harm to their amenity. I note that there is a housing development application to the south of the proposed car park however I note this application is still ongoing within the system. Regardless of this I am still content that there is sufficient separation space and the proposed car park would be unlikely to cause any issues.

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

I am content on balance that this proposal is unlikely to have an adverse impact on natural or built heritage features.

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

Due to the amount of hardstanding a drainage assessment was submitted and after a response from Rivers Agency who replied to say that while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DfL Rivers cannot sustain a reason to object to the proposed

development from a drainage or flood risk perspective. From this it has been agreed on balance that the proposal is unlikely to cause or exacerbate flooding.

(e) it does not create a noise nuisance;

I am content due to the nature of the development it will not give rise to adverse noise levels.

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

I am content that due to the nature of development that it should not give rise to high levels of emissions and effluent however any that is created should be able to be dealt with.

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

A consultation was sent to Dfl Roads who confirmed that they had no objection to the proposed car parking and from this I am content that the existing road network can safely handle any extra vehicular traffic.

(h) adequate access arrangements, parking and manoeuvring areas are provided;  
I am content that adequate access arrangements have been provided and as this is a car park that it is to ensure there is sufficient parking provided with adequate manoeuvring areas.

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

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

I note that the proposed landscaping appears to be of high quality.

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

There is no outside storage proposed and the proposed landscaping ensures the car park is enclosed.

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

I am content that the proposed development will deter crime and promote personal safety.

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

I note that there is new landscaping proposed to ensure landscaping.

Due to the location the site being within the open countryside and the existing economic business being located within the development limits it is noted that CTY 15 – The

setting of Settlements applies. CTY 15 notes that a settlement's identity can be as much as a result of its setting within the surrounding countryside. Landscapes around settlements have a special role to play in maintaining the distinction between town and country, to prevent coalescence between adjacent built-up areas and in providing a rural setting to the built up area. I note that purpose of defining settlement limits is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. From this I am of the opinion that if approved the proposed car parking would resultantly mar the distinction between the settlement of Tobermore and that of the countryside. Reasoning for this, is when travelling north from the centre of the Tobermore, it is noted that all development is on the left hand side with the right hand side being unspoilt countryside in which needs to be retained. For this reason, I am of the opinion that it fails under this CTY 15 of PPS 21. However the agent provided a statement to justify the need of the application, this information was further discussed during group discussions wherein it was acknowledged that there were logical reasons to locate the car park here. In that the Tobermore Concrete site was reviewed and it was noted that there didn't appear to be any suitable locations within the existing site therefore an alternative site is required. From such, the economic benefits of the proposal coupled with the small scaled nature of the application has helped to alleviate the concerns over the marring of the distinction, in which it has been taken forward as an exception to CTY 15 as a result.

### PPS 3 – Access, Movement and Parking

Policy AMP 7 (Car Parking and Servicing Arrangements) states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. Proposals involving car parking in excess of the Department's published standards or which exceed a reduction provided for in a development plan will only be permitted in exceptional circumstances. The agent provided evidence that there is a need for parking in this location, noted that the business has grown substantially over the past few years and now employs 268 employees and this car park is needed to maintain and consolidate this employment and to allow the business to operate efficiently. Agent went on to comment that despite being located close to Tobermore that there is limited public transport services wherein staff are currently travelling from rural locations so this car park is needed. Finally the agent's statement concluded that there is ample evidence that the current site is too constrained to permit staff parking without adverse consequences to the business. I acknowledge the comments made within the statement and as already stated the group consensus agrees with the logic in the statement and that an alternative location would be required and this is seen as an exceptional case.

Policy AMP 9 (Design of Car Parking) states the Department will expect a high standard of design, layout and landscaping to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:

- (a) it respects the character of the local townscape / landscape;
- (b) it will not adversely affect visual amenity; and
- (c) provision has been made for security, and the direct and safe access and movement of pedestrians and cyclists within the site.

After group discussions, it was noted that the proposal does have the capacity to have a visual impact however it was acknowledged that the character of the area is dominated

by the Tobermore Concrete site and given the nature of the development it is not seen as an adverse impact. As noted this has been agreed as an exception between the townscape and countryside which alleviates any visual concerns. However after consultations with DfI Roads I am content that there has been adequate provisions made for security, and the direct and safe access and movement of pedestrians and cyclists within the site. From this the application complies under AMP 9 on balance.

Policy AMP 10 (Provision of Public and Private Car Parks) states that planning permission will only be granted for the development or extension of public or private car parks, including park and ride and park and share where it is demonstrated that:

- they do not significantly contribute to an increase in congestion;
- are not detrimental to local environmental quality;
- they meet a need identified by the Department for Regional Development in Transport Plans or accepted by DRD following robust analysis provided by a developer;
- within defined areas of parking restraint they are only used for short-stay parking and are appropriately managed to deter long stay commuter parking; and
- they are compatible with adjoining land uses.

After consultations with DfI Roads I am content that the proposed car park is unlikely to significantly contribute to an increase in congestion nor is it an area of parking restraint. All issues over detriment have been resolved given the need for the car park in association with the Tobermore Concrete business.

#### PPS 15 – Planning and Flood Risk.

As noted that due to the amount of hardstanding associated with the car park, a drainage assessment was required and submitted. In which a consultation was sent to Rivers agency who replied to say that while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions.

Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. From this it has been agreed on balance that the proposal is unlikely to cause or exacerbate flooding. Although DfI Rivers have asked for a 5m maintenance strip along the northern and southern boundaries, from such the applicant owns relevant surrounding lands to be able to provide this.

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policies ECON 2 – Economic Development in the Countryside; I note that the proposal is not for a small workshop nor development of a small gap site with an appropriate economic development use. The site is not within Tullycannon or Desertcreat Rural Industrial Policy Areas. I note that the development is not an expansion within the existing curtilage of an established economic development use. However I do note that this is an expansion outside the existing curtilage of an economic development use, as noted it has been agreed that this is acceptable. This is not for a redevelopment of an established economic use nor for a new building or for a major industrial proposal. Nor is it for a small community enterprise and the site outside an existing quarry, areas designated for their nature conservation. From this I am of the opinion that the application would fail under the Draft Strategy however I note that the Draft Strategy has ended its early consultation period however

has received a number of objections therefore there is no significant determining weight given at this stage.

On balance, the application has complied under the SPPS, PPS 3 and PPS 4 and it is seen as an exception to CTY 15 of PPS 21 with approval recommended.

**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. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/1 date stamped 27th June 2019 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

3. 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.

4. 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.

5. 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.

6. The vehicular access including visibility splays 2.4 x 60 metres and any forward sight distance, shall be provided in accordance with Drawing No 02/1 bearing the date stamp 27th June 2019 prior to the commencement of any other development hereby permitted.

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

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

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

8. Pedestrian footway and linkage in accordance with Drawing 02/1 bearing the date stamp 27th June 2019 shall be provided to the car park prior to the operation of the car park.

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

9. No operation in or from the car park hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing to provide the 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 associated with the car park.

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

10. Under 6.32 of the policy FLD 2 of PPS 15: Planning and Flood Risk, a 5m maintenance strip shall put in place along the northern and southern boundaries of the site as marked in green in accordance with Drawing No.01/1 bearing the date stamp 27<sup>th</sup> June 2019, and shall be protected from impediments (including tree planting), land raising or future unapproved development thereafter.

Reason: In the interest of Protection of Flood Defence and Drainage Infrastructure.

#### 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.

4. 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.

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 DfI Roads for which separate permissions and arrangements are required.

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 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 Tullywigan 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.

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

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

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

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	8th November 2018
<b>Date First Advertised</b>	22nd November 2018
<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: LA09/2018/1481/F Proposal: Proposed car parking facilities and designated pedestrian crossing serving Tobermore Concrete Address: Approx 25m N.E of No. 2 Lisnamuck Road, Tobermore, Decision: Decision Date:	
Ref ID: H/1978/0451 Proposal: HV O/H LINE (BM 2456) Address: TOBERMORE AND DRUMBALLYHAGAN, MAGHERAFELT Decision: Decision Date:	
Ref ID: H/2007/0683 Proposal: Extension to concrete works for lorry parking, outdoor storage and storage building. Address: East of Lisnamuck Road, Tobermore (opposite concrete works) Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

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:



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> LA09/2019/0018/O	<b>Target Date:</b>
<b>Proposal:</b> Gap site for proposed dwelling and garage	<b>Location:</b> Approximately 18m West of 66 Killycanavan Road Dungannon
<b>Referral Route:</b> Objection	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Patsy Ryan 17E Killycanavan Road Dungannon BT71 5BP	<b>Agent Name and Address:</b> APS Architects LLP 4 Mid Ulster Business Park Sandholes Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The site lies outside any settlement defined under the Cookstown Area Plan 2010. It is located in the rural countryside approx. ½ a kilometre south of Adboe and approx. 1.2 km metres west of Lough Neagh.

The site is a flat, square shaped, grass plot accessed off the Killycanavan Rd via a lane serving 3 existing dwellings and associated outbuilding/sheds. These dwellings and outbuildings/sheds are all located along running in a line along the south side of the lane just west of a bend in the lane.

The properties along the lane include: no. 66 Killycanavan Rd a two storey dwelling fronting east onto the bend in lane which continuing along no. 66's northern gable, past a grass plot to its rear, before accessing no. 68 a 1 ½ storey dwelling of bungalow appearance and no.70 Killycanavan Rd a bungalow respectively, both fronting north onto the lane.

The site is located within this line of existing development on the grass plot to the rear of no. 66 Killycanavan Rd between it and no. 68 Killycanavan Rd.

The site is defined along its eastern/part boundary with no. 66 Killycanavan Rd by a manicured evergreen hedgerow; its western/part boundary with no. 66 Killycanavan Rd and front boundary onto the lane by a lower manicured evergreen hedgerow; and its southern/rear boundary by a mix of hedgerow vegetation. The site contains some animal pens and container along its eastern boundary and a corrugated metal roof shed to its west site.

Views of this small line of existing development and subsequently the site is limited to from the lane serving it due to its location set well back from the Killycanavan Road and the topography of the area. Views of the site due to its location nestled between nos. 66 and 68 Killycanavan Rd will be limited until passing along its frontage unto the lane.

This area of countryside defined by its relatively flat landscape is predominantly rural in character.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage in a gap site to be located on lands approximately 18m West of 66 Killycanavan Road Dungannon.

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

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

**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 2: Natural Heritage

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

Planning Policy Statement 21: Sustainable Development in the Countryside

CTY1 - Development in the Countryside

CTY8 - Ribbon Development

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

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

### **History on Site**

No relevant history on site.

### **Consultees**

1. Transport NI were consulted in relation to access arrangements and have no objection subject to standard conditions and informatics.
2. NIEA Natural Environment Division (NED) were consulted further to an objection letter about a common frog and smooth newt on site.

### **Consideration**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside 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 are listed in Policy CTY1 of PPS21 - Development in the Countryside. It is my opinion the current proposal falls under one of these instances, the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. It further clarifies that a road frontage includes a private lane.

I consider this application in principle acceptable under CTY8. It is my opinion that the current site constitutes a small gap site within an otherwise substantial and continuously built up frontage as it is located within a line of approx. 4 buildings. The 4 buildings include 1: no. 66 Killycanavan Rd a two storey dwelling; 2&3 - no. 68 Killycanavan Rd a bungalow with outbuildings/sheds to its west side; and 4 – no. 70 Killycanavan Rd, another bungalow. The dwellings are all located on relatively similar sized plots running

along the south side of the Killycanavan Rd. I believe a dwelling and ancillary garage of an appropriate size, scale and design should integrate into this gap site as the existing buildings will provide an acceptable degree of screening especially as views of a dwelling on this site will be limited until passing along its frontage on this lane.

As this is an outline application the details of the siting, size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. I believe a suitably designed scheme should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing.

### **Additional considerations**

#### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 3 objections have been received in relation to the proposal. These raise the following issues of a planning nature:

##### **Ownership of the site and access:**

Section 42 of the Planning Act (NI) 2011 requires an application to be accompanied by a statement of ownership. Following representations about the ownership of the site an amended statement was submitted that indicated notification was served on Mrs Rosemary Ryan. A land registry check indicates that 21 days prior to the application being submitted, Mrs Rosemary Ryan was the owner of the land. I am satisfied that the correct notification has been carried out. It is noted the applicant does not own the site, members are reminded that an applicant is not required to own the land and that planning permission does not confer title.

##### **Consent for waste water treatment plant:**

The design and location of a septic tank to serve the development can be provided at Reserved Matters stage. Guidance in CTY16 suggests that the septic tanks should not be located within 15 metres of any dwellings. The boundaries of the site are 20m from any of neighbouring dwellings and site is similar in size to adjacent plots, therefore it is likely consent will be given for a treatment plant

##### **Biodiversity, frogs and newts on the site, loss of trees and hedgerows**

NIEA have been consulted with the proposal and have referred to the bio-diversity checklist and standing advice. It is unusual not to encounter frogs and newts in the countryside, the site is located within a built up area of development and comprises improved grassland bound largely by conifer hedging to the front and sides with only a mixed native species hedgerow to its rear boundary. I am content that subject to the rear hedgerow being conditioned to be retained and the applicant's attention being drawn to standing advice outlined by NIEA and adhered to, in particular advice relating to the smooth newt and hedgerows this proposal is acceptable.

##### **Health concerns about waste from applicants job**

The objection has not elaborated on this issue to indicate what the waste or concern is. Members are advised this proposal is for a domestic dwelling and garage, if an further development occurs which is not domestic in scale then it will require further consent and assessment.

### **Residential amenity issues**

This is an outline application, the details of the siting, size, scale and design of the dwelling and garage can be considered further under any subsequent reserved matter application. I believe the site which is similar in dimensions to the neighbouring properties could accommodate a suitably designed scheme that should not have any unreasonable impact on the neighbouring properties in terms of overlooking or overshadowing.

The above objections have been taken into consideration in the assessment of this proposal however the proposal as detailed above complies with policy.

Additionally checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked and whilst there are no built heritage features of significance on site, NED's map viewer shows the site to be within an area known to breeding waders. I am content that as this site is on improved grassland, in relatively built up area within a line of existing dwellings it will have limited value for breeding waders as such this proposal is not likely to harm a European protected species in accordance with Policy NH 2 - Species Protected by Law European Protected Species. And 'DAERA Environmental Advice for Planning - Standing Advice - Priority species' – which is advice for planning officers to inform decision making and applicants seeking planning permission for development of land which may impact on priority species, can be attached to any decision notice as an informative. It has 'Specific Advice for Some Species', breeding waders being one. For wintering waders and waterbirds at coastal sites - Lapwing, Golden Plover, Knot, Dunlin, Black-tailed Godwit, Whimbrel, Curlew, Redshank, ducks, geese, gulls:

- retain intertidal habitats
- avoid disturbance to traditional high-tide roost sites
- no works in feeding habitat between 1st November and 28th/29th February

The proposal will be conditioned to be under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office -Radar.

### **Case Officer Recommendation: Approve**

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Approve
<b>Conditions</b>	
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:- <ol style="list-style-type: none"><li>i. the expiration of 5 years from the date of this permission; or</li><li>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</li></ol>	

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. The proposed dwelling shall have a ridge height of no greater than 6.5 metres above finished floor level.

Reason: In the interest of visual amenity.

5. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: In the interest of visual amenity.

7. The existing natural screenings of this site as indicated in blue on Drawing No. 01 bearing the date stamp received 4 JAN 2019, shall be retained intact and no lopping, topping, felling or removal shall be carried out without prior consent in writing to the Council.

Reason: To ensure the maintenance of screening to the site.

8. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development hereby approved at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available

planting season after the commencement of the development.

Reason: In the interests of visual and residential amenity.

8. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 and shall include sight splays of 2.4m x 33m in both directions onto the public road and a forward sight distance of 33m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved and 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.

**Informatics**

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. 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.
5. Please see DAERA consultation response dated and scanned to the planning portal on the 18/02/2019 for information purposes. And Environmental Advice for Planning - Standing Advice - Priority Species available at <https://www.daera-ni.gov.uk/publications/standing-advice-development-land-may-affect-natural-heritage-interests>.

**Signature(s)**

**Date:**



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

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

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0174/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed Dwelling & Garage within existing cluster of dwellings.	<b>Location:</b> Approx 40m. North/North East of 49 Gortahurk Road Desertmartin.
<b>Referral Route:</b> Contrary to CTY 1, 2a, 13 & 14 of PPS 21	
<b>Recommendation:</b>	<b>Refuse</b>
<b>Applicant Name and Address:</b> Mr Mark Madden 88 Iniscarn Road Desertmartin BT45 5NJ	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<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
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
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 – No Issues

### Characteristics of the Site and Area

The site is located approximately 2 miles west of Desertmartin in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 50m west of the Gortahurk Road/Iniscarn Road junction and consists of a cut out portion of the established residential curtilage associated with the property at No 88 Iniscarn Road. The site has its frontage onto the

Gortahurk Road and sits approximately 1.5m higher than the road. The site is bounds by a post and wire fence along the northern (roadside) boundary and a 1.2m high close-boarded fence along the western boundary shared with the property at No 49 Gortahurk Road. The eastern and southern boundaries are undefined.

### Description of Proposal

The application seeks full planning permission for a one and half storey dwelling and garage under CTY 2A.



Front Elevation



Rear Elevation

### Planning Assessment of Policy and Other Material Considerations

#### Relevant Site History:

No relevant history.

#### Representations:

3 neighbour's notification letter were sent to No 40 Gortahurk Road and Nos 88 & 91 Iniscarn Road, Desertmartin.

No letter of representation have been received

#### Development Plan and Key Policy Consideration:

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherfeet Area Plan 2015: The site is located in the open countryside. The site is located within the Sperrin's - AONB and a Design and Access has been submitted.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd Feb 2019. At present, it is felt that the proposal is contrary to the policies held within this document, more specifically Policy CT1 and criterion (a) of Policy CT2 however, it must be noted that Draft Plan Strategy holds little determining weight following on from the consultation stage.

**PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006):** sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

**PPS 21: Sustainable Development in the Countryside:** sets out planning policies for development in the countryside. PPS 21 allows for an individual dwelling house in the countryside if it meets with one of a number of cases listed under CTY1. The applicant indicates that the proposal should be considered under Policy CTY 2a - New Dwellings in Existing Clusters. In accordance with policy CTY 2a, planning permission will be granted for a dwelling at an existing cluster of development provided the following six 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 and The cluster appears as a visual entity in the local landscape:**

It appears that this cluster of development lies outside of a farm and consists of more than 4 buildings of which 6 are dwellings, Nos 86a, 88, 90, 90a & 22 Iniscarn Road and No 49 Gortahurk Road. The cluster of development is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.

**The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross roads:**

The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility, or is located at a crossroads. The applicant indicates in the Design and Access Statement that the cluster is associated with a 'cross-roads'. From my observation on site, there does not appear to be a cross-roads located nearby, instead there is a staggered junction located a short distance east of the site, made up of the Iniscarn Road & Gortahurk Road 'T' junction and located approximately 20m south of it, the Iniscarn Road & Longfield Lane 'T' junction. In my opinion, a staggered junction does not constitute a cross-roads and the third criterion of CTY 2a has not been met.

**The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster:**

The proposal site is bounded along the southern and western boundaries by two residential properties, No 49 Gorahurk Road and No 88 Iniscarn Road. In addition, as the proposal site is a cut out portion of No 88's residential curtilage and it is fair to say that a suitable degree of enclosure can be provided. The forth criterion of CTY 2A has not been met.

**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 under the forth criterion, the proposal site is cut out of an established residential curtilage, therefore it is reasonable to conclude that the site will be absorbed into the existing cluster without significantly altering the existing character and will not intrude into the open countryside. The fifth criterion of CTY 2a has been met.

### **Development would not adversely impact on residential amenity:**

The proposal is likely to have an adverse impact on the residential amenity at No 88 due to the juxtaposition of the existing dwelling and proposed dwelling, however as appears to be within family ownership a relaxation in this part of the policy is considered acceptable. However, the same cannot be said about the impact on the residential amenity for the occupiers of the new dwelling. The existing common boundary between No 88 and No 49 is defined by 1.2m close board fence, which does not provide an adequate level of screening to prevent overlooking in to the rear amenity of the new dwelling originating from No 49's front garden area. Whilst I acknowledge that a garage and new landscaping are proposed along the common boundary, I do not consider that these measures would adequately address my concerns regarding the impact on the residential amenity of the future occupiers of the proposed dwelling, especially in the short term. The sixth criterion of CTY 2A has not been met.

### **Integration and design**

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. The proposal site is bounds by a post and wire fence along the northern roadside boundary and a 1.2m high close-boarded fence along the western boundary, both boundaries are absence of any form of natural vegetation/screening, in addition the eastern and southern boundaries are undefined. Whilst I acknowledge that the existing single storey dwellings to the rear of the site would provide a suitable backdrop for the proposed dwelling, I have concerns that the site lacks established natural boundaries for a new dwelling to integrate into the landscape and will relies primary on new landscaping for integration. Therefore the proposal is contrary to criteria (b) and (c) of CTY 13.

In terms of design the proposed one and storey dwelling consist of elements which are considered traditional (i.e. vertically emphasised windows, linear form). The finishes include dark grey/black slates or tiles and smooth rendered walls are generally acceptable and will not appear incongruous in the location. The orientation of the dwelling is also considered acceptable. However, I have concerns that the height of the proposed dwelling will appear prominent when viewed from a number of critical views, one on the Longfield Lane when travelling down the hill towards the 'T' junction onto the Iniscarn Road and another on the Gortahurk Road when travelling towards the site. The lack of natural screening along the existing boundaries also exacerbates the issue of prominence. Therefore the proposed dwelling is contrary to criteria (a) & (e) of CTY13.

### **Impact on Character and Appearance of the Area**

Policy CTY14 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. It has already been determine under CTY 13 that the new dwelling will be prominent feature in the landscape therefore it would also be contrary to criterion (a) of CTY 14. In addition, a new dwelling would result in a suburban style build-up of

development when views with existing buildings in the locality and would also be contrary to criterion (b) of CTY 14

#### **Other Matters**

The applicant has not sought to argue that the proposed development falls into any other category of acceptable development identified in Policy CTY1. No other evidence has been advanced that the proposed development could not be located in a settlement. Therefore, the proposal is contrary to CTY1 of PPS21.

#### **Other Material Consideration**

I am also satisfied that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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#### **Summary of Recommendation: Refuse - Contrary to CTY 1, 2a, 13 & 14 of PPS 21**

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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not located at a cross-roads and would adversely impact on the residential amenity for the occupiers of the new dwelling.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is a prominent feature in the landscape, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration and the design (ridge height) of the proposed building is inappropriate for the site and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, be unduly prominent in the landscape and would result in a suburban style build-up of development when viewed with existing and approved buildings

<b>Signature(s)</b>
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<b>Date:</b>
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<b>ANNEX</b>	
<b>Date Valid</b>	8th February 2019
<b>Date First Advertised</b>	21st February 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 49 Gortahurk Road Desertmartin Londonderry	
The Owner/Occupier, 88 Iniscarn Road,Desertmartin,Londonderry,BT45 5NJ	
The Owner/Occupier, 91 Iniscarn Road, Desertmartin, Londonderry, BT45 5NJ	
<b>Not Notified</b>	
The Owner/Occupier, 86 Iniscarn Road Desertmartin Londonderry	
The Owner/Occupier, 90 Iniscarn Road, Desertmartin, Londonderry, BT45 5NJ	
The Owner/Occupier, 90a Iniscarn Road, Desertmartin, Londonderry, BT45 5NJ	
The Owner/Occupier, 92 Iniscarn Road, Desertmartin, Londonderry, BT45 5NJ	
The Owner/Occupier, 93 Iniscarn Road Desertmartin Londonderry	
The Owner/Occupier, 93 Iniscarn Road, Desertmartin, Londonderry, BT45 5NJ	
The Owner/Occupier, 93a Iniscarn Road, Desertmartin, Londonderry, BT45 5NJ	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
Ref ID: LA09/2019/0174/F Proposal: Proposed Dwelling & Garage within existing cluster of dwellings. Address: Approx 40m. North/North East of 49 Gortahurk Road, Desertmartin., Decision: Decision Date:	
Ref ID: LA09/2015/1186/F Proposal: Proposed single storey extension to left hand gable of existing dwelling	

Address: 49 Gortahurk Road, Desertmartin, Magherafelt,  
Decision: PG  
Decision Date: 15.03.2016

Ref ID: H/1973/0025  
Proposal: LV/MV O/H LINE (C.1192)  
Address: KEENAGHT 'D' - DESERTMARTIN  
Decision:  
Decision Date:

Ref ID: H/1985/0533  
Proposal: SITE OF DWELLING WITH GARAGE  
Address: INNISCARN RD DESERTMARTIN  
Decision:  
Decision Date:

Ref ID: H/1990/0003  
Proposal: BUNGALOW AND DOUBLE GARAGE  
Address: INISCARN ROAD DESERTMARTIN  
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

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

Drawing No. 04  
Type: Garage 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**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0338/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective domestic garage in substitution for garage previously approved under LA09/2015/0985/F and extension to existing residential curtilage	<b>Location:</b> Lands to the rear of 7 Ballyheifer Road Magherafelt
<b>Referral Route:</b>  Approval – To Committee – Three Objections Received	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr Nicky Brown 7 Ballyheifer Road Magherafelt	<b>Agent Name and Address:</b> Ross Planning 9a Clare Lane Cookstown BT80 8RJ
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### **Site Location Plan**



#### **Consultations:**

Consultation Type	Consultee	Response
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#### **Representations:**

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

#### **Summary of Issues**

Approval – To Committee – Three Objections Received

Summary of objections is as below:

First point of objection was that the wrong fee has been paid, in that due to the extension of curtilage the application falls within category 13 and a fee of £831 should be paid. It was also highlighted that in Q.26 of the P1 form that this was incorrectly answered due to the applicant being a nephew of Cllr P McLean. Objection was raised due to the fact the application site is located within a zoned housing land and this application will impact on the Key Site Requirements of MT 18 when developing this site and will undermine the integrity if housing allocation for the town and plan area. The objection raised that the application conflicts with criterion (b) of the addendum to PPS 7, in that given its location to the neighbouring boundary it will significantly impact on residential amenity by way of overlooking and disruption. Issue was raised that the shed and surrounding area is still being used for the applicant's landscaping business and occasionally for his car washing/detailing business with the land being used for storage of wood, bags of fertilizer etc. In that this business use has no planning permission and that it was applied for and refused to confirm that this is unacceptable on the site with no appeal submitted. Final issue is that the shed has no drainage even though it does have gutters and

downpipes the rain water flows into the garden on No.10 Grange Avenue causing flooding.

Finally, it noted that the revised block plan does not include ridge/eaves levels for No. 10 Grange Avenue although the dwellings on either side have been surveyed, in that it is curious as the shed will have more of an impact on No.10 than these properties. No ground levels for the adjoining properties have been included to compare against the ground levels of the site.

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

The site is located within the development limits of Magherafelt and it is within an area zoned for housing development (MT18) in accordance with the Magherafelt Area Plan 2015. The site is identified as lands to the rear of 7 Ballyheifer Road in which the site is located between No 2 Grange Avenue, a single storey dwelling and Milesian Manor Nursing Home. On the site sits a detached single storey dwelling which appears to have been recently constructed and to the rear of the dwelling is the shed that this application relates to. The land to the rear of the shed is currently rough grassland. The shed measures 14.0m x 7.0m and has a ridge height of 3.4m. It is finished entirely in light grey coloured metal cladding with black flashings at corners and eaves/wall plate levels in addition to black doors. There is a large area of hardstanding around the shed with some of this being currently used for the storage of pallets of gardening materials.

The southern boundary is defined by a 1.8m high close boarded fence and a low level laurel hedge. This defines the boundary along the rear of the existing housing development of Grange Avenue which is predominantly one or one-and-a-half storey. The shed is positioned to the rear of 2 no. one-and-a-half storey detached dwellings and sits between 2.5m-4.0m from the rear boundary of these dwellings.

### **Relevant planning history**

Reference	Location	Proposal/Complaint	Status	Date
LA09/2019/0338/F	Lands to the rear of 7 Ballyheifer Road, Magherafelt	Retrospective domestic garage in substitution for garage previously approved under LA09/2015/0985/F and extension to existing residential curtilage,	NEIGHBOURS NOTIFIED	
LA09/2016/1040/F	Lands opposite 8 Ballyheifer Road, Magherafelt	Retrospective application for the retention of the single dwelling and attached garage including relocation	PERMISSION REFUSED	10.01.2019
LA09/2016/0067/CA	Lands Opposite 8 Ballyheifer Road, Magherafelt	Unauthorised building and business; and unauthorised change of use	RECEIPT OF PLANNING APPLICATION	
LA09/2015/0985/F	Lands opposite 8 Ballyheifer Road, Magherafelt	1No. dwelling and attached garage including relocation	PERMISSION GRANTED	08.03.2016

### **Representations**

There were 12 neighbour notifications sent out however three objections were received on this application.

### **Description of Proposal**

This a full application for the retrospective domestic garage in substitution for garage previously approved under LA09/2015/0985/F and extension to existing residential curtilage, the site is identified as lands to the rear of 7 Ballyheifer Road, Magherafelt

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 – Draft 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 account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Para 6. 137 of the SPPS advises that residential extensions should be well designed.

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.

It must be first noted that the proposed shed is the same size as that previously approved under LA09/2015/0985/F, and per agreed during the group discussions the proposed shed is still therefore deemed acceptable in terms of scale, massing, design and external materials within the context of the existing dwelling and the surrounding area. I note that there is three letters of objection received raising on a number of grounds, in terms of amenity is overlooking and disruption. To take each issue separately, I note that levels were submitted to confirm that the proposed shed sits lower than that of the adjoining properties with the fact the shed has no windows and from this I am content that the shed should not result in an adverse impact of overlooking. In terms of disruption, the proposed use is to be domestic and as long as this is the case I am content that this should not result in an adverse impact in terms of disturbance. From all of this, I am content that the shed is unlikely to have an unduly effect on the privacy or amenity of neighbouring residents. I note that the site is located within lands that is zoned for housing and as a result of this application will result in a loss of some to provide for the extended curtilage however as the use will remain residential I am content that this will not result in an unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. Finally, I am content that there is sufficient space remaining for domestic and recreational purposes within the site.

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policy Hou3 – Residential Extensions. As noted the scale, massing, design and use of external materials has already been accepted in LA09/2015/0985/F and I am content that this is still the case and the shed is seen to be sympathetic with the built form and appearance of the existing property and will not detract from the surrounding area. In which I am content that the shed has been agreed to be designed to be subordinate and ancillary to main dwelling and as agreed

will not have a significant adverse impact on neighbouring amenity nor parking provision. From this I am content that the application would comply under the Draft Strategy however I note that the Draft Strategy has ended its early consultation period however has received a number of objections therefore there is no significant determining weight given at this stage.

To respond to all the points raised in the objections; I note that the issue around the fees has since been resolved and the relevant fee has been paid. In terms of the relationship with Cllr McLean, as stated within the MUDC 'Scheme of Delegation', it only refers to 'Applications submitted by close relatives (parents, partners, siblings and children) of an elected member of the Council,' this does apply in this instance. With regards to the issues over zoning and the issues that this may cause on developing within MT 18, it has been agreed that this is only a small portion of the zoning and is very narrow therefore developing this portion may be difficult and is not seen as an unacceptable loss to the zoning. With regards to the amenity concerns raised, these were addressed above and it has been agreed that the proposal is deemed as betterment and would have less of an impact if dwellings were to be approved to the rear. It has been shown given the use of the shed and the fact the shed sits lower than the adjacent dwellings that it is unlikely to have an adverse impacts such as overlooking and disturbance. In terms of the alleged use being a business this is a matter for the enforcement section as this application is for residential purposes. Finally, with regards to the issue over flooding as a result of the shed, there has been no evidence of this submitted and after a search of the Rivers Agency's flood map which does not indicate any flooding in this area and finally it is a garden space and not living space of the house.

From this the proposal accords with the policy tests of the Addendum to PPS 7 and is able to be taken forward as an approval.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval

**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 domestic garage hereby approved shall be used only for domestic purposes ancillary to No 7 Ballyheifer Road, Magherafelt.

Reason: To prohibit an unacceptable change of use.

3. This permission is granted solely as a substitute for the permissions for a garage previously granted on the site under Ref: LA09/2015/0985/F on the 03.03.2016 and only one garage shall be constructed on the site.

Reason: To ensure that only one garage is constructed on site.

4. The extended curtilage hereby approved shall not be subdivided at any stage.

Reason: In order to protect residential amenity of neighbouring residents and to control future use of the land in the interests of residential amenity.

Informatics

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 Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	13th March 2019
<b>Date First Advertised</b>	28th March 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 10 Grange Avenue Magherafelt Londonderry Geoff Butt 10, Grange Avenue, Magherafelt, Londonderry, Northern Ireland, BT45 5RP	
The Owner/Occupier, 12 Grange Avenue Magherafelt Londonderry	
The Owner/Occupier, 14 Grange Avenue Magherafelt Londonderry	
The Owner/Occupier, 16 Grange Avenue Magherafelt Londonderry	
The Owner/Occupier, 2 Grange Avenue,Magherafelt,Londonderry,BT45 5RP	
The Owner/Occupier, 4 Grange Avenue,Magherafelt,Londonderry,BT45 5RP	
The Owner/Occupier, 6 Grange Avenue,Magherafelt,Londonderry,BT45 5RP	
The Owner/Occupier, 8 Ballyheifer Road Magherafelt Londonderry	
The Owner/Occupier, 8 Grange Drive Magherafelt Londonderry	
The Owner/Occupier, 8a Ballyheifer Road,Magherafelt,Londonderry,BT45 5EQ	
The Owner/Occupier, 9 Ballyheifer Road,Magherafelt,Londonderry,BT45 5EQ Theresa Cassidy TC Town Planning,Unit C12 The Business Centre,80-82 Rainey Street,Magherafelt,BT45 5AJ	
Theresa Cassidy TC Town Planning,Unit C12 The Business Centre,80-82 The Business Centre, Rainey Street, Magherafelt,BT45 5AJ	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

## Planning History

Ref ID: LA09/2015/0985/F

Proposal: 1No. dwelling and attached garage including relocation of the existing portal frame shed (for domestic use only) to the rear of the proposed dwelling.

Address: Lands opposite 8 Ballyheifer Road, Magherafelt, BT45 5EQ,

Decision: PG

Decision Date: 08.03.2016

Ref ID: LA09/2019/0338/F

Proposal: Retrospective domestic garage in substitution for garage previously approved under LA09/2015/0985/F and extension to existing residential curtilage

Address: Lands to the rear of 7 Ballyheifer Road, Magherafelt,

Decision:

Decision Date:

Ref ID: LA09/2016/1040/F

Proposal: Retrospective application for the retention of the single storey portal frame shed (for storage/distribution in association with a landscaping business) and associated site works.

Address: Lands opposite 8 Ballyheifer Road, Magherafelt,

Decision: PR

Decision Date: 10.01.2019

Ref ID: H/2003/0853/F

Proposal: Housing development - 35 no. units, detached, semi-detached and terraced.

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt.

Decision:

Decision Date: 15.04.2005

Ref ID: H/2005/0446/F

Proposal: Erection of Housing Development

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt

Decision:

Decision Date:

Ref ID: H/2012/0006/F

Proposal: Housing development to include 32 units

Address: Between Grange Avenue and Milesian Manor Nursing Home, Ballyheifer Road, Magherafelt,

Decision: PR

Decision Date: 19.11.2012

Ref ID: H/1990/0292

Proposal: 2 HOUSES AND GARAGES

Address: SITES NO 26 & 27 GRANGE HOUSING DEVELOPMENT OFF BALLYHEIFER ROAD MAGHERAFELT

Decision:

**Decision Date:**

Ref ID: H/2002/0546/Q

Proposal: Site of Housing Development

Address: Ballyheifer, Magherafelt

Decision:

**Decision Date:**

Ref ID: H/2010/0177/F

Proposal: Construction of new housing development consisting of 38 No. dwellings and alteration to access of milesian manor nursing home

Address: Lands Adjacent to 9 Ballyheifer Road, Magherafelt

Decision: PG

Decision Date: 24.01.2014

Ref ID: H/2010/0550/F

Proposal: Extension to the front and rear with internal alterations to existing nursing home.

Address: Milesian Manor Nursing Home, 9 Ballyheifer Road, Magherafelt, BT45 4DX,

Decision:

Decision Date: 18.01.2011

**Summary of Consultee Responses**

**Drawing Numbers and Title**

Drawing No. 02/1

Type: Site Layout or Block Plan

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:



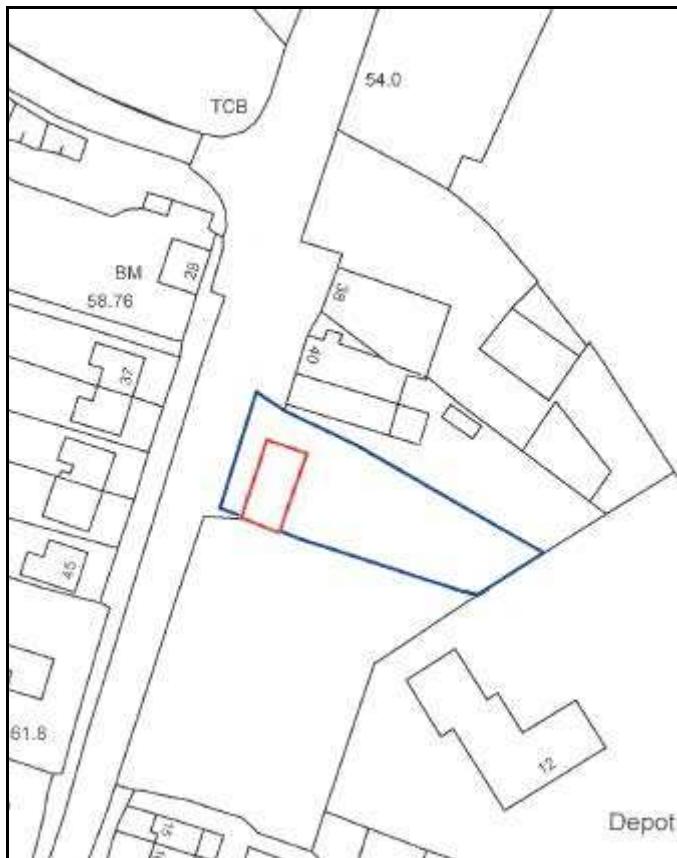
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/09/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0357/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of 20 x 8ft container to house vending machines	<b>Location:</b> Site at 42 Main Road Moygashel Dungannon
<b>Referral Route:</b> Objection	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Bryan Turkington 14 Wellbrook Avenue Dungannon	<b>Agent Name and Address:</b> Teague and Sally Ltd 3A Killycolp Road Cookstown BT80 9AD
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health – Mid Ulster	Substantive Response

### Representations:

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

### Characteristics of the Site and Area

The site is located within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is a mix of residential, convenience shops and hot food outlets. To the west and south of the site are semi-detached and detached dwellings. Adjacent and south of the site is a group of established trees and to the southeast is a day-care facility. To the north of the site are two hot food outlets.

The application site comprises a metal container, which directly abuts a car parking area at the site. The site is on a flat land and has a roadside frontage onto the Main Road in Moygashel. The metal container is situated on a long rectangular plot, which is currently vacant and there was previously buildings at the field but have since been demolished. There is metal fencing along the roadside boundary of the plot with unauthorised signage located on the fencing.

### **Description of Proposal**

This is a full application for a metal container to house vending machines. The container is 6m in length and 2.4m in width. The proposal has a floorspace of 14m<sup>2</sup>. There is a door and window with lockable shutters on the front elevation. The container has external finishes of green-sheeted metal.

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

#### **Planning History**

Ref ID: LA09/2017/0895/PAD

Proposal: Proposed mixed use development consisting of retail unit and 12 apartments with car parking

Address: Main Street, Moygashel, Dungannon,

#### **Enforcement Action**

LA09/2019/0001/CA - Alleged siting of metal container with vending machine inside - Main Street, Moygashel, and Lands Adjacent To Gordy Chip Shop.

LA09/2019/0110/CA - Unauthorised log cabin - Adjacent To Gordy's Chippy, Main Street, Moygashel

LA09/2019/0090/CA - Unauthorised banner advertisement - Lands At Main Street, Moygashel

There is a current enforcement case for the siting of the metal container, which is the subject of this planning application. There are also 2 other enforcement cases at the site with an unauthorised log cabin which has been sited behind the metal container and unauthorised signage on the roadside fencing.

#### **Consultees**

Environmental Health were consulted as objections were received stating issues about operating hours and noise from the site. Environmental Health responded on 7<sup>th</sup> August 2019 stating they had no objections but should planners be mindful to approve the following condition should be added –

“The premise shall not be open outside the hours of 09:00hrs – 23:00hrs”

DFI Roads were consulted and responded on 18<sup>th</sup> April 2019 with advice about car parking. However, car parking is an issue considered by Mid Ulster Council itself.

#### **Representations**

3 letters were received objecting to this proposal.

A letter was received by email on the 29<sup>th</sup> May 2019 from the owners/occupiers at the daycare facility Kids and Bibs. This premise is located at 12 Moygashel Lane, which is 35m southeast of the site. Another letter was received from the same objector on 7<sup>th</sup> August 2019.

The main issues in both letters are as follows –

1. 24 hour nature of the vending machines causing antisocial behaviour
2. Litter
3. Noise pollution
4. Removal of boundary trees abutting the northern boundary of the premise of the daycare facility.
5. Unauthorised signage at the site
6. Parking issues reversing onto the main road
7. There is another unauthorised log cabin to the rear of the container
8. The design of the container is not in keeping with the surroundings of Moygashel.

In respect of the above issues raised by the objector, anti-social behaviour, litter and noise are material planning considerations which will be considered in the assessment. Environmental Health issues are aware of complaints at the site and were consulted as part of the consultation process. The removal of boundary trees is not a planning matter unless the trees are under a TPO or conditioned as part of a planning approval at the site. There are ongoing enforcement cases for the unauthorised signage and log cabin to the rear of the metal container. The issues of parking and design of the metal container considered below in the assessment.

A letter was received by email on 7<sup>th</sup> August 2019.

The main issue in this letter are as follows –

1. The objectors state they were not neighbour notified
2. Disturbed sleep pattern due to the development
3. Noise disturbance from car doors, engines running, cars moving, horns tooting, car alarms
4. Anti-social behaviour
5. Issues with the owners of the site

In respect of the above issues raised by the objector, the premise at No. 35 Main Road was not neighbour notified, as their property does not abut the red line of the site boundary as indicated on Drawing No. 01 date received 19<sup>th</sup> March 2019. The points about sleep disturbance, noise and anti-social behaviour are material planning considerations. Environmental Health are aware of complaints at the site and were consulted as part of the consultation process. Any issues or discussions with the owners/occupiers of the site are not material planning 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.

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS encourages development in villages and small settlements of a scale, nature and design appropriate to the character of the settlement and to meet local need (day-to-day needs). In my opinion, there is not a local need for the vending machines as there is a Costcutter convenience shop 30m north west of the application site that will also serve these products.

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

The proposal is located within the settlement limit of Dungannon so SETT 1 – Settlement Limits is the relevant policy, which applies. I consider, as the proposal does not meet Policy DES 2 in the Planning Strategy for Rural Northern Ireland it also does not meet SETT 1.

## **Policy DES 2 of Planning Strategy for Rural Northern Ireland**

Policy DES 2 is the main policy, which the proposal is considered against, and it will have to meet 3 criteria which are land use, amenity and design.

### **Land Use**

The application site is located along the main road in Moygashel where there is a mix of convenience shops, residential and hot food outlets. There are both semi-detached and detached dwellings across the road from the site. 15m north of the site are two hot food outlets Gordy's fish and chip shop and Applejacks café. The proposal is for a metal container that houses vending machines selling fizzy drinks and sweets and this use currently operates 24 hrs a day. This retail use would fit with other uses in the surrounding area, as 30m northwest of the site is the convenience shop Costcutters as shown in figure 1 below. I am not satisfied there is a need for this use as the Costcutters would also sell these products. I consider the proposal for 24hr vending machines is not sympathetic to the character of the surrounding area.



Figure 1 Costcutters shop in the immediate area

### **Amenity**

I consider this proposal has a negative impact on the amenity of neighbouring properties in the surrounding area as the vending machines at the site are currently open 24 hours a day. Consequently there are issues with noise, sleep disturbance and general nuisance associated with the operation of the development especially at night. Environmental Health were consulted as part of the assessment and had no objections. Members should be aware that they stated if the Council was mindful to approve the proposal, conditions on operating hours should be imposed. I am content there are no issues with overlooking, loss of privacy or dominance of the metal container.

### **Design**

The metal container has external finishes of forest green metal cladding as shown in figure 2 below. The design of the metal container has a window with lockable shutters and a door on the front elevation which means there is minimal sound insulation at the container. This creates issues with noise and a negative effect on neighbourhood amenity at the site. The container is situated on the edge of the footpath facing onto the main road in Moygashel. I do not consider the materials on the metal container are acceptable and will detract from the character of the surrounding area. This proposal is not sympathetic and in keeping with other shop fronts along the road.



Figure 2 – Metal container and surrounding area

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

DFI Roads were consulted with this application. They raised concerns that proposed car parking and servicing arrangements would need to be shown on Drawing No. 2 date stamped received 19<sup>th</sup> March 2019. Parking is however a matter to be determined by Mid Ulster Council. There are car parking spaces to the front of the site. Under "Parking Standards" the proposal is food retail so would need 1 space per 14m<sup>2</sup> and I am content the proposal can meet this criteria.

Having assessed the proposal against all relevant policy considerations I recommend to the Planning Committee that the application be refused as being contrary to DES 2 of Planning Strategy for Rural Northern Ireland.

#### **Neighbour Notification Checked Yes**

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

Having considered all the relevant policy considerations I would recommend the proposal for refusal.

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

1. The proposal is contrary to Policy DES 2 Townscape of Planning Strategy for Rural Northern Ireland, in that the metal container that houses vending machines does not make a positive contribution to the townscape and is not sensitive to the character of the area in terms of design, scale and use of materials.
2. The proposal is contrary to Policy DES 2 Townscape of Planning Strategy for Rural Northern Ireland, in that the metal container that houses vending machines

will have a negative effect on the amenity of neighbouring properties relating to noise and general nuisance.

**Signature(s)**

**Date:**



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

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

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0385/O	<b>Target Date:</b>
<b>Proposal:</b> Rural type dwelling and garage.	<b>Location:</b> 20m North of 34 Waterfoot Road Ballymaguigan Magherafelt.
<b>Referral Route:</b> Refusal	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Paul Johnson 34 Waterfoot Road Ballymaguigan Magherafelt	<b>Agent Name and Address:</b> Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

Contrary to Policy. No objections received.

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

The site is located approx. 20m North of 34 Waterfoot Road, Ballymaguigan. The site is located within the countryside as designated within the Magherafelt Area Plan 2015. The site currently appears to be used as a yard. The site is quite flat throughout and has a mix of vegetation and wire fencing providing the boundary treatment. The surrounding land uses are predominantly rural with dispersed dwellings and their associated outbuildings.

## **Description of Proposal**

Outline planning permission is sought for a rural type dwelling and garage.

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

### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 34, 35, 38 and 40 Waterfoot Road. At the time of writing, no representations were received.

### Planning History

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

## Planning Assessment of Policy and Other Material Considerations

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

The Magherafelt Area Plan 2015 identify the site as being outside any defined settlement limits, located North West of Ballymaguigan Settlement Limit. There are no other zonings or designations within the Plan.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. At present, it is felt that the proposal is contrary to the policies held within this document, more specifically Policy CT1 and criterion (a) and (b) of Policy CT2 however it must be noted that Draft Plan Strategy holds little determining weight following on from the consultation stage.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being new dwellings in existing

clusters in accordance with CTY 2a. This application was also considered against the policy criterion held within CTY 8.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that a number of criteria are met. The cluster of development lies outside of a farm and consists of four or more buildings including No 34, 38, 40 and 35 Waterfoot Road and therefore there is at least three dwellings within the cluster. The cluster is read together and appears as a visual entity in the local landscape. The first and second criteria of CTY 2a have been met.

The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility, or is located at a cross roads. The agent was asked to provide justification for the site and has not noted any of the aforementioned focal points therefore I have considered the closest social/community building/facility and crossroads to the site. There is a crossroads which is located approx. 260m SE of the site and Ballymaguigan GAA club grounds are located approx. 330m South East of the site. The GAA grounds and part of the crossroads to the south are located within the settlement limits of Ballymaguigan, both have been considered however it is felt that the site is not associated with either given the significant distance between them, consequently there is no focal point and third criterion of CTY 2a has not been met.

The proposed site is located to the rear of the existing dwelling (No. 34) and therefore public views would be somewhat limited. There is existing vegetation along some of the existing boundaries, however it is not considered that the site is bounded by two sides and therefore the proposal fails on the fourth criterion. The site is only bound by development along one side (southern boundary). The remaining three sides are not bound by development and as a result the proposed site is unable to be absorbed into the existing cluster through rounding off and consolidation. The proposed site would also visually intrude into the open countryside.

I am satisfied that the proposed site would not have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval is forthcoming. The sixth criterion of CTY 2a has been met.

The proposal is contrary to a number of the criterion held within Policy CTY 2a. Policy CTY 2a states that all criteria must be met, therefore the proposal is contrary to policy and as such refusal is recommended.

There was some ambiguity about what policy the applicant/agent wanted the proposal to be assessed under. The agent referred to the site being "situated in a cluster" which links with the wording contained within CTY 2a, however to ensure that all avenues have been considered, the proposal was also considered under CTY 8. The application site is located to the rear of the dwellings along Waterfoot Road and therefore cannot be considered a gap site within an otherwise substantial and continuously built up frontage and therefore fails the policy tests held within CTY 8.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the

rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted however given the limited views available of the site and existing landscaping, it is considered that the impact of a suitably designed dwelling would be minimal however may lead to ribbon development. DfL Roads were consulted and have no objection to the proposal subject to condition.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	
It is considered the proposal is contrary to the relevant planning policy and thus refusal is recommended.	
<b>Conditions/Reasons for Refusal:</b>	
<p>Refusal Reasons</p> <p>1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or is not located at a cross-roads and the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure, the dwelling would if permitted visually intrude into the open countryside.</p>	
<b>Signature(s)</b>	
<b>Date:</b>	

ANNEX	
<b>Date Valid</b>	22nd March 2019
<b>Date First Advertised</b>	4th April 2019
<b>Date Last Advertised</b>	

**Details of Neighbour Notification (all addresses)**

The Owner/Occupier,  
 34 Waterfoot Road,Magherafelt,Londonderry,BT45 6LF  
 The Owner/Occupier,  
 35 Waterfoot Road Magherafelt Londonderry  
 The Owner/Occupier,  
 38 Waterfoot Road Magherafelt Londonderry  
 The Owner/Occupier,  
 40 Waterfoot Road Magherafelt Londonderry

<b>Date of Last Neighbour Notification</b>	1st April 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No

**Planning History**

Ref ID: LA09/2019/0385/O

Proposal: Rural type dwelling and garage.  
 Address: 20m North of 34 Waterfoot Road, Ballymaguigan, Magherafelt.,  
 Decision:  
 Decision Date:

Ref ID: LA09/2016/0061/O

Proposal: Erection of Replacement Dwelling with Detached Garage  
 Address: 32 Waterfoot Road, Ballymaguigan, Magherafelt,  
 Decision: PG  
 Decision Date: 16.06.2016

Ref ID: H/2001/0480/F

Proposal: Alterations and extension to dwelling  
 Address: No. 34 Waterfoot Road, Ballymaguigan  
 Decision:  
 Decision Date: 14.12.2001

Ref ID: H/2005/0245/F

Proposal: Conservatory to dwelling  
 Address: 34 Waterfoot Road, Ballymaguigan, Magherafelt  
 Decision:  
 Decision Date: 07.07.2005

Ref ID: H/1996/0646

Proposal: ALTS AND ADDS TO DWELLING  
 Address: 30 WATERFOOT ROAD MAGHERAFELT  
 Decision:  
 Decision Date:

Ref ID: H/2000/0045/F  
Proposal: Replacement Dwelling  
Address: 30 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 15.03.2000

Ref ID: H/2013/0432/O  
Proposal: Proposed dwelling on a farm.  
Address: 30m North of 38 Waterfoot Road Magherafelt,  
Decision: PG  
Decision Date: 28.02.2014

Ref ID: H/2014/0280/F  
Proposal: Farm Dwelling and Garage  
Address: 30m North of 38 Waterfoot Road, Magherafelt. BT45 6LF,  
Decision: PG  
Decision Date: 13.10.2014

### **Summary of Consultee Responses**

DfI Roads – content.

### **Drawing Numbers and Title**

Drawing No. 01  
Type: Site Layout or Block Plan  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:



**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0399/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed extension to existing lorry repair garage	<b>Location:</b> 67 Eskragh Road Dungannon
<b>Referral Route:</b> Approval recommended	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Gary Montgomery 67 Eskragh Road Dungannon	<b>Agent Name and Address:</b> Prestige Homes 1 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b> One objection received and fully considered citing concerns over Roads issues	
<b>Signature(s):</b>	

Case Officer Report				
Site Location Plan				
				
<b>Consultations:</b>				
Consultation Type	Consultee	Response		
Statutory	DFI Roads - Enniskillen Office	Advice		
Statutory	DFI Roads - Enniskillen Office	Advice		
Statutory	DFI Roads - Enniskillen Office			
<b>Representations:</b>				
Letters of Support	None Received			
Letters of Objection	1			
Number of Support Petitions and signatures	No Petitions Received			
Number of Petitions of Objection and signatures	No Petitions Received			
<b>Summary of Issues</b>				
One objection has been received citing road safety issues as a result of the increase in traffic as the primary concern.				
<b>Characteristics of the Site and Area</b>				
The site lies within the Granville Industrial Estate and is a 0.35ha parcel of land. The site is within the land zoned for Industry and Business as defined in the Dungannon and South Tyrone Area Plan 2010, and the current use of the land is light industrial as the site is an existing lorry repair garage.				
At present on site is a two-storey portal frame structure and comprises office and administrative space and six workshops/hangars with roller shutter doors.				
The site is enclosed with a plastic coated chain link fence over 2 metres in height. There is an established treeline along the western boundary adjacent to an existing laneway with interspersed trees along the eastern boundary and Eskragh Road.				

To the south and south west of the site is the Granville Industrial Estate, with agriculture land and residential dwellings with associated farm buildings further to the north east of the site.

### **Description of Proposal**

Full application for proposed extension to existing lorry repair garage.

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

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

### **Relevant Histories**

M/1996/0115 - Mechanical workshop - 67 Eskragh Road Granville Dungannon - PERMISSION GRANTED

M/2006/0312/F - Proposed mechanical workshop and ancillary office space - 67 Eskragh Road, Dungannon - PERMISSION GRANTED 20.06.2006

LA09/2017/0473/F - Proposed extension to existing lorry repair garage - 67 Eskragh Road, Dungannon - PERMISSION GRANTED 27.07.2017 (not yet constructed)

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. One objection has been received which relates to concerns over road safety and in particular any increase in the volume of traffic onto the Eskragh Road and the implications of this. The question has been asked what traffic surveys have been undertaken and what proposals are in place to cope with any increase in traffic using the Eskragh Road to access this development. Within the Transport Assessment Form that has been received from the agent, it has been quantified that there will be no increase in traffic to and from the site as the proposed extension is to be used for the secure parking of company vehicles. It has been further quantified that the proposed extension will not increase the work force or traffic numbers. As the primary issue raised in the objection was the increase in the volume of traffic, this assurance should alleviate these concerns. The objector also raised issues regarding speeding on the road by factory staff; a vast increase in rubbish dumped from factory going cars at meal times; and damage to vehicles trying to meet where the road isn't wide enough. These issues – whilst concerning – are not considered to be material planning considerations and planning has no control over these matters.

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being located within the development limits of Granville which gives favourable consideration to proposals, subject to criteria outlined within the plan policy. The site is located within the Granville Industrial Estate which is zoned land for industry and business. There are no other specific designations or zonings.

Plan Policy IND 1 - Industry and Business states that within existing areas planning permission will normally be granted for industry, storage and distribution and other appropriate business uses where the development meets the key site requirements contained in Part 3 of the Plan. The introduction of inappropriate non-conforming uses that would prejudice the efficient operation of industrial and business uses will not

normally be permitted. The proposal involves an extension to an existing lorry repair garage which is of an appropriate nature for the site.

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

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction from Policy PED 1 and PED 9 of PPS 4 - Planning and Economic Development therefore existing policy applies.

Policy PED 1 - Economic Development in Settlements of PPS 4 states that a development proposal of 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.

The proposed extension measures 12m in length, 15.5m in depth and has a height of 7.6m. The finishes are to be ernestone buff coloured alphacrete masonry blocks. The scale of the proposal is consistent with amenity space and the host building. The nature of the proposal is suited to the location and adjacent industrial and mixed business use.

Policy PED 9 - General Criteria for Economic Development gives the criteria which a proposal for economic development will be required to meet and I will address each of these in turn.

- (a) The proposed extension is compatible with the surrounding land uses, given the site's location within the existing Industrial Estate and the existing lorry repair business on site. There are no individual residential properties within the vicinity;
- (b) There are no nearby residents therefore there will be no harm to any amenities;
- (c) There are no features of the natural or built heritage that it will have an adverse impact on;
- (d) The site is not located within an area of flood risk and will not cause or exacerbate flooding;
- (e) The proposed one bay extension to an existing workshop should not create a noise nuisance. The agent has stated that the proposal is for secure parking of company vehicles so this should not generate any additional noise at the site;
- (f) There are no concerns in relation to emissions or effluent;
- (g) DfI Roads have been consulted and there are no concerns with regards to road safety or capacity of the local road network as there is no additional traffic being generated. The agent has stated that the proposal will not result in any additional traffic

from staff, visitors or goods vehicles as the proposal is for the secure parking of company vehicles.

(h) DfI Roads do not have any concerns with regards to access arrangements, parking and manoeuvring areas.

(i) The application is within a zoned area of land in the development limits of Granville. There are no impacts on public rights of way that I am aware of. There are a number of bus services, and access for people with impaired mobility is not an area of concern and will also be covered under separate building regulations;

(j) The site layout, building design and associated infrastructure are considered to be acceptable. No landscaping has been proposed but given the existing open nature of the existing site it is not felt additional landscaping is necessary;

(k) The extension will not impact on the existing boundary wall to the site. There are no areas of outside storage proposed.

### **Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

It is my view that the scale, nature and form of the proposal is appropriate to the location. As the proposal meets all policy consideration and DfI Roads are content I recommend 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. 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. 01 bearing date stamp 25 MAR 2019 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.

### **Informatics**

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. 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.

3. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for 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 whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

4. It is the responsibility of the developer to ensure that surface water does not flow from the site onto the public road (including verge or footway) and that existing roadside drainage is preserved and does not allow water from the road to enter the site.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	25th March 2019
<b>Date First Advertised</b>	11th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
Brian Barker 39, Eskragh Road, Dungannon, Tyrone, Northern Ireland, BT70 1NN	
The Owner/Occupier, Elmgrove Foods Ltd, Granville Industrial Estate, Dungannon, Co. Tyrone, BT70 1NJ	
The Owner/Occupier, Linden Foods, Granville Industrial Estate, Dungannon, Tyrone, BT70 1NJ	
The Owner/Occupier, Linergy Ltd, Granville Industrial Estate, Dungannon, Co. Tyrone, BT70 1NJ	
<b>Date of Last Neighbour Notification</b>	3rd April 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2019/0399/F Proposal: Proposed extension to existing lorry repair garage Address: 67 Eskragh Road, Dungannon, Decision: Decision Date:	
Ref ID: M/2006/0312/F Proposal: Proposed mechanical workshop and ancillary office space Address: 67 Eskragh Road, Dungannon Decision: Decision Date: 20.06.2006	
Ref ID: M/1980/0411 Proposal: ERECTION OF BUNGALOW Address: ESKRAGH, DUNGANNON Decision: Decision Date:	
Ref ID: M/1983/0306	

Proposal: BUNGALOW  
Address: ESKRAGH, DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1977/0346  
Proposal: ERECTION OF BUNGALOW  
Address: ESKRAGH, DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1996/0115  
Proposal: Mechanical workshop  
Address: 67 ESKRAGH ROAD GRANVILLE DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/1995/0550  
Proposal: Proposed Mechanical Workshop  
Address: 67 ESKRAGH ROAD GRANVILLE DUNGANNON  
Decision:  
Decision Date:

Ref ID: LA09/2017/0473/F  
Proposal: Proposed extension to existing lorry repair garage  
Address: 67 Eskragh Road, Dungannon,  
Decision: PG  
Decision Date: 27.07.2017

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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:



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0419/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling on a Farm/Dwelling in an existing Cluster.	<b>Location:</b> 125 metres East 76 Rhone Road Drummond Dungannon Co Tyrone BT71 7EW.
<b>Referral Route: Objection received</b>	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Emmett Kelly 76 Rhone Road Drummond Dungannon BT71 7EW	<b>Agent Name and Address:</b> Blackbird Architecture 4 Glenree Avenue Dungannon BT71 6XG
<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
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice

#### **Representations:**

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

## **Summary of Issues**

One objection was received.  
 The main concerns were;  
 ribbon development,  
 siting away from the farm holding,  
 not in a cluster

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

The site comprises a square portion of a large agricultural field located adjacent to and directly west of number 30 Gorestown Road, Dungannon. The site is relatively flat and somewhat open from the road side. The rear boundary is undefined on the ground, there is a low cropped native species hedgerow along the east and south boundaries and the western boundary is defined by a row of mature trees. The dwelling to the immediate east is a small bungalow and there are a further two bungalows to the south.

The site lies within the open countryside outside all other area of constraint. The settlement limits of the Moy is a short distance to the east. The surrounding area is characterised by undulating rural landscape with a scattering of roadside single dwellings and farm holdings.

## **Description of Proposal**

The proposal seeks outline permission for a dwelling on a Farm/Dwelling in an existing Cluster.

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

Given the rural location of application site the nature of the proposal the application shall be assessed under Planning Policy Statement 21- Sustainable Development in the Countryside and in particular with the following;

- Policy CTY1- Development in the Countryside;
- Policy CTY10 - Dwellings on Farms;
- Policy CTY13- Integration and Design of Buildings in the Countryside; and
- Policy CTY14 - Rural Character.

Policy CTY1 provides clarification on which types of development are acceptable in the countryside, such as a dwelling on a farm, a dwelling to meet the needs of a non agri-business, a dwelling based on personal and domestic circumstances, a replacement dwelling or if the site could be considered a small gap site within a substantial and built up frontage. In this instance, the application is for a farm dwelling and or a dwelling in a cluster therefore must be considered against Policies CTY 2A and CTY10 of PPS21.

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

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;

- the cluster appears as a visual entity in the local landscape;
- the cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads;
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity.

In this case the preferred site would not appear to comply with the above policy, the cluster does not benefit from a focal point nor is it located at a cross roads. The site is not bounded on at least two sides by development and finally a dwelling at this site would not be considered as rounding off. Therefore the proposed site fails the policy tests of CTY2A.

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

With respect to (a) it is considered that this policy criteria is met as the applicant has provided an Agricultural Business Identification number which DARD has confirmed has been in existence for more than 6 years. DARD has also confirmed that they have been claiming single farm payments. I am therefore content that the proposal is therefore acceptable under this policy.

With respect to (b) there are no records indicating that any dwellings or development opportunities outwith 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 adjacent to the existing farm buildings and existing dwelling.

It is considered that the proposal is in compliance with the criteria of Policy CTY 10.

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. The site does benefit from vegetation cover, and the existing farm buildings would act as a screen and would allow the dwelling to fit in unobtrusively. It is considered that the site has the capacity to absorb a dwelling of a suitable size and scale. 7 metre ridge height max.

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 (7m) to the application site. The site should also be sited in the area shaded yellow.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this the Draft Plan cannot be given any determining weight at this time.

One objection was received from a concerned resident stating concerns with; ribbon development; siting away from the farm holding; not in a cluster. All of the above concerns were valid when considering the area identified as the preferred site on the Gorestown road, however, via siting the site alongside the existing farm holding none of the mentioned concerns are still applicable.

The application was advertised on 20.06.2019 and Neighbour Notifications were issued on 12.06.2019 however no representations were received in respect to this application.

### **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. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 80.0m shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

4. The proposed dwelling shall have a ridge height of less than 7 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

5. 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.

6.The proposed dwelling shall be sited in the area shaded yellow on the approved plan no 1A date stamped 10 June 2019.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

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 of the site. 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.

#### **Informatics**

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.

Not 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 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 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>	28th March 2019
<b>Date First Advertised</b>	11th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 29 Gorestown Road,Dungannon,Tyrone,BT71 7EU	
The Owner/Occupier, 30 Gorestown Road,Dungannon,Tyrone,BT71 7EU	
The Owner/Occupier, 84 Rhone Road,Dungannon,Tyrone,BT71 7EW	
The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
Ref ID: LA09/2019/0419/O	
Proposal: Outline planning permission for a Dwelling on a Farm/Dwelling in an existing Cluster.	
Address: Outline planning permission for a dwelling on a farm/dwelling in an existing cluster at 90m East of Crossroads of Gorestown Road & Syerla Road (Wylies Crossroads) and the land surrounding 76 Rhone Road, Drummond, Dungannon, Co Tyrone, BT71	
Decision:	
Decision Date:	
Ref ID: M/1987/0100	
Proposal: BUNGALOW	
Address: DRUMMOND, MOY, DUNGANNON	
Decision:	
Decision Date:	
Ref ID: M/2003/0509/O	
Proposal: Dwelling house	
Address: Immediately adjacent to 30 Gorestown Road, Dungannon	
Decision:	
Decision Date: 22.09.2003	

Ref ID: M/2001/0286/O  
Proposal: Dwelling  
Address: Adjacent to 30 Gorestown Road Dungannon  
Decision:  
Decision Date: 22.11.2001

Ref ID: M/2002/0153/A41  
Proposal: Conversion of garage to bedroom accommodation & rear extension to provide store.  
Address: 30 Gorestown Road, Dungannon.  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads and DAERA were consulted and replied with no objections subject to conditions.

### **Drawing Numbers and Title**

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

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

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 <sup>th</sup> August 2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0423/F	<b>Target Date:</b> 10 <sup>th</sup> July 2019
<b>Proposal:</b> Retention of single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. Proposal to include an increase in the curtilage of the site.	<b>Location:</b> 63a Ballymacombs Road, Bellaghy, BT45 8JW.
<b>Referral Route:</b> 1 Objection received – signed off by 5 individuals	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Donal O Cearnaigh 63a Ballymacombs Road Bellaghy	<b>Agent Name and Address:</b> Newline Architect 48 Main Street Castledawson, BT45 8AB
<b>Executive Summary:</b> Despite the submission of a reduced scheme, which would require the demolition of a section of the existing unauthorised building, it is recommended that this application be refused as it fails to comply with policy EXT 1 of the Addendum to PPS 7. Its scale is not subordinate to the main dwelling and its design and appearance reflects a dwelling rather than a domestic store and garage. Furthermore, the proposal cannot be considered as a dwelling under PPS 21 as no justification has been provided in line with the provisions of Policy CTY 1 of PPS 21.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations

Consultation Type	Consultee	Response
<b>Representation</b>		
Letters of Support	None Received	
Letters of Objection	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. 5 neighbouring properties have been notified of the proposal. To date there has been 1 objection received, signed off by 5 third parties.

Issues raised are summarised as follows:

- Concern about the scale of the building
- Concern that it will be used as 2 separate holidays lets
- Increased traffic
- Concern about family safety from strangers using the property
- No sightlines
- Inadequate sewers
- Proper Neighbour Notification not carried out
- Query as to whether the applicant owns all assets listed in supporting documentation

- Design concerns
- The building does not constitute permitted development
- Request that the building be demolished

The applicant has reduced the scale and massing of the building. Neighbours and objectors have been notified (by letter) of this reduced scheme. It can be conditioned that it be used for domestic purposes only. No intensification is proposed and as such there is no requirement for consultation with DFI Roads and there is no requirement for improved splays. Concern about family safety from strangers has not be substantiated. This proposal is for a domestic garage and given the nature of the proposal I have no concerns about sewer capacity. Neighbour notification letters should be issued to occupied properties which are within a 90m radius of the site boundary provided they adjoin the application site. I am satisfied that neighbour notification has been carried out correctly and in line with procedure. The owner of the assets listed is not a material planning consideration. Design is considered further in this report. This is a full planning application and is not a Certificate of Lawful Development therefore compliance with Permitted Development Legislation is not relevant in this assessment. There is current live enforcement case on this site and it is being held pending consideration of this application.

Having fully considered all material planning concerns raised in this objection letter it is my opinion that none of the issues raised would merit refusal of this application.

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

The application site is located at 63a Ballymacombs Road and is approx. 3 miles SW of the village of Bellaghy. On the site at present is a modest bungalow and an unauthorised outbuilding which is currently being used for the storage of domestic items. The dwelling is located mid-way down an un-adopted laneway which comes directly off the Ballymacombs Road and is used to access several other dwellings. A band of mature trees and thick hedgerow defines the entire Western and Southern boundaries. The remaining site boundaries are void of any vegetation and are defined by wooden fencing.

This area is rural in character with an undulating topography and a dispersed settlement pattern. It is not subject to any area plan designations or zonings.

### **Description of Proposal**

This is a full application for the retention of a single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. The proposal also includes an increase in the curtilage of the site.

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

#### **Relevant Planning History/Enforcement History**

LA09/2018/0153/CA - 63a Ballymacombs Road, Bellaghy. Unauthorised extension of residential curtilage, infilling of the land and unauthorised development of a building within this area.

This proposal will be considered in line with the following Documents:

SPPS - Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Mid Ulster District Council Draft Plan Strategy 2030

Addendum to PPS 7 – Residential Extensions and Alterations

PPS 21 – Sustainable Development in the Countryside

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

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Having carried out a site inspection and a desk-top constraint search of this site and area, I am aware that this site is not an area of acknowledged importance in terms of archaeology and/or built heritage. The closest third party dwelling to the existing building is located approx. 40m to the SW. Given this separation distance and the presence of established boundary treatment running along the SW boundary of the site I am satisfied that there will be no negative impact on adjacent residential amenity.

### **Magherafelt Area Plan 2015**

This site is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015 and is not subject to any Area Plan designations or zonings. As such, existing and relevant planning policy must be applied in this assessment (ie) Addendum to PPS 7.

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy is applicable to this application. Whilst little weight can be attributed to the Draft Plan Strategy, it should be noted that the proposal does not raise any conflict with the Policy GP1.

### **Addendum to PPS 7 – Residential Extensions and Alterations**

Policy EXT 1 permits extensions or alterations to a residential property where certain criteria are adhered to.

**The scale, massing, design and external materials 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.**

Annex A of EXT 1 (Paragraph A11) advises that Buildings within the residential curtilage, such as, garages, sheds and greenhouses can often require as much care in siting and design as works to the existing residential property. They should be subordinate in scale

and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from surrounding views.

This proposal involves an extension to the residential curtilage. I have no concerns with this extension as it will not harm the rural character of this area.

The revised scheme submitted is an attempt to reduce the overall scale and massing of the existing building however it will not be subordinate in scale to the main dwelling house.

Its design gives it the appearance of a dwelling, mainly due to the glazed bay window and patio doors.





**The proposal does not unduly affect the privacy or amenity of neighbouring residents.**

The closest third party dwelling to the existing building is located approx. 40m to the SW. Given this separation distance and the presence of established boundary treatment running along the SW boundary of the site I am satisfied that there will be no negative impact on adjacent residential amenity in terms of overlooking, loss of light or overshadowing. The nature of the proposal will not give rise to any unacceptable noises or emissions.

**The proposal will not cause the unacceptable loss of, or damage to trees or other landscape features.**

The increase in domestic curtilage extends into an adjacent agricultural field and does not result in a loss of such features. Existing boundary treatment can be conditioned to be retained.

**Sufficient space remains within the curtilage of the property for the parking and manoeuvring of vehicles.**

The proposal involves an increase in the domestic curtilage. Adequate in-curtilage space remains for parking and manoeuvring. No intensification is expected given the nature of the proposal.

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

As this building, based on its scale, massing and design, is a dwelling in the countryside it should be considered under this policy. No justification has been provided for it to be considered under Policy CTY 1 of PPS21.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Despite the submission of a reduced scheme, which would require the demolition of a section of the existing unauthorised building, it is recommended that this application be refused as it fails to comply with policy EXT 1 of the Addendum to PPS 7. Its scale is not subordinate to the main dwelling and its design and appearance reflects a dwelling rather than a domestic store and garage. Furthermore, the proposal cannot be considered as a dwelling under PPS 21 as no justification has been provided in line with the provisions of Policy CTY 1 of PPS 21.

**Refusal Reasons:**

1. The proposal fails to comply with Policy EXT 1 of the Addendum to PPS 7 in that its scale and massing are not subordinate to the main dwelling house at number

63a Ballymacombs Road. Its design and appearance reflect a dwelling rather than a domestic store/garage.

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	28th March 2019
<b>Date First Advertised</b>	11th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 57 Ballymacombs Road, Bellaghy, Londonderry, BT45 8JW	
The Owner/Occupier, 59 Ballymacombs Road, Bellaghy, Londonderry, BT45 8JW	
The Owner/Occupier, 63 Ballymacombs Road Bellaghy Londonderry	
The Owner/Occupier, 65 Ballymacombs Road,Bellaghy,Londonderry,BT45 8JW W Cassidy Ballymacombs Road,Bellaghy,BT45 8JW	
<b>Date of Last Neighbour Notification</b>	11th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2019/0423/F Proposal: Retention of single storey domestic garage and storage building, forming a garage, playroom, storage area, amenity/hobby space and utility area to be used in association with the existing dwelling house. Proposal to include an increase in the curtilage of the site. Address: 63a Ballymacombs Road, Bellaghy, BT45 8JW., Decision: Decision Date:	
Ref ID: H/2002/0091/O Proposal: Site Of Dwelling Address: Approx 200 Metres North West Of 55 Ballymacombs Road, Bellaghy Decision: Decision Date: 14.05.2002	
Ref ID: H/2002/1174/O Proposal: Site Of Dwelling And Garage Address: 155m North West of 55 Ballymacombs Road, Bellaghy.	

Decision:

Decision Date:

Ref ID: H/2006/0528/F

Proposal: Proposed extension and alterations to dwelling

Address: 'The Barn' Sheephill Farm, 63 Ballymacombs Road, Bellaghy

Decision:

Decision Date: 09.04.2008

Ref ID: H/1998/0361

Proposal: CONVERSION OF BARN TO HOLIDAY ACCOMMODATION

Address: ADJACENT TO 63 BALLYMACOMBS ROAD BELLAGHY

Decision:

Decision Date:

Ref ID: H/1992/0299

Proposal: 11 KV O/H LINE (BM 1302 91A)

Address: BALLYMACOMBS MBS BELLAGHY

Decision:

Decision Date:

Ref ID: H/2001/0550/O

Proposal: Proposed Site Of Private Dwelling

Address: Approx. 200m NW of 55 Ballymacombs Road, Bellaghy

Decision:

Decision Date: 30.01.2002

Ref ID: H/2004/0918/RM

Proposal: Dwelling and Garage.

Address: 155m North West of 55 Ballymacombs Road, Bellaghy.

Decision:

Decision Date: 21.12.2004

Ref ID: H/2010/0597/F

Proposal: Single Storey Rear Extension To Dwelling

Address: 57 Ballymacombs Road,Bellaghy,

Decision:

Decision Date: 10.02.2011

Ref ID: H/1976/0117

Proposal: REPLACEMENT FARM BUNGALOW

Address: SHEEPHILL FARM, BALLYMACOMBE, BELLAGHY

Decision:

Decision Date:

Ref ID: H/1984/0256  
Proposal: MV O/H LINE (BM 6613)  
Address: BALLYMACOMBS, BELLAGHY, MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1977/0035  
Proposal: M.V O/H LINES (BM 1283)  
Address: BALLYMACOMBS BEG, MAGHERAFELT  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

None carried out

### **Drawing Numbers and Title**

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

Drawing No. 02 Revision 1  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 03 Revision 1  
Type: Proposed Plans  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:



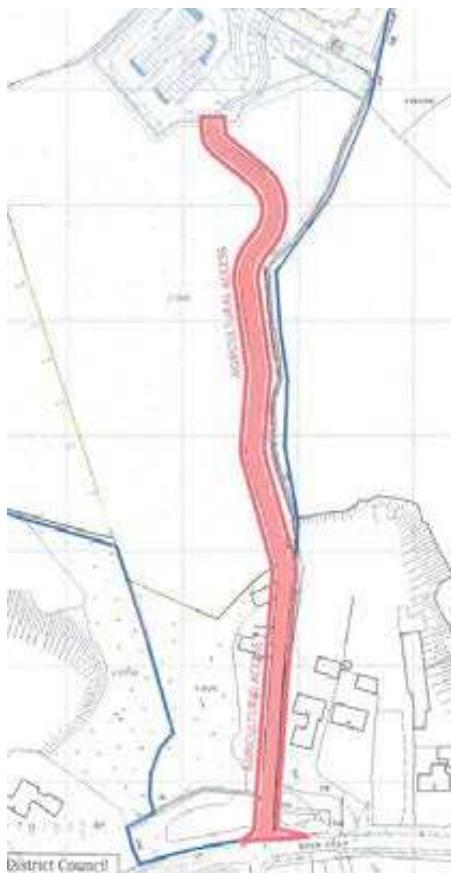
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/09/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0426/F	<b>Target Date:</b>
<b>Proposal:</b> To retain the access, approved under M/2014/0447/F, as a permanent agricultural access to service the residual lands owned by St. Patricks Academy.	<b>Location:</b> 37 Killymeal Road Dungannon Co Tyrone BT71 6DS (Land adjoining Bush Road)
<b>Referral Route:</b> Objection	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> St Patricks Academy 37 Killymeal Road Dungannon BT71 6DS	<b>Agent Name and Address:</b> Peter Quinn P G Quinn Ltd 15 Derrytressk Road Coalisland Dungannon BT71 4QL
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	1
Letters of Objection	1
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 within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. St Patrick's Academy is located to the north of the site and to the south along the Bush Road is predominantly residential.

The application site comprises an existing lane, which is under the ownership of St Patrick's Academy. The site extends from the Bush Road to the back of St Patrick's Academy on the Killymeal Road. The topography of the site rises up from the Bush Road

in a sharp incline but levels off towards the rear of St Patrick's Academy, as shown in figures 1 and 2 below. There are groups of established trees at the entrance to Bush Road and agricultural fields to the east and west of the site.



Figure 1 Entrance at Bush Road



Figure 2 Rear of St Patrick's Academy

#### **Description of Proposal**

This is a full application to retain the access, approved under M/2014/0447/F, as a permanent agricultural access to service the residual lands owned by St Patrick's Academy.

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

### **Planning History**

M/2014/0447/F - Construction of a temporary road from the Bush Road to the existing school playing fields to provide access for vehicles during the construction of a new school for St Patrick's Academy - St Patrick's Academy 37 Killymeal Road, Dungannon (Land adjoining Bush Road) – Permission Granted 22.06.2015

Permission was granted in 2015 for the construction of a temporary road to facilitate the construction of the new school at St Patrick's Academy. Consequently, the Bush Road agricultural entrance was upgraded to provide access for construction traffic. Condition 2 of M/2014/0447/F stated that:

“Within 4 years of the date the access hereby approved commences uses, the access lane identified between points A and B, on drawing No. 03 Rev 1 bearing the stamp dated 09 Jan 2015, shall be removed and the land reinstated, as far as possible to its original condition”.

LA09/2018/0024/F - A proposed extension to the car parking area for the new school presently under construction (M/2014/0531/F). A net gain of 79 spaces will result (a loss of 7 spaces and a gain of 86 spaces). The additional spaces are deemed necessary to cater for increased student vehicle numbers and to eliminate parking on public roads. It will accommodate additional visitor parking for school events. - St Patrick's Academy 37 Killymeal Road, Dungannon – Permission Granted 28.02.2018

### **Consultees**

Rivers Agency were consulted to confirm if a part of the site is within the flood plain and they confirmed the development does not lie in the 1 in 100 year fluvial flood plain.

DFI Roads were consulted and had no objections, as the access proposed to be retained was originally an agricultural access. DFI Roads are content the previous access layout arrangements including junction stagger can remain with the traffic usage associated with agricultural activities.

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.

### **Strategic Planning Policy Statement**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 confirms that until a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained PPSs and other relevant documents together with the provisions of the SPPS itself.

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

I consider if the proposal meets the policy in PPS 3, it will also meet SETT 1 Settlement Limits in the Dungannon and South Tyrone Area Plan 2010.

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

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

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

#### **Policy AMP 2 – Access to Public Roads**

Policy AMP 2 access to public road is the relevant policy considered as part of this assessment. I am content the access will not prejudice road safety or significantly inconvenience the flow of traffic. There was previously an agricultural access at the site and this was upgraded for the construction of the new school at St Patrick's Academy. Therefore, no new access is being proposed at the site. DFI Roads were consulted and had no objection to the proposal. However, DFI Roads did state that the red line on Drawing No.1 date stamped received 29<sup>th</sup> March 2019 indicates a connecting road to the school. I advise that Council proceed on the basis of a planning condition that the access shall only be used for agricultural use and that a physical barrier is imposed to ensure this is not used for such purposes. An amended plan has been received that includes the provision of concrete bollards at the car park end of the lane and I consider it is appropriate and reasonable to attach a condition requiring them to be permanently placed here within 6 weeks of the date of any decision to approve this proposal.

### **Representations**

A letter objecting to this proposal was received on 01<sup>st</sup> May 2019 from the owners/occupiers at 1 Kalendra Court, Bush Road, Dungannon.

The objector has raised the issue of security at the access gate on the Bush Road. There has been young people accessing this gate and helicopters are inspecting this access gate over weekend periods. There is no security at the gate, which will lead to the presence of additional anti-social behaviour, affecting the occupant's amenity.

Whilst the above objection has been considered the opinion remains as per the earlier assessment in this report. I am of the opinion that security at the access and helicopters is not a material consideration in the assessment of this proposal.

The agent provided a supporting statement on 9<sup>th</sup> May 2019, which states that the proposal is to retain the construction road as an agricultural access for the following reasons.

1. The present laneway enhances the land value and consequently increases the potential rental income.
2. There would be an expense with having to remove it.
3. It provides an alternative access option for any future construction projects for either school. This would have substantial benefits in terms of student safety by ensuring separation of machinery and students.

In terms of the above points 1 and 2, I do not consider them material planning considerations in the assessment of this proposal. In reference to point 3, this proposal if approved would be condition that the access is only for agricultural use.

Considering all the issues, I am content that the retention as an agricultural access will not prejudice road safety or significantly inconvenience the flow of traffic

**Neighbour Notification Checked Yes**

**Summary of Recommendation:**

I am satisfied that the proposal will not have a significant impact on road safety or neighbourhood amenity. The proposed access arrangements accord with the provisions of PPS 3.

**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 access as indicated on Drawing No. 2 date received 29<sup>th</sup> March 2019 shall only be used for agricultural use unless otherwise agreed by Mid Ulster Council in writing.

Reason: To safeguard residential amenity.

3. The access at the point it reaches St Patrick's Academy school car park shall be permanently closed off with bollards erected as detailed on Drawing No. 2Rev 1 date received 19<sup>th</sup> August 2019, within 6 weeks of the date of this decision.

Reason: To safeguard residential amenity and in the interests of road safety.

**Informatics**

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 Infrastructure for which separate permissions and arrangements are required.

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- The developer should note that this planning approval does not give consent to discharge water into a DfI Transport NI drainage system.

Not notwithstanding the terms and conditions of the **Mid-Ulster Council's** approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is

commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is **Loughry Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG** A monetary deposit will be required to cover works on the public road.

**Signature(s)**

**Date:**



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

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

<b>Summary</b>	
<b>Committee Meeting Date:</b> 3/9/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0438/F	<b>Target Date:</b> 16/7/19
<b>Proposal:</b> Erection of new 2 storey accommodation block to provide 6 no. 2 bed apartments	<b>Location:</b> 80A Fairhill Road, Cookstown
<b>Referral Route:</b> 3 no. objections received	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Care Facilities Ltd c/o Fairfields Care Centre 80A Fairfield Road Cookstown, BT80 8DE	<b>Agent Name and Address:</b> Dickson Fitzgerald Architects 250 Ravenhill Road Belfast BT6 8GJ
<b>Executive Summary:</b> This proposal complies with all relevant policy for this type of development in an urban location. All 3 objections were fully considered and do not merit a recommendation to refuse.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NI Water - Multi Units West - Planning Consultations	
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. To date there have been 3 no. objections received. The issues raised are summarised and rebutted as follows:

**From the Occupant of 38 Fairhill Grove, Cookstown.**

- Land ownership issue raised.

The red line of the application site has been amended. The objector has been notified of this change and has raised no further objection.

**From the Occupant of 30 Fairhill Grove, Cookstown**

- Impact on the character of the area
- Traffic generation
- Tree removal

The proposed development of 6 apartments remain residential in character. Whilst they are not typical of the type of dwelling found in the immediate area, they do not impact on residential and would be acceptable in terms of residential policy.

DFI Roads have been consulted with the application and have no objections to the scheme from a road safety or traffic flow perspective.

There are no Protected Trees in this site therefore I have no concern about the removal of vegetation to accommodate this scheme.

**From the Occupant of 31 The Pines, Cookstown**

- Inadequate Drainage as it stands
- No Traffic Survey carried out
- Inadequate existing access and insufficient parking
- No Noise Assessment carried out
- Light Pollution
- The Care Home has outgrown the size of the site

NIW have been consulted and have raised no concerns about capacity in this area. DFI Roads have been consulted and have not requested the submission of a Traffic Survey. A TAF was submitted and the objector was notified of this. DFI Roads have no objections to this scheme from a Road Safety or Traffic Flow perspective.

Environmental Health have been consulted and have raised no concerns about unacceptable noise levels. They have recommended an informative in respect of Lighting.

Adequate space remains within the site to accommodate this proposal

These objections have been fully considered and do not merit the refusal of this application.

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

The application site takes in Fairfields Care Centre, 80A Fairhill Road, Cookstown, associated in-curtilage parking areas, access road and a small plot of overgrown vacant land, which is located in the Western most part of the site. The site is within the development limits of Cookstown as defined in the Cookstown Area Plan 2010 and is outside the defined Town Centre Boundary. The Care Home is a large two storey building with a current capacity for 60 persons. It does have some single storey elements. It is set well back off the Fairhill Road and is nestled between several low density housing developments - Fairhill Grove, The Pines and Forthill Rise. There is a large detached dwelling located along the Northern site boundary, which utilises the same access road. This dwelling is surrounded by Mature vegetation which also defines the Northern site boundary, along with a closed board wooden fence and high block wall. The Southern boundary is defined by hedgerow and wooden fencing. The dwellings to the rear of the Southern boundary sit at a lower level to the application site. The Western boundary of the site takes in the access road and is defined by mature hedgerow.

This area is characterised by a residential land use, primarily detached dwellings on generous plots and low density housing developments. There is a mix of single storey and two storey dwellings and there is no particular architectural style prevalent in the area. The area is recognised as being as area of archaeological importance (TYR 029:005)

## **Description of Proposal**

This is a Full Application for the Erection of a new 2 storey accommodation block to provide 6 no 2 bed apartments. It will be located on a vacant parcel of land located in the extreme Western portion of the site. Access will be gained via the existing access to Fairfields Care Centre.

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

### **Relevant Planning History**

- LA09/2019/0440/F - 80A Fairhill Road, Cookstown. Demolition of single storey section of Care Centre and erection of new 2 storey block. Currently under consideration by MUDC.
- I/2005/1495/F - Fairfields Care Centre, Fairhill Road, Cookstown. Alterations & extensions to Fairfields Care Centre. Approved on the 19.06.2006

The following policy documents will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 6 - Planning, Archaeology and The Built Heritage
- Planning Strategy for Rural NI
- DCAN 9 Residential and Nursing Homes
- Parking Standards

## **Strategic Planning Policy Statement (SPPS)**

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 site is in an area of archaeological importance. Historic Environment Division (HED) have been consulted and have advised that the proposal will not have a negative impact on archaeology in the area. The proposal will not impact on any priority habitat or designated sites. The proposal will not impact on residential amenity by way of overlooking, loss of light or unacceptable noise levels.

## **Cookstown Area Plan 2010**

The site is within the development limits of Cookstown as defined in the Cookstown Area Plan 2010 and is outside the defined Town Centre Boundary. It is not subject to any Area Plan Designations or Zonings. As such, existing planning policy should be applied.

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy and Policy COY1 – Community Uses is applicable to this application. Whilst no weight can be attributed to the Draft Plan Strategy, it should be noted that the proposal does not raise any conflict with either of these policies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access to a public road. DFI Roads have been consulted and have raised no concerns in relation to road safety or traffic flow.

Policy AMP 7 deals with Car Parking and Servicing Arrangements. It advises that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. This site is not in an area of parking restraint and DFI Roads have not raised any concerns in relation to Parking. The TAF submitted with the application. 10 new spaces are being provided which equates to over 1.5 space per unit which meets the requirement.

## **Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage**

The site is in an area of archaeological importance (TYR 029:005). Historic Environment Division (HED) have been consulted and have advised that the proposal will not have a negative impact on archaeology in the area. I am therefore satisfied that the proposal is in compliance with the provisions of PPS 6.

### **Planning Strategy for Rural NI (PSRNI)**

Policy DES 2 (Townscape) is relevant to this assessment. This proposal will not have a negative impact on the character of this area. It will not detract from any existing streetscape or architectural interest.

### **DCAN 9 Residential and Nursing Homes**

DCAN9 acknowledges that this type of development should, other than in exceptional circumstances, be located in Cities, Towns and Villages, where services are readily available. I am therefore content that the proposal is acceptable in principle in respect of its general location within the settlement of Cookstown. DCAN 9 also requires that regard be given to the following planning considerations:

**Siting** – The proposal will be located in a small pocket of undeveloped and overgrown ground within the confines of the overall site. It will not result in an over-development of the site.

**Locality** – It will not impact on the residential character of the area as it represents only a small extension to the existing care facility that has been in the area for some time.

**Traffic** – The existing access to Fairfields will be utilised. DFI Roads have been consulted and have no objections from a road safety or traffic flow perspective. Adequate parking provision is being provided.

**Amenity** – The closest third party dwellings to the proposal are numbers 38 Fairhill Grove and 70a Fairhill Road. The design of the building has been amended so that there are no windows overlooking into number 80 Fairhill Grove. This will ensure the protection of their private rear amenity space. Number 70a Fairhill Road sits at a higher level than the site and is surrounded with mature vegetation so I have no concerns about the impact from the proposal on their residential amenity. EH have been consulted and have no objections in terms of noise, nuisance or general disturbance.

**Design and Layout** – I have no concern regarding the design of this building. The immediate area is comprised of various house types and designs so the proposal will not look out of place. It will not be visible from the public road and only fleeting views will be seen from Fairhill Grove.

**Landscaping** – Existing landscape is shown to be retained. No new landscaping is necessary given the urban location of the site.

**Other Material Considerations:**

It is noted that the floor plans provided with this application do not give an indication of a lift. This is somewhat strange, given the fact the applicant has stated that the units will be occupied by individuals who require an element of care. This said, from a planning point of view, I see no reason why the occupation of the units should be limited to this as they could very well be used by employees of the care home or by private renters. As such it would not be necessary to impose a condition restricting the use of these apartments.

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

Approve 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. No operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No 12 dated 02/05/19 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.

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

Reason: In the interests of visual amenity.

**Informatics:****Noise**

Plant or equipment used in the construction of this development this project should be operated in a manner that does not cause disturbance to the occupants of surrounding properties. Any noisy work should be undertaken in accordance with the principles of BS5228: 2009.

**Lighting**

The applicant should be advised to ensure that any outdoor lighting provided complies with the following guidance to prevent unduly impacting on neighbouring properties amenity:

BS 5489 Pt.10 Lighting urban areas & public amenity areas.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	1st April 2019
<b>Date First Advertised</b>	18th April 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 21 Forthill Rise Cookstown Tyrone	
The Owner/Occupier, 24 The Pines Cookstown Tyrone	
The Owner/Occupier, 27 The Pines Cookstown Tyrone	
The Owner/Occupier, 29 The Pines Cookstown Tyrone	
The Owner/Occupier, 30 Fairhill Grove Cookstown Tyrone	
The Owner/Occupier, 30, Fairhill Grove, Cookstown, Tyrone, Northern Ireland, BT80 8TG	
The Owner/Occupier, 31 The Pines Cookstown Tyrone Slaine	
31, The Pines, Cookstown, Tyrone, Northern Ireland, BT80 8RB	
The Owner/Occupier, 32 Fairhill Grove Cookstown Tyrone	
The Owner/Occupier, 33 The Pines Cookstown Tyrone	
The Owner/Occupier, 34 Fairhill Grove Cookstown Tyrone James Rushe	
38 Fairhill Grove Cookstown Tyrone	
The Owner/Occupier, 5 Fairhill Grove Cookstown Tyrone	
The Owner/Occupier, 6 Fairhill Grove Cookstown Tyrone	
The Owner/Occupier, 61 Fairhill Road,Cookstown,Tyrone,BT80 8DE	
The Owner/Occupier, 61a Fairhill Road,Cookstown,Tyrone,BT80 8DE	
The Owner/Occupier, 70 Fairhill Road Cookstown Tyrone	
The Owner/Occupier, 70a Fairhill Road Cookstown	
The Owner/Occupier, 74 Fairhill Road Cookstown Tyrone	
The Owner/Occupier, 76 Fairhill Road Cookstown Tyrone	

The Owner/Occupier,  
78 Fairhill Road Cookstown Tyrone  
The Owner/Occupier,  
78a Fairhill Road Cookstown  
The Owner/Occupier,  
8 Fairhill Grove Cookstown Tyrone  
The Owner/Occupier,  
80 Fairhill Road Cookstown Tyrone  
The Owner/Occupier,  
82 Fairhill Road Cookstown Tyrone

<b>Date of Last Neighbour Notification</b>	11th June 2019
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	N/A

#### **Planning History**

Ref ID: LA09/2019/0438/F

Proposal: Erection of new 2 storey accommodation block to provide 6 no 2 bed apartments

Address: 80A Fairhill Road, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2019/0440/F

Proposal: Demolition of single storey section of Care Centre and erection of new 2 storey block

Address: 80A Fairhill Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/1989/0249

Proposal: Sign

Address: FAIRHILL ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1988/0146

Proposal: PRIVATE NURSING HOME

Address: REAR OF 78 FAIRHILL ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1988/0375

Proposal: PRIVATE NURSING HOME  
Address: REAR OF 78 FAIRHILL ROAD, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1996/0503  
Proposal: Alterations and Extension to Nursing Home  
Address: FAIRHILL ROAD COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/2005/1495/F  
Proposal: Alterations & extensions to Fairfields Care Centre.  
Address: Fairfields Care Centre, Fairhill Road, Cookstown  
Decision:  
Decision Date: 19.06.2006

Ref ID: I/2002/0512/Q  
Proposal: Housing Development  
Address: Adjacent to Fairhill Grove, Cookstown  
Decision:  
Decision Date:

Ref ID: I/2001/0347/F  
Proposal: Proposed Extension to Dwelling  
Address: 24 The Pines, Cookstown  
Decision:  
Decision Date: 20.06.2001

Ref ID: I/2001/0088/F  
Proposal: Extension and alteration to dwelling and domestic garage.  
Address: 24 The Pines Cookstown  
Decision:  
Decision Date: 10.04.2001

Ref ID: I/1999/0396/F  
Proposal: Erection of storey and half private dwelling  
Address: Land to south of 78 Fairhill Road, Cookstown, BT80 8DE  
Decision:  
Decision Date: 22.10.2000

Ref ID: I/1995/0173  
Proposal: Site for dwelling  
Address: REAR OF 78 FAIRHILL ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1987/0509

Proposal: EXTENSION TO DWELLING

Address: 80 FAIRHILL ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1990/0058

Proposal: Housing Development

Address: TO REAR OF 72-76 FAIRHILL ROAD COOKSTOWN CO TYRONE

Decision:

Decision Date:

Ref ID: I/1992/0462

Proposal: Housing Development Phase 2

Address: FORTMILL RISE COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/4013

Proposal: Extension to Dwelling

Address: THE PINES WESTLAND ROAD SOUTH COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1984/0134

Proposal: PRIVATE DETACHED HOUSING ESTATE

Address: WESTLAND ROAD, SOUTH, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1985/0374

Proposal: DETACHED HOUSING DEVELOPMENT (PHASE 2)

Address: THE PINES, WESTLAND ROAD SOUTH, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2008/0021/F

Proposal: Proposed single storey side extension to include carport and sunroom

Address: 31 The Pines, Cookstown

Decision:

Decision Date: 14.05.2008

**Summary of Consultee Responses**

DFI Roads – No Objections

EH – No Objections

NIW – No Objections

**Drawing Numbers and Title**

Drawing No. 11  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 10  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 09  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 08  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 07  
Type: Roof Details  
Status: Submitted

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

Drawing No. 05  
Type: Floor Plans  
Status: Submitted

Drawing No. 04  
Type: Site Layout or Block Plan  
Status: Submitted

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

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

Drawing No. 06  
Type: Floor Plans  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/09/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0482/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of cattle house and proposed new agricultural feed storage shed	<b>Location:</b> 9 Crubinagh Road Dungannon
<b>Referral Route:</b> Objection	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Adrian Daly 9 Crubinagh Road Dungannon BT71 7PL	<b>Agent Name and Address:</b> Daly, O'Neill and Associates Ltd 23 William Street Portadown BT62 3NX
<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
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	DAERA - Omagh	Advice
Statutory	NIEA	Content
Statutory	Shared Environmental Services	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

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

The site is located in the rural countryside 1.06km east of the settlement limit of Eglish as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding countryside

is characterised predominantly by single detached dwellings, farm complexes and sprawling agricultural fields. To the northeast and southwest of the site are detached dwellings, which abut the site. The application site is an irregular shaped plot located adjacent to the Crubinagh Road. The site comprises a detached dwelling, 6 farm buildings and a farmyard.

### **Description of Proposal**

This is a full application for the retention of an existing cattle house and a proposed new farm feed storage maze and grain shed.

The existing cattle shed is 44m in length, 15m in depth and 6.3m in height. The shed has a 1.8m high concrete wall from finished floor level with dark green metal cladding and Perspex cladding.

The proposed farm feed storage shed is 25.3m in length, 9.6m in depth and 7m in height. The proposed shed has the same external finishes as the existing farm shed at the site.

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

#### **Planning History**

LA09/2018/0102/CA - Unauthorised agricultural building and site works - 9 Crubinagh Road,Dungannon,Tyrone,BT71 7PL

This enforcement case relates to the unauthorised erection of the cattle shed that is proposed to be retained in this planning application. An Enforcement Notice has been served and has been appealed to the Planning Appeals Commission.

#### **Consultees**

Environmental Health responded on 10<sup>th</sup> July 2019 and had no objections to the retention of the cattle house and use of the proposed shed for agricultural feed storage.

Northern Ireland Water were consulted and had no objections.

Water Management Unit in DAERA responded on 30<sup>th</sup> April 2019 and had no objections.

Shared Environmental Services (SES) responded on 8<sup>th</sup> July 2019 stating that NIEA Natural environment Division NED should be consulted and to re-consult them when NED come back. NED were consulted on 23<sup>rd</sup> July 2019. However based on orthophotography there is clearly evidence that a completed foundation for this shed has been on site from September 2010. Therefore the potential from odour (ammonia) would not be made worse and the agent has confirmed that there is to be no increase in the number of cattle on this farm holding. Therefore a response from NED is not essential to the determination for this proposal and the objector does not refer to this building.

### **Representations**

A letter objecting to this proposal was received on 15<sup>th</sup> May 2019 from the owners/occupiers of 1 Crubinagh Road, Eglish. The objector raised the point that they had no objection to the proposed retention of the existing covered cattle shed and the main concerns were about the proposed farm feed storage and maize grain store. The issue raised is that:

1. The existing multi-purpose shed located adjacent to the proposed grain shed already has an impact on their residential amenity. If the proposed grain shed was used for anything other than, the storage of dry feed i.e. storage of silage/cattle it would have the potential for further issues with smell, noise, flies.

Environmental Health were consulted and had no objections to the proposed grain shed. I am content the proposal will be conditioned to be only for the storage of dry feed and grain.

### **Planning Policy Consideration**

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

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

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

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

**Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside**  
Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

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

### **Policy CTY 12 Agricultural and Forestry Development It is necessary for the efficient use of the agricultural holding**

The applicant has an existing farm, which includes the site and adjoining lands. Details of this farm business accompany the application on the PIC form. DAERA confirmed that the current business ID has not been existence for more than 6 years. However, this is a new ID, which was created because of a merger between 2 businesses, both businesses involved claimed SFP/SAF subsidies from 2005 up to and including 2015. DAERA also state that the current business ID has claimed subsidies for 2016-2019. This is sufficient information to show that the farm is both established and active

This proposal is for the retention of an existing cattle shed. Checks on historical ortho viewer show that the shed has not be substantially complete for over 5 years and may have been constructed between 2014 and 2015. A supporting statement submitted by the applicant confirms the retention of the shed is for the existing cattle herd at the farm holding. I am content this shed supports the needs of the existing business and is necessary for the existing farm holding.

The proposed dry farm feed storage shed is for use in relation to the existing farm holding. I am of the opinion that this proposal supports the needs of the existing business.

**It is appropriate to the location in terms of character and scale**

The surrounding area is rural in character. The existing cattle shed and proposed dry feed shed are typical of agricultural buildings found in this rural area. The existing shed has dark green metal cladding on both the external walls and roof as shown in figure 1. This is typical of this type of building and is acceptable in the rural area. The proposed storage shed will have the same external finishes as the existing farm buildings so I am content it is sympathetic to the farm holding and surrounding area. A concrete apron is proposed around the new dry feed shed and I am content this is acceptable. Figure 1 below shows the site location of the proposed new dry feed store, which will be in front of this existing multi-purpose shed. The proposed shed will be 7m in height, which is the same height as the shed shown in figure 1, and I consider the proposal will be in character with the existing shed in scale, design and massing.



Figure 1 – site for the proposed dry feed shed in front of this existing shed

**It visually integrates into the local landscape and additional landscaping is provided as necessary**

The existing cattle shed is set back approximately 14m from the public road. The shed is sited beside other agricultural buildings on the east, west and southern boundaries. There is a dwelling at No. 11d, which is located to the north of the shed. The shed clusters with other buildings on the farm holding so I am content there will be minimal visual impact. In addition, there are minimal critical views of the existing shed from both the Crubinagh Road and Derryfubble Road.

The proposed dry feed shed will be located directly in front of an existing multi-purpose shed. The shed will be situated behind the existing farm dwelling at No. 9 and will be 40m from the public road. The topography at the site rises up from southeast to northwest up a hill. The site where the shed is to be located is open in nature but there is a row of established trees along the roadside boundary to screen views along Crubinagh Road. Additional planting of trees is proposed along the southeastern boundary as shown on Drawing No. 02 date stamped received 1<sup>st</sup> April 2019. As the proposed shed will cluster with existing farm buildings I am satisfied it will not be a prominent feature in the landscape. In my view, given the design, size and scale of the building the proposal will integrate into the landscape.

**It will not have an adverse impact on the natural or built heritage**

The site is not located within any protected area or priority habitats. The retention of the existing cattle shed is for the existing herd at the farm holding and no new cattle are proposed. The proposed agricultural shed is for dry farm feed storage and no cattle are proposed to be housed in this building either. NIEA and Shared Environmental Services (SES) were consulted but after discussions with Enforcement and the Senior Planner, it is felt it is not necessary in this case as no new animals are proposed at the sheds. With this

in mind, I am content to proceed by way of condition that no animals will be kept in the dry feed shed.

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

I am content the retention of the existing cattle shed will not have a negative impact on neighbouring properties. The shed is clustered with existing buildings on the farm holding. The nearest dwelling that may be impacted by the shed is No. 11d Crubinagh Road which is 7m north of the shed. Trees are proposed to be planted along the boundary with this dwelling as shown on Drawing No. 02 date stamped received 1<sup>st</sup> April 2019. I am content the further planting will mitigate against any impact of noise and visual amenity.

The closest dwellings not associated with the farm are No. 77 Derryfubble Road and No. 1 Crubinagh Road. There is potential for loss of amenity to these dwellings from the proposed shed due to the distance from the boundary of No. 1 to the farm holding. Environmental Health were consulted and had no objections subject to the conditions that the shed is only for use as a dry storage shed. I advise that Council proceed based on a planning condition that the proposed shed shall not contain animals and only dry storage, unless otherwise agreed. In addition, there is existing trees and hedgerows at No. 1 to block views of the proposed shed.

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

**-There are no suitable existing buildings**

The applicant has stated on the P1C form that there are no other sites available. A supporting statement was also submitted by the applicant that the proposed additional storage shed is for dry farm feed and farm equipment and is sited within the existing farm complex to ensure easy access for deliveries of dry goods.

**-The design and materials are sympathetic to the locality**

The proposed shed is of a simple design and buildings of this style are characteristic of the rural area.

**-It is sited beside existing farm buildings**

The proposed shed is sited beside an existing multi-purpose shed, which is adjacent to the other farm buildings and farmyard on the holding.

**Policy CTY 13 Integration and Design of Buildings in the Countryside**

As detailed in my assessment above, I consider the existing cattle shed and new storage shed can be visually integrated into the surrounding landscape and it is an appropriate design.

**Policy CTY 14 Rural Character**

I am content the shed is agricultural in nature and will not cause a detrimental change to the rural character of this area. Both the existing and proposed sheds are clustered with other farm buildings on the holding. Additional planting proposed on the north west and southeast boundaries will further aid integration, so I do not consider the shed will be a prominent feature in the landscape.

**Other Considerations**

The site is not subject to flooding or historical environment features.

DFI Roads were not consulted as there was no alteration or intensification of the existing access at the application site.

**Neighbour Notification Checked Yes**

**Summary of Recommendation:**

I consider the proposal should be recommended for approval as it meets the policy tests within CTY 12 Agricultural and Forestry Development in PPS 21 Development in the Countryside.

**Conditions:**

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

Reason: Time Limit

2. The class use of the Farm Feed Storage Shed identified on Drawing No. 04 date stamp received 28<sup>th</sup> April 2019 shall be restricted to storage only and shall not be used for the housing/shelter of livestock at any time unless agreed in writing by Mid Ulster Council.

Reason: To safeguard nearby residential amenity and to safeguard the natural environment

3. The proposed trees, as indicated on Drawing No. 02 date stamped received 1<sup>st</sup> April 2019, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

Reason: To ensure the development integrates into the countryside

**Informatics:**

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

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

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0573/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2No lodges for short term accommodation to facilitate access to adjacent Lough Shore Nature Area	<b>Location:</b> 210m South West of No 35 Brookend Road Ardboe
<b>Referral Route: Recommendation to refuse</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Donal Coney 35 Brookend Road Ardboe BT71 5BR	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

Letters of Support	1 received
Letters of Objection	None Received

### Summary of Issues

Letter of support received from Mid Ulster District Council Tourism Department.

### Description of proposal

This is a full planning application for 2 no. lodges for short term accommodation to facilitate access to adjacent Lough Shore Nature Area.

### Characteristics of Site and Area

This site is located approx. 3km SW of Ardboe as the crow flies, with the shores of Lough Neagh located approx 750m to the east. The site is located along a private laneway, located near the end of Brookend Road and is set back approx. 260m in the corner of an existing agricultural field. Flanking both sides of the access laneway is mature hawthorn hedgerows, the south west boundary is defined by mature trees, with the remaining boundaries not clearly defined. Part of the boundary where the 2 units will be accessed will be lost to allow for car access.

At the entrance to the lane is 2 single storey dwellings, No.s 39 and 37 Brookend Road, with a business set behind located part the way up the private laneway, between the site entrance and proposed development. This business seems to be industrial in nature. SW of the site there is woodland between the site and the shores of Lough Neagh.

### 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.

### **Area Plan**

Cookstown Area Plan 2010- the site is located in the Countryside not far from the shores of Lough Neagh. There are designated nature reserves located to the SW and SE of the site (see page 222 of Cookstown Area Plan 2010). There are no specific plan policies pertaining to this proposal, the regional planning policy statements will apply until such times as a Local Area Plan is adopted.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this the Draft Plan cannot be given any determining weight at this time.

### **Key policy**

RDS 2035

Strategic Planning Policy Statement (SPPS)

PPS21 Sustainable development in the countryside

PPS16 Tourism

PPS2 Planning and Nature Conservation

### **Representation**

No 3rd party objections have been received.

An e-mail from Mid Ulster District Council Tourism Department has been provided which supports this application as the district suffers from a low compliment of beds for a range of visitors.

### **Relevant planning policy**

I/2013/0142/F- permission was granted for a building to accommodate a Lough Neagh fishing boat and general domestic store on 24.01.2014 for Adrian Coney, 37 Brookend Road. This building is now built sand is located approx 150m NE of the subject application site.

### **Key policy considerations**

I acknowledge that tourism makes a vital contribution to the Northern Ireland economy in terms of the revenues it generates, the employment opportunities it provides, and the potential it creates for economic growth. Tourism is one of the fastest growing industries in Northern Ireland at present. As well as direct spending on holiday accommodation and use of tourist amenities, tourism plays an important role in helping to support the viability of many local suppliers, services and facilities. It can improve assets and provides infrastructure for local people and tourists, supporting the vibrancy of Northern Ireland's culture and heritage, and sustaining communities. I also acknowledge that Mid Ulster District Council Tourism Department supports this proposal as there is a lack of self catering accommodation located within the district to cater for existing tourists visiting the district.

I also acknowledge that appropriate tourist accommodation in rural areas needs to be located at appropriate locations and managed in a sustainable manner in order to protect the Countryside, in line with the area plan and other material considerations. Until such times as a local area plan is adopted for Mid Ulster published planning policy is a material consideration.

CTY1 of PPS21 set out the kinds of development that are considered acceptable in the countryside including tourism development in accordance with the TOU policies contained within PSRNI. These TOU policies have since been superseded by PPS16- Tourism, therefore this proposal will be considered under these policies. SPPS does not make any changes to these policy considerations.

This proposal is for self catering accommodation in the countryside therefore the provisions of TSM5 apply. TSM5 states that permission will be granted for self catering units of tourist accommodation should the proposal meet any one of three circumstances. In my view the proposal does not meet part;

- (a) as it is not located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
- (b) as it is not a cluster of 3 or more new units at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right;
- (c) is not for the restoration of an existing clachan or close.

The applicant has provided a Business Case to demonstrate that these self catering units are associated with an existing tourist amenity. The report has listed a number of activities located within Mid Ulster such as fishing in the Ballinderry River, walking in Gort Forest, visiting the 17th Century Old Cross and Burial Grounds, walking in Drumcairn Forest, fishing in Rectory Lodge, walking/hiking in Davagh Forest, rally driving experience in storm activity centre, playing golf (Killymoon Cookstown, Dungannon Golf Course).

The Business Case has failed to single out which tourism facility the proposal will cater for and has not provided visitor numbers or the provision of existing facilities linked to and enabling usage of the amenity (such as birth for fishing boats, buildings for use as changing facilities or storage of recreation equipment or car parking at the facility). Plus, there are no figures of the number of people who would stay in the area should accommodation be available. In the Executive Summary of the Business Case it states that the holiday cottages will enhance the council's plan for the regeneration of the Dark Skies Project at Davagh Forest and provide accommodation for visitors to the nature reserve located beside them at Lough Neagh. Davagh Forest is located apporx. 15 miles from the site and it is difficult to see how this proposal would be associated with this amenity. Lough Neagh is located beside the application site, however there is insufficient information to demonstrate the numbers of tourists that these cottages would attract or the existing facilities in place that would accommodate them. At present there is no designated walks around the Lough at this location, nor is there any indication that the applicant has a current fishing business, or that there is existing facilities and/or equipment such as jetties, boats, fishing permits etc in place to cater for such tourism. The applicant has failed to focus on the particular tourist amenity, and how the development will help it to grow, that may allow for such a proposal at this site. I am aware of the application I/2013/0142/F for Adrian Coney of 37 Brookend Road for storage of a Lough Neagh fishing boat, however there is little information to expand on this and if an existing fishing tourism business currently exists, or if the applicant Donal Coney of 35 Brookend Road is related to Adrian.

TSM5 under justification and amplification states that this policy provides for sustainable opportunities for self catering tourist accommodation in the countryside particularly in areas where tourism amenities and accommodation have become established or likely to be provided as a result of tourism initiatives such as the Signature Projects. There are 5 Signature Projects in NI, Titanic and Maritime Belfast, The Mourne Mountains, St. Patrick and Christian Heritage, The Walled City of Derry and The Giant's Causeway. These are a key part of creating the Northern Ireland tourism experience. However, no such project exists close to this site and the area does not benefit from established tourism amenities and accommodation.

In my view the proposed self catering units are of a design and layout that could easily be used for permanent residential accommodation. Each has its own defined curtilage, individual parking,

own kitchen, living room, bathroom and 3 bedrooms. This layout and design is also contrary to policy TSM5.

On balance, at present, it is my view that this proposal does not represent a sustainable form of tourism development in line with the SPPS or policy TSM5 of PPS16 for the reasons stated.

Policy TSM 7 applies to all types of tourism development and is considered as follows.

**Design Criteria;**

a) I am satisfied that a movement pattern is provided that supports walking, cycling, meets the needs of people whose mobility is impaired , respects existing public rights of way. While access to public transport is not convenient, the village of Ardboe is within 2 miles of the site where access to public transport is available.

b) the design of the buildings are acceptable for the site and locality. Because of its location to lough Neagh which is an ASSI/SAC/RAMSAR site, Shared Environmental Services (SES) require a Preliminary Ecological Appraisal to be carried out. SES also require additional information on the disposal of surface water and sewage, during construction and operation.

SES also advise that a Habitat Regulation Assessment will have to be carried out and that NIEA be re-consulted on the proposal as there may be impacts on natural heritage interests which are not related to SPA/Ramsar. Therefore at present it is not possible to full assess impacts on sustainability and biodiversity. This information has not been requested by the Planning Authority at this stage in the processing of the application as I am recommending the proposal for refusal and it would be unfair to put the applicant to unnecessary expense. All consultee replies are available for view on the Planning Portal and should the applicant wish to address these concerns at this stage then this is within their gift.

c) the proposed boundary treatment is post and wire fencing. For this rural location I would prefer to see natural landscaping defining the boundaries, however given its location set back from the public road with a backdrop of mature woodland it is my view that this boundary treatment is acceptable in this instance. Due to its setback outside storage areas will not be visible from the public road. Some planting along the boundaries will also soften the post and wire fencing. As these proposal are for self catering units, I would prefer to see communal shared space rather than separated curtilages.

d) Little information is given about surface water drainage. SES require additional information on how this will be managed in a sustainable way. This will need to be addressed should permission be granted.

e)in my view the proposal is designed to deter crime and promote personal safety, the site is located also a private laneway set back from the public road behind the applicants dwelling.

f) this proposal does not involve public art and this part of the policy does not apply.

**General Criteria**

g) the surrounding landuse is agricultural land and woodland. In my view these tourism units in terms of use and built form will not detract from the landscape quality or character of the surrounding area due to their scale, mass, size, location and design. These are single storey structures with a footprint of approx 105 square metres.

h)the nearest residential properties to these developments are approx 200m away. In my view this is sufficient separation distance for there to be any detrimental impact on residential amenity.

i)the proposal will not have a detrimental impact on features of built heritage. As stated above, further additional information is required by the applicant to demonstrate that features of natural heritage will not be impacted by the proposal.

j) again as mentioned above, additional information is required to demonstrate that sufficient measures are put in place to deal with sewage effluent from the proposal. As mains sewage connection is not available in this location, the sewage will have to be dealt with by septic tank. Further information is required in this respect. The P1 for does state that septic tank will be used, however SES require some further information in this respect.

- k) access arrangements are in accordance with PPS3 Access, Movement and Parking and DfI Roads have no objections to this proposal subject to splays of 2.4m by 60m in both directions along with other conditions.
- l) access to the public road, subject to conditions suggested by DfI Roads being put in place, will not prejudice access to the public road or road safety.
- m) DfI Roads raise no objection over extra traffic onto the public road and it is my view the existing road network can handle the additional traffic.
- n) there is no access to a public route being proposed.
- o) the proposal will not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset.

In terms of policy CTY13 of PPS21 it is my view that the proposal will integrate into the landscape as it is set back from the public road and is of a size, scale and location that will not ruin the visual character or landscape quality of the area. The proposal will also not read with existing development or have a detrimental impact on the rural character of the area through buildup and therefore is not contrary to policy CTY14.

#### PPS2 Planning and Nature Conservation

As mentioned above, insufficient information has been provided to demonstrate that there will be no detrimental impact to the conservation objectives of nearby Lough Neagh which is a European Protected Site/Natura 2000.

#### Other Considerations

This site is not affected by flooding (see Strategic Flood Map for NI). NIEA and EHD do not raise any concern over land contamination issues.

#### Neighbour Notification Checked

**Yes**

#### Summary of Recommendation:

That the proposal is recommended for refusal for the reasons stated.

#### 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 TSM5 of the Department's Planning Policy Statement 16 Tourism in that it is;

- not one or more units all located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
- not a cluster of 3 or more new units at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right;
- not for the restoration of an existing clachan or close;
- capable of being used as self contained units of permanent residential accommodation in the countryside;

and as such would have a detrimental impact on the rural character of the area as the proposal would represent an unsustainable form of development in the countryside.

3. The proposal is contrary to Policy TSM 7 of PPS16 Tourism and PPS2 Planning and Nature Conservation in that insufficient information has been provided to demonstrate that the proposal

will not have a detrimental impact on natural heritage features of importance, including Lough Neagh SPA/Ramsar/ASSI.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	26th April 2019
<b>Date First Advertised</b>	9th May 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 39 Brookend Road, Stewartstown, Tyrone, BT71 5BR	
<b>Date of Last Neighbour Notification</b>	13th May 2019
<b>Date of EIA Determination</b>	Na- the proposal does not fall within schedule 2 development for screening.
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: I/2013/0142/F Proposal: Proposed building to accommodate Lough Neagh Fishing Boat _ General Domestic Store (Amended description - P1 and plans). Address: Lands to the rear of Nos 37 and 39 Brookend Road, Ardboe BT71 5BR, Decision: PG Decision Date: 24.01.2014	



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> LA09/2019/0609/O	<b>Target Date:</b> 20/08/2019
<b>Proposal:</b> Erection of dwelling and domestic garage in a gap site under CTY8 of PPS21	
<b>Location:</b> Lands between 9a and 11a Loughans Road Aughnacloy	
<b>Referral Route:</b> One objection received.	
<b>Recommendation: APPROVAL</b>	
<b>Applicant Name and Address:</b> Brendan Treanor 11A Loughans Road Aughnacloy	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Augher BT70 2ND
<b>Executive Summary:</b> One objection received and fully considered citing concerns over invasion of privacy and overlooking.	
<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	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

#### **Summary of Issues**

One objection has been received citing concerns over invasion of privacy and overlooking concerns.

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

The site is located within the rural remainder between No. 9a and 11a Loughans Road and is a 0.22ha rectangular parcel of land which lies outside the development limits of any settlement defined in the Dungannon and South Tyrone Area Plan 2010.

The site is defined along the north eastern boundary by trees and hedging. A watercourse runs along the south eastern boundary of the site which is defined by a mature treeline. A post and wire fence runs along the south western boundary and continues along the north western (roadside) boundary. The site is relatively flat with rising land further to the southeast of the site. The site lies between two single storey dwellings, both with domestic garages. A further single storey dwelling and garage lies to the south west. A 1 ½ storey dwelling and garage lies to the north west across the public road from the site.

This area is rural in character with an undulating topography. There is some development pressure in the area, with the predominant form of development being detached dwellings and associated outbuildings.

#### **Description of Proposal**

Outline application for erection of a dwelling and domestic garage in a gap site under CTY 8 of PPS 21.

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

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

### **Relevant histories**

There are no relevant histories to consider.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. One letter of objection has been received citing invasion of privacy and overlooking of their living quarters as the primary concerns.

It should be possible to site and design a dwelling respecting the existing building line and character, without adversely affecting the neighbouring property. Such matters can be dealt with adequately by a condition requiring single storey and no windows to be located on the south western elevation.

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

This site is outside any settlement defined in the Dungannon and South Tyrone Area Plan 2010 and is subject to no area plan designations or zonings, therefore existing planning policy must be adhered to i.e. PPS 21

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

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

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

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

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. DfI Roads have requested that a plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form

RS1. The agent has liaised with DfI Roads, a reduced sightline of 2.0m x45.0m has been agreed, and this has been confirmed with DFI Roads. These details will be provided with any RM or Full planning application.

### **PPS21 – Sustainable Development in the Countryside**

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

To the immediate SW of this site are two single storey dwellings and domestic garages which front directly onto the public road. To the NE is another detached bungalow with domestic garage, set gable end to the road, which also accesses onto the public road. For the purpose of this assessment I am content that this can be deemed a substantial and built up road frontage. In addition, when travelling north along the public road a dwelling on this site will also read with the dwelling on the other side of the public road, reiterating the sense of this site as a gap in a substantial and built up frontage. It is also my opinion that given the size of the host field and the plot sizes along this section of the road, a dwelling on this proposed site would represent an acceptable infill opportunity that respects the adjacent plot sizes. The gap created by the host field is not of a size that represents any sort of visual break in this particular landscape.

Ribbon development is cited as being detrimental to rural landscapes, creating a built up appearance to roads. I have already accepted that the existing development constitutes a substantial and built up frontage as defined in CTY 8. As such, another dwelling in this location will not create build up but instead will add another dwelling into the existing cluster of development. I therefore consider that the infilling of this gap site will not be detrimental to the rural character of this area.

### **Policy CTY 13 – Design and Integration and Policy CTY 14 – Rural Character**

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application.

A single storey dwelling here will be in keeping with the existing character of the area, and a 6m ridge height should be conditioned to ensure the traditional pattern of settlement exhibited in the area is respected.

CTY 14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A proposed dwelling on this site will not be unduly prominent in the landscape. The rising land to the rear will provide a backdrop for a dwelling here. The proposed development is accepted as creating a ribbon of development in accordance with the exception in CTY8 and as such I do not consider this will damage the rural character.

Given the fact the site is between two single storey dwellings, a dwelling of a similar size will not appear overly prominent in this local landscape. Design is a matter reserved for

future applications. I have no concerns with build up or creation of ribboning and am content that the proposed dwelling in this location will not erode the rural character of this area.

### **Other Material Considerations**

An existing watercourse runs along the southeastern boundary of the site. I have assessed the Flood Hazards and Flood Risk Maps for NI which shows some climate change to surface water at the site. This change only affects approximately 10m of the site. Providing a dwelling is sited more than 10m from the southeastern boundary, development here should not be adversely affected by flooding issues (see appendix 1). The NIEA Natural Environment Map Viewer shows that the site is in close proximity (to the SW) to an area of Breeding Waders 1986-1987. Given the fact the proposal is for a infill dwelling within a line of development, it is not felt that it will have an impact on these species as it is unlikely the site is still functional as breeding wader habitats.

### **Neighbour Notification Checked**

**Yes**

### **Summary of Recommendation:**

As the proposal complies with CTY 8 of PPS 21 and all other relevant policy I recommend approval as a siting condition can be applied which will address the concerns raised by the objector.

### **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. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.0m x 45.0m at the public road shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

4. The proposed dwelling shall be sited in the area shaded green on the approved plan date stamped 07 May 2019.

Reason: To preserve the amenity and privacy of the neighbouring dwelling and to ensure that the development is satisfactorily integrated into the landscape in accordance with the adjacent residential dwellings.

5. No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed contours, the finished floor level(s) of the proposed building(s) and the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

6. The proposed dwelling shall have a ridge height of not more than 6m metres above finished floor level with no windows shown in the southwestern elevation.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the adjacent residential dwellings and to preserve the amenity and privacy of the neighbouring dwelling.

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 of the site. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside

### **Informatics**

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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	7th May 2019
<b>Date First Advertised</b>	23rd May 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)	
The Owner/Occupier, 10 Loughans Road Aughnacloy Tyrone	
The Owner/Occupier, 11a Loughans Road,Aughnacloy,Tyrone,BT69 6BJ	
Brian McGahey 9a Loughans Road, Aughnacloy, Tyrone,BT69 6BJ	
The Owner/Occupier, 9a Loughans Road,Aughnacloy,Tyrone,BT69 6BJ	
<b>Date of Last Neighbour Notification</b>	21st May 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
Ref ID: LA09/2019/0609/O Proposal: Erection of dwelling and domestic garage in a gap site under CTY8 of PPS21 Address: Lands between 9a and 11a Loughans Road, Aughnacloy, Decision: Decision Date:	
Ref ID: M/1999/0443 Proposal: Dwelling House Address: APPROX. 350M SOUTH WEST OF 12 LOUGHRANS ROAD CORDERRY AUGHNACLOY Decision: Decision Date:	
Ref ID: M/2000/0698/F Proposal: Erection of dwelling Address: 350m south west of No 12 Loughans Road Corderry Aughnacloy Decision: Decision Date: 24.01.2001	
<b>Summary of Consultee Responses</b>	

**Drawing Numbers and Title**

Drawing No. 01

Type: 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> LA09/2019/0673/F	<b>Target Date:</b>
<b>Proposal:</b> Temporary storage facility to manufacturing plant.	<b>Location:</b> 48 Coalisland Road Dungannon BT71 6LA.
<b>Referral Route:</b> Refusal received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Maximus Crushing & Screening 48 Coalisland Road Dungannon BT71 6LA	<b>Agent Name and Address:</b> Brian Laverty 79 Greenan Road Newry BT34 2PT
<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
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Standing 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

2 objections were received from residents at no.28 and 35 Coalisland Road.

The main concern surrounds the noise pollution from the site.

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

This application site comprises a portion of land to the side and front of the Maximus Site (the former Tyrone Brick Works site) that sits between Carland Road and Coalisland Road, on the north side of Dungannon, it includes the main access off the Coalisland Road, a concreted area to the front of the main building and 40 metre deep strip all along the side to the south. The buildings are generally large warehouse type structures with grey cladding to the walls and roofs. There are 2no brick chimneys within the site and on the Coalisland Road entrance there are a number of single storey brick built office buildings and a car parking area. The site is generally a flat valley with higher ground rising to the south and north and sits well below the level of the Coalisland Road.

The site lies within the settlement limits of Dungannon just to the north of the town centre limits and outside all other areas of control as depicted by the DAP 2010. To the south is the grounds of Drumglass House, a listed building and DHSS site which has mature vegetation around it as well as private dwellings off a private lane that also has some commercial development along the boundary with the application site. To the north west is open countryside and gorse covered hillside and north east are private dwellings access off a private laneway, with Edendork GAA club to the rear of them. On the opposite side of Coalisland Road are private dwellings, individual and in a private development as well as existing industrial lands to the north and a former filling station.

## **Description of Proposal**

The proposal seeks temporary storage facility to manufacturing plant.

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

### **Planning History**

LA09/2017/0567/F - Extension to existing factory to provide additional production space and office accommodation, and ground works. Construction of a new through road- GRANTED

LA09/2017/1407/O - Construction of industrial and commercial units on serviced sites - GRANTED

### **Policy documents being considered:**

Dungannon & South Tyrone Area Plan 2010

Strategic Planning Statement for Northern Ireland (SPPS)

A Planning Strategy for Rural Northern Ireland

PPS2 – Planning & Natural Heritage

PPS3 – Access, Movement & Parking

PPS4 – Planning & Economic Development

Dungannon & South Tyrone Area Plan Planning identifies the site as being existing industry within the settlement limits for Dungannon. This relates to the area where the existing factory on the Coalisland Road site is located and includes the extensions to it. Policies SETT1 and IND1 of the Plan indicate that development will normally be granted provided a number of criteria set out in SETT1 are met.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) has a guiding principle that sustainable development should be permitted unless it causes demonstrable harm to areas of

acknowledged importance, particular if it conflicts with an up to date area plan. Members will be aware of the issues around the supply of industrial land in Dungannon and while the Dungannon & South Tyrone Area Plan 2010 has identified land for proposed industrial development, this land has not been brought forward and there are issues with that land coming forward. As such members will be aware of the lack of industrial land to accommodate the level of industry in the area. The SPPS also asks Councils to improve health and wellbeing, support economic growth and safeguard residential and working environs.

The proposed extension to the factory is of a high quality modern design and is only requested for a temporary period of 5 years. The extension is located on the south part of the existing factory, it is a lot smaller in size and scale than the existing unit it is sited beside, its a significant depth below the level of the Coalisland Road and the surrounding lands. I do not consider there will be any unacceptable overlooking or overshadowing of the existing residential properties from the proposed extension.

This proposed application will not have any adverse effect on the proposed road scheme. The approved road is not shown on the drawings, however, the granting of this permission will not prejudice the provision of the road. This permission can proceed as planned or via an alternative site access.

According to PPS4 a proposal for economic development use will be required to meet all of the following criteria:

- it is compatible with surrounding land uses;- In this particular case the proposal is compatible with the surrounding uses as it is sited within the existing industrial site.
- it does not harm the amenities of nearby residents; - It is also well separated from existing residential accommodation and this, paired with the lack of any windows will ensure there is limited impact on residential amenity by virtue of overlooking or overshadowing.
- it does not adversely affect features of the natural or built heritage; - The proposed building will directly affect any natural or built heritage interests.
- it is not located in an area at flood risk and will not cause or exacerbate flooding; - following a GIS database search it was confirmed that the proposal is not affected by a potential flood risk and they are proposed in an area that already is hard surfaced, therefore the extension will not create any additional storm water runoff.
- it does not create a noise nuisance; - environmental health were consulted and had no issues regarding potential noise nuisance subject to conditions.
- it is capable of dealing satisfactorily with any emission or effluent; - Env Health were consulted and responded with "This department has examined the information submitted in support of the proposed. It is noted that the end use will be for storage only. Therefore it is recommended the following conditions; restricted use class, delivery hours and doors to be automatic closing.
- 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.
- Transportni were asked to comment and responded on 04.12.2017 with no objections to the proposal subject to conditions.

A Transport Assessment for the extension has indicated there will be no more employees within the site. The TA also identifies that there will be one additional HGV on the site per day to transport the finished product between hours of 8am and 5pm.

- adequate access arrangements, parking and manoeuvring areas are provided; - as stated previously Transportni were asked to comment and responded positively with the proposed parking and manoeuvring arrangements, stating that 4 car parking spaces and 4 car spaces were needed.
- 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; - as stated previously Transportni

were asked to comment and responded positively with the proposed parking and manoeuvring arrangements.

- the site layout, building design, associated infrastructure and landscaping arrangements are of a high quality and assist the promotion of sustainability and biodiversity; - The design of the proposed building is in keeping with that of the industrial area.

- appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view; - the existing vegetation and fencing is to be retained and maintained.

- is designed to deter crime and promote personal safety; - with the existing fencing and parking on site etc this has been achieved.

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

In view of all of the above I consider the extensions to the factory are acceptable and meet with PED1 and PED9.

Having considered all of the above I feel this proposal adheres to the criterias within PPS1, PPS3 \_ PPS4 and as such a recommendation of approval should be given.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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### **Conditions**

1. The building, hereby permitted, shall be removed and the land restored to its former condition within 5 years from the date of this decision notice.

Reason: In order to allow the council to re-assess the impact the development may have on the character or amenities of the area in the future.

2. The appropriate business class use for the building shall be restricted to storage only, this will ensure no loss of amenity to any neighbouring receptors.

Reason; To protect the amenity of residents.

3. There shall be no deliveries and/or external activity outside the hours of 07:00 hours and 18:30 hours Monday to Friday and 08:00 hours to 13:00 hours on Saturdays. There shall be no site activity on Sunday.

Reason; To protect the amenity of residents

4. All external doors to the proposed temporary storage facility shall remain closed at times when the workshops is operational except for the purposes of access or egress only.

Reason; To protect the amenity of residents

5. All roller shutter doors associated with the proposed temporary storage facility shall have automatic fast closing door devices fitted.

Reason; To protect the amenity of residents.

### **Informatics**

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.

Not 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 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 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>	17th May 2019
<b>Date First Advertised</b>	30th May 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 28 Coalisland Road Dungannon Tyrone Brenda Kelly	28, Coalisland Road, Dungannon, Tyrone, Northern Ireland, BT71 6LA
The Owner/Occupier, 30 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 32 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 35 Coalisland Road Dungannon Tyrone Brendan Cullen	32a ,Coalisland Road,Dungannon,Tyrone,BT71 6LA
The Owner/Occupier, 35 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 43 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 45 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 48 Coalisland Road,Dungannon,Tyrone,BT71 6LA	
The Owner/Occupier, 48 Coalisland Road,Dungannon,Tyrone,BT71 6LA	
The Owner/Occupier, 48 Coalisland Road,Dungannon,Tyrone,BT71 6LA	
The Owner/Occupier, 50 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 51 Coalisland Road, Dungannon, Tyrone, BT71 6LA	
The Owner/Occupier, 52 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 54 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 56 Coalisland Road Dungannon Tyrone	
The Owner/Occupier, 61 Coalisland Road,Dungannon,Tyrone,BT71 6LA	

The Owner/Occupier,  
69 Coalisland Road,Dungannon,Tyrone,BT71 6LA  
The Owner/Occupier,  
69 Coalisland Road,Dungannon,Tyrone,BT71 6LA

<b>Date of Last Neighbour Notification</b>	23rd May 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No

### **Planning History**

Ref ID: LA09/2016/1155/PAN

Proposal: Recontouring site to form required levels. Redevelopment of existing brickyard site to provide industrial and warehousing serviced sites and association parking.  
Temporary car park for holding of vehicles. extension and alterations to existing factory new site road with right turning lane and alterations to existing public highway

Address: Old Brick Site, 48 Coalisland Road, Dungannon,

Decision: PANACC

Decision Date:

Ref ID: LA09/2017/0567/F

Proposal: Extension to existing factory to provide additional production space and office accommodation, engineering works to re-contour ground levels and other ground works including retaining structure to provide serviced industrial and commercial sites.

Construction of a new through road linking Coalisland Road to Carland Road and associated right hand turning lane including realignment of Rossmore Road.

Address: Lands at and between 48 Coalisland Road and 11 Cookstown Road, Dungannon (Former Tyrone Brick Works Site) including lands at Rossmore Road and Cookstown Road.,

Decision: PG

Decision Date: 09.01.2019

Ref ID: LA09/2016/0807/PAD

Proposal: Industrial Estate

Address: Coalisland Road, Cookstown Road, Dungannon,

Decision:

Decision Date:

Ref ID: LA09/2019/0673/F

Proposal: Temporary storage facility to manufacturing plant.

Address: 48 Coalisland Road, Dungannon, BT71 6LA.,

Decision:

Decision Date:

Ref ID: M/1974/0438

Proposal: MINERAL EXTRACTION

Address: ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1992/6045

Proposal: To Centralize Administration Accommodation Plant No 4. Coalisland Road  
Dungannon

Address: Plant No 4. Coalisland Road Dungannon

Decision:

Decision Date:

Ref ID: M/1993/0185

Proposal: Change of use from store to showroom

Address: BUILDING TO REAR OF 32 COALISLAND ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1990/0079

Proposal: Office

Address: TYRONE BRICK PLANT 4 COALISLAND ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1976/0402

Proposal: REPLACEMENT FACTORY

Address: PLANT NO. 4., COALISLAND ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/0114

Proposal: ERECTION OF CLAY STORE AND WORKSHOPS

Address: PLANT NO 4 COALISLAND ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/0095

Proposal: ELECTRICITY SUBSTATION

Address: KILLYLACK, GLEBE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2000/0528

Proposal: Dwelling and garage

Address: Site 1 20m west of 50 Coalisland Road Dungannon

Decision:

Decision Date: 16.05.2000

Ref ID: M/2006/2026/Q

Proposal: Re-development

Address: Tyrone Brick Limited Plant 5, Cookstown Road, Dungannon

Decision:

Decision Date:

Ref ID: M/1990/0182

Proposal: 2 X 12 Ton Propane Storage Vessels

Address: PLANT 5 ( TYRONE BRICK), CARLAND ROAD, DUNGANNON.

Decision:

Decision Date:

Ref ID: M/1998/0186

Proposal: Installation of 4 (Four) No. 12 Tonne Gas Vessels

Address: REDLAND TILES AND BRICK LTD 48 COALISLAND ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1978/0298

Proposal: IMPROVEMENTS TO DWELLING

Address: 26 FERRY ROAD, DERRLAUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1998/0430

Proposal: Site for Dwelling

Address: ADJACENT 56 COALISLAND ROAD ROSSMORE DUNGANNON

Decision:

Decision Date:

Ref ID: M/1998/0430B

Proposal: Proposed Dwelling

Address: ADJACENT TO 56 COALISLAND ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/2001/1109/RM

Proposal: Proposed dwelling and garage

Address: Site adjacent to 56 Rossmore, Coalisland Road, Dungannon

Decision:

Decision Date: 28.11.2001

Ref ID: M/2000/1156/O

Proposal: Site for dwelling

Address: Land adjacent to No. 56 Rossmore, Coalisland Road, Dungannon

Decision:

Decision Date: 04.09.2001

Ref ID: M/1987/0278

Proposal: DWELLING

Address: COALISLAND ROAD, ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1976/0628

Proposal: 33KV UNEARTHED SPUR, MV U/G GABLE

Address: LURGABOY, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1981/039502

Proposal: ERECTION OF DWELLING

Address: ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1981/039501

Proposal: DWELLING

Address: ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1981/0395

Proposal: DWELLING

Address: ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2001/0087/O

Proposal: Dwelling House & Garage

Address: Site 1 20 M West of 50 Coalisland Road, Dungannon

Decision:

Decision Date: 28.11.2001

Ref ID: M/1981/0371

Proposal: DWELLING

Address: KILLYBRACKEY, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2002/1294/RM

Proposal: Proposed dwelling

Address: 20 Metres West of 50 Coalisland Road, Dungannon

Decision:

Decision Date: 23.01.2003

Ref ID: M/1997/0637B

Proposal: Dwelling

Address: NORTH OF 50 COALISLAND ROAD EDENDORK

Decision:

Decision Date:

Ref ID: M/2000/0529/O

Proposal: Dwelling and garage

Address: Site 2 Immediately west of 50 & 58 Coalisland Road Dungannon

Decision:

Decision Date: 16.05.2000

Ref ID: M/2001/0088/O

Proposal: Dwelling & Garage

Address: Site 2 Immediately West of 50 & 58 Coalisland Road, Dungannon

Decision:

Decision Date: 28.11.2001

Ref ID: M/1978/0015

Proposal: ERECTION OF HUT FOR GATE KEEPER

Address: PLANT 4, COALISLAND ROAD, DUNGANNON

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Drawing No. 06  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 05  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 07  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

Drawing No. 09  
Type: Existing Plans  
Status: Submitted

Drawing No. 08  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Elevations  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

## **Development Management Officer Report**

### **Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 3/9/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0721/O	<b>Target Date:</b> 10/9/2019
<b>Proposal:</b> Site for a dwelling & garage. Based on Policy CTY 8 (gap site)	<b>Location:</b> 25m NE of 162 Ballynease Road Portglenone
<b>Referral Route:</b> 1 objection received and refusal recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Adrian McErlean 101 Ballymacombs Road Bellaghy BT44 8NU	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b> The proposal fails to comply with Policy CTY 8 of PPS 21 in that in order to protect the residential amenity enjoyed by the occupants of number 164 Ballynease Road a dwelling would have to be sited to the centre of the application site. It would therefore not represent a gap site along a substantial and built up road frontage as it would be set back in a different plot of land. 1 objection has been received and all material planning matters raised have been fully considered.	
<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	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. 5 neighbouring properties have been notified of the proposal – numbers 160, 162, 162a, 164 and 166 Ballynease Road

To date there has been 1 no. objection received from a Solicitors Firm on behalf of the occupant of 164 Ballynease Road.

The issues raised are detailed and rebutted as follows:

- This current application is identical to the previously submitted application (LA09/2019/0094/O). It has been submitted to sidestep the previous decision.

This application differs from the previous application as the applicant is applying for a dwelling to be assessed under a different PPS 21 policy. The applicant is within his rights to do so. He has not appealed the previous decision and the time frame for appealing it has expired. The red line of the application is slightly different also.

- Land ownership query over a parcel of land which the applicant has shown to be the proposed access to their site.

The objector has advised through their solicitor that a Section 53 application is pending in respect of this contested land. This issue was previously raised under LA09/2019/0094/O. Under that application the applicant submitted a Land and Property Services Map (Folio LY73718) which showed that the contested parcel of land relates to number 162 Ballynease Road, the occupant of which is Niahil McErlean, whom notice was served on (Certificate C). For the purpose of this application I am content that proper notice has been served. Any issues surrounding land ownership are civil matters and sit outside the planning process.

- Concerns about their residential amenity.

This matter is considered in my report.

- Appropriateness of the development

A dwelling, if approved at this location would not be out of character with this rural area.

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

The application site is a 0.22 Hectare plot of agricultural land located adjacent to and NE of number 162 Ballynease Road, Portglenone. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site is accessed via an existing laneway which is used to access 5 other occupied dwellings. There is also a small derelict cottage located up the laneway. To the immediate SE, SW and NW of the site are detached dwellings. The NW and NE boundaries are undefined. The site falls quite sharply in a NE direction. The site cannot be viewed from the public road.

This area is rural in character, with an undulating topography and a dispersed settlement pattern. It is not subject to any Area Plan zonings or designations.

### **Description of Proposal**

This is an outline application for a dwelling and garage in a gap site.

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

### Relevant Planning History

LA09/2019/0094/O - Land North East adjacent to 162 Ballynease Road, Portglenone. 1 single storey dwelling house. Refused on the 05.04.2019. Was not accepted by the Planning Committee as being a dwelling in a Cluster.

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 3 – Access, Movement and Parking
- PPS 21 – Sustainable Development in the Countryside

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

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause “demonstrable harm to interests of acknowledged importance”. A dwelling by its nature will not give rise to any unacceptable noise, fumes or odours however if sited in the SW portion of the site it will impact on the residential amenity of both 164 and 162 Ballynease Road by way of overlooking and loss of privacy.

The site is not in an area of archaeological potential nor is it located close to any Listed Buildings. It does not involve the loss of any priority habitat.

The SPPS gives provision for Dwellings in a gap site subject to a number policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 8 of PPS 21.

### **Magherafelt Area Plan 2015**

This site is located outside any settlement defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations or constraints. As such, existing rural planning policy will be applied.

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

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy, Policy CT1- General Policy and Policy CT2 - Dwellings in the Countryside are applicable to this application. In my opinion this proposal is in conflict with criteria a of Policy GP 1 and paragraph 8.33 of Policy CT2. It is however acknowledged that no weight can be given to this document as it is only at early public consultation stage.

### **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 use of an existing unaltered access onto the Ballynease Road. DFI Roads have been consulted and have advised that as the number of houses will exceed 5 coming off this lane it should be brought up to an adoptable standard as per Creating Places. Bringing this existing lane up to an adoptable standard is an excessive request for an applicant and is not common practice in a rural setting. DFI Roads have recommended standards conditions to be attached to an approval if Council are minded to set their advice aside.

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

#### Policy CTY 8 – Ribbon Development

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The application site takes in the rear garden of number 162 and another field to the NE of this garden. It also sits to the front of a dwelling at number 164. Both 164 and 162 front onto the laneway. I do not consider a third dwelling at 162a as part of this frontage as it accesses onto a completely different section of the laneway. There is a garage associated with number 164, which could be considered as a third building along this frontage. It would be difficult to claim that a dwelling in the SW portion of this site would have a negative impact on rural character given the existing development in the immediate area and the lack of critical views from the public road. It would however have a negative impact on the residential amenity of the occupants of numbers 164 and 162 by way of overlooking/loss of privacy and for this reason should be resisted. If a dwelling were to be sited further into the site, it may deal with the amenity concerns but it would then move into the second planning unit (field) removing the element of frontage required under this policy test.

For these reasons the proposal cannot be considered as an acceptable infill dwelling.

#### **Policy CTY 13 – Design and Integration and Policy CTY 14 – Rural Character**

A dwelling with a 5.5m ridge height will not appear overly prominent in this local landscape. The site lacks any substantial vegetative boundary treatment to help integrate a dwelling but this seems to be typical in this immediate area. The adjacent dwellings will provide an acceptable degree of enclosure for a dwelling. Design is a matter reserved for future applications. I am content that the proposed dwelling in this location will not erode the rural

character of this area due to the lack of critical views of the site from the main Ballynease Road.

**Neighbour Notification Checked**

**Yes**

**Refusal Reason**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not represent an acceptable gap/infill site along a substantial and built up road frontage and would, if permitted, impact on the residential amenity of neighbouring properties.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	28th May 2019
<b>Date First Advertised</b>	13th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 160 Ballynease Road Portglenone Londonderry	
The Owner/Occupier, 160a Ballynease Road Portglenone	
The Owner/Occupier, 162 Ballynease Road Portglenone Londonderry	
The Owner/Occupier, 162a Ballynease Road Portglenone	
The Owner/Occupier, 164 Ballynease Road Portglenone Londonderry	
The Owner/Occupier, 166 Ballynease Road Portglenone Londonderry Michael Brentnall Brentnall Legal Ltd.,36 Ormeau Road,Belfast,BT7 2EA	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	N/A
<b>Planning History</b>	
Ref ID: LA09/2019/0721/O Proposal: Site for a dwelling & garage. Based on Policy CTY 8 (gap site) Address: 25m NE of 162 Ballynease Road, Portglenone, Decision: Decision Date:	
Ref ID: LA09/2019/0094/O Proposal: 1 single storey dwelling house a detached 4 bedroom bungalow Address: Land North East adjacent to 162 Ballynease Road, Portglenone, Decision: PR Decision Date: 05.04.2019	
Ref ID: H/2015/0049/F Proposal: Proposed replacement dwelling and new domestic detached garage	

Address: 30m North West of 160 Ballynease Road, Portglenone, BT44 8NU,  
Decision: PG  
Decision Date: 09.06.2015

Ref ID: H/2002/0758/F  
Proposal: Dwelling and Garage  
Address: North of 160 Ballynease Road, Portglenone  
Decision:  
Decision Date: 14.11.2002

Ref ID: H/2001/0641/F  
Proposal: New Dwelling And Garage.  
Address: Site Adjacent To 162 Ballynease Road, Portglenone.  
Decision:  
Decision Date: 17.10.2001

Ref ID: H/2000/0881/O  
Proposal: Site Of Dwelling And Garage  
Address: Adjacent To 162 Ballynease Road, Portglenone  
Decision:  
Decision Date: 24.01.2001

Ref ID: H/1998/0173  
Proposal: ALTERATIONS AND ADDITIONS TO DWELLING AND NEW GARAGE  
Address: 164 BALLYNEASE ROAD BELLAGH  
Decision:  
Decision Date:

Ref ID: H/1986/0019  
Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW  
Address: 162 BALLYNEASE ROAD, PORTGLENONE  
Decision:  
Decision Date:

Ref ID: H/2000/0604/O  
Proposal: Site Of Dwelling And Garage  
Address: Adjacent to 162 Ballynease Road, Glenone, Portglenone, Northern Ireland,  
BT44 8NU  
Decision:  
Decision Date: 08.11.2000

Ref ID: H/2009/0460/F  
Proposal: Proposed attic conversion

Address: 162a Ballynease Road, Portglenone  
Decision:  
Decision Date: 10.09.2009

Ref ID: H/2013/0276/LDE  
Proposal: Dwelling House for Residential Use  
Address: Adjacent to No. 160 Ballynease Road Portglenone,  
Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI - Roads – No objections

**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**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0765/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> 50m NE of 28 Broagh Road Knockloughrim
<b>Referral Route:</b>	
Approval – To Committee – One Objection received and applicant is member of Planning Committee.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Sean McPeake 266 Hillhead Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toome BT41 3SG
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

<b>Case Officer Report</b>				
<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 - Coleraine	Substantive Response Received		
Non Statutory	DAERA - Coleraine			
<b>Representations:</b>				
Letters of Support	None Received			
Letters of Objection	1			
Number of Support Petitions and signatures	No Petitions Received			
Number of Petitions of Objection and signatures	No Petitions Received			
<b>Summary of Issues</b>				
<p>Approval – To Committee – One Objection received and applicant is member of Planning Committee.</p> <p>Summary of objection is as below</p> <ul style="list-style-type: none"> <li>- First issue is over the ownership of the laneway.</li> <li>- Made reference to an appeal in close proximity of the site which was refused on the grounds that it ‘would expand significantly the visual perception in the vicinity of the road bend and land into of a much more expansively built up area creating an adverse impact contrary to the rural ethos’ it is felt that this application would do the same.</li> </ul>				

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

The site is located approximately 1.1km north west of Curran and from such it is located within the open countryside as defined by the Magherafelt Area Plan 2015. The site is identified as 50m NE of 28 Broagh Road Knockloughrim in which the red line covers a portion of a larger agricultural field but it is noted that it covers a portion of the field that runs adjacent to the existing laneway that leads to the Broagh Road. I note that there is a small farm building adjacent to the proposed site which has been identified to be 'used by the applicant'. The immediate and surrounding area is predominately agricultural land uses with a scattering of residential properties.

### Relevant planning history

H/2009/0540/RM - Proposed dwelling & garage - 240m North East of no.29 Broagh Road, Knockloughrim - Permission Granted 13.11.2009

H/2005/0910/F - Proposed dwelling and garage. - 180m South East of 28 Broagh Road, Knockloughrim. – Planning Appeal Upheld

H/2005/117/O - Site Of Dwelling & Garage - 240 Metres North East Of 29 Broagh Road, Knockloughrim – Permission Granted 19.09.2006.

### Representations

Four neighbour notifications were sent out however one objection was received in connection with this application.

## **Description of Proposal**

This is an outline application for a proposed dwelling and garage. The site is located 50m NE of 28 Broagh Road Knockloughrim.

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

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

### Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 – Draft Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

CTY 13 – Integration and Design of Buildings in the Countryside; and

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in

the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- (a) the farm business is currently active and has been established for at least 6 years;
  - (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
  - (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.
- Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-
- demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group.

With respect to (a) a consultation was sent to DAERA, who responded to confirm that the farm business has been established for more than 6 years. DAERA also confirmed that the farm business has also made claims within each of the previous 6 years. Therefore on balance of the above I am content that the farm business has been established for the required period with sufficient activity over 6 years.

With respect to (b) and upon a review of the history of the farm business, I note that there has been a previous permissions attained on the farm business however the applicant has provided maps to confirm that these lands are still owned and haven't been transferred off the farm.

With respect to (c), I first note that the registered address is not located near the site and there does not appear to be lands owned beside it. From this, there is a farm building that lies adjacent to the site however the agent confirmed that this building's ownership is in dispute but the applicant has used this building for the previous 25 years and continues to do so. I note that given the concern over the ownership of this building that it cannot be counted as being a building on the farm. From this, I note that there appears to be no other buildings on the farm and from this it has been agreed at group that the best integrated site would be used. From further group discussions it has been concluded that the proposed site is acceptable in this instance. The policy does state where practicable that access should be taken from an existing laneway, I note the site intends to use an existing access point onto the Brough Road but to create a new laneway given ownership concerns. From all of this I am of the opinion that the proposal is complies with CTY 10 on balance.

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 of the opinion that an appropriately designed dwelling will not appear unduly prominent in the landscape. Given the nature of the red line I note that new planting will be required along the north eastern and south eastern boundaries with as much of the existing landscaping retained as possible therefore a landscaping plan will be necessary in any 'Reserved Matters' application. Due to the surrounding landform and surrounding development it is felt necessary to restrict the height of the dwelling to a 7m ridge height from finished floor level. From this I am content that the application is able to comply with CTY 13.

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

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policies CT1 and CT2. With regards to CT1 I am content that the proposed application is capable of visually integrating whilst respecting rural character and will not result in urban sprawl nor mar the distinction between a settlement and countryside, as it is an outline application I cannot speak for the design but only an appropriate design will be accepted in this rural location. I am content that a dwelling would group with a group of existing buildings from this it complies under CT1. In terms of CT2, the application is to be considered under a dwelling on a farm. From review of this policy I am content that the farm business has been established for 6 years and it is currently active with no permissions obtained under this criteria in the last ten years. In addition I note that there is no buildings on the farm and the best integrated site has been chosen. From this the application does not fully comply under the Draft Strategy however I note that the Draft Strategy has ended its early consultation period however has received a number of objections therefore there is no significant determining weight given at this stage.

In response to the comments raised by the objector, in terms of the issues raised over full ownership of the laneway, the application was subsequently reduced and it appears to have resolved this issue however I note that planning does not confer title and it will be up to the applicant to ensure that he has the relevant ownership or right of ways. In terms of the appeal referred to and after a search the only appeal I could find for Mr Seamus Kyne at 20m NE of 28 Brough Road, Knockloughrim is 2006/A0379 which appears to have been allowed with planning permission granted.

PPS 3 - Access, Movement and Parking;  
DFI Roads were consulted and responded confirmed that they had no objections subject to conditions and from this I am content it is able to comply under PPS 3.

I have no ecological, flooding or residential amenity concerns.

As the application has complied under PPS 21 I must therefore recommend approval for the application.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval

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 proposed dwelling shall have a ridge height of less than 7.0 metres above the finished floor level of the site and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.

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. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

7. 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.

8. 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.

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

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

#### Informatics

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/premises] and does not confer approval on the carrying out of trade or business there from.

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

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority. The developer's attention is expressly drawn to the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993 which has application to the development hereby granted planning permission.

5. The applicant's attention is drawn to form RS1 and the statement regarding an accurate, maximum 1:500 scale survey which must be submitted as part of the Reserved Matters application.

#### Signature(s)

Date:

<b>ANNEX</b>	
<b>Date Valid</b>	5th June 2019
<b>Date First Advertised</b>	20th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 27 Broagh Road Knockcloghrim Magherafelt The Owner/Occupier, 28 Broagh Road Knockcloghrim Magherafelt The Owner/Occupier, 29 Broagh Road Knockcloghrim Magherafelt The Owner/Occupier, 30 Broagh Road Knockcloghrim Magherafelt Bernadette Mulholland Solicitor B.A 37 King Street, Magherafelt,BT45 6AR	
<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: LA09/2019/0765/O Proposal: Proposed dwelling and garage Address: 50m NE of 28 Broagh Road Knockloughrim, Decision: Decision Date:	
Ref ID: LA09/2016/1591/F Proposal: Change of house type from previously approved H/2007/1019/RM Address: Site approx. 30m NE of 28 Broagh Road, Knockloughrim, Decision: PG Decision Date: 14.07.2017	
Ref ID: H/2005/0910/F Proposal: Proposed dwelling and garage. Address: 180m South East of 28 Broagh Road, Knockloughrim. Decision: Decision Date:	
Ref ID: H/2009/0540/RM Proposal: Proposed dwelling & garage	

Address: 240m North East of no.29 Broagh Road, Knockloughrim

Decision:

Decision Date: 13.11.2009

Ref ID: H/2007/1019/RM

Proposal: Private dwelling and garage

Address: Approx. 20m North East of 28 Broagh Road, Knockloughrim

Decision:

Decision Date: 23.05.2008

Ref ID: H/2005/0117/O

Proposal: Site Of Dwelling & Garage

Address: 240 Metres North East Of 29 Broagh Road, Knockloughrim

Decision:

Decision Date: 19.09.2006

Ref ID: H/2011/0286/RM

Proposal: Proposed dwelling and garage

Address: 20m South East of 29 Broagh Road, Knockloughrim,

Decision:

Decision Date: 15.11.2011

Ref ID: H/2005/0291/O

Proposal: Site of Dwelling and Garage.

Address: 20m South East of No. 29 Broagh Road, Knockloughrim

Decision:

Decision Date:

Ref ID: H/1993/0148

Proposal: SITE OF CHALET DWELLING AND GARAGE

Address: ADJACENT TO 30 BROAGH ROAD KNOCKLOUGHRE

Decision:

Decision Date:

Ref ID: H/2004/1362/O

Proposal: Site of dwelling and garage

Address: Approximately 20m North East of, 28 Broagh Road, Knockloughrim

Decision:

Decision Date:

Ref ID: H/1994/0148

Proposal: DWELLING

Address: ADJ TO 30 BROAGH ROAD KNOCKLOUGHRE

Decision:

Decision Date:

Ref ID: H/2010/0352/F

Proposal: Proposed 1½ storey rear extension to extend 1st floor bedroom and provision of games room on ground floor

Address: 28 Broagh Road, Knockloughrim

Decision:

Decision Date: 09.09.2010

Ref ID: H/2010/0523/F

Proposal: Amended access onto existing laneway to that previously approved under H/2007/1019/RM

Address: Approx 20m North East of 28 Broagh Road, Knockloughrim, Co. Derry, BT45 8QX,

Decision:

Decision Date: 18.04.2011

Ref ID: LA09/2016/0575/LDE

Proposal: Substantial works for garage and access have commenced

Address: 20m S.E. of 29 Broagh Road, Knockloughrim,

Decision: PG

Decision Date:

Ref ID: H/2014/0441/F

Proposal: Dwelling (change of house type from previous approval H/2011/0286/RM)

Address: 20m SE of 29 Broagh Road, Knockloughrim,

Decision: PG

Decision Date: 21.05.2015

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 03/09/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0794/RM	<b>Target Date:</b>
<b>Proposal:</b> Erection of Dwelling and Domestic Garage	<b>Location:</b> Lands between 103 Killymeal Road and 7 Edendork Road Dungannon
<b>Referral Route:</b> Objection	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Moreno Landi 21 Glebe Court Dungannon	<b>Agent Name and Address:</b> MMAS Architects 2nd Floor New Mill Conway Mill 5-7 Conway Street Belfast BT13 2DE
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DETI - Geological Survey (NI)	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

#### Characteristics of the Site and Area

The site is located in the rural countryside 0.37km northeast of the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding context appears rural, characterised predominantly by sprawling agricultural fields, farm complexes and dispersed single dwellings. The site is located at the junction of Killymeal Road and Edendork Road.

The site is located along an existing laneway and is set back from the public road by 170m. The site is located in close proximity to existing farm buildings at No. 7 Edendork Road that has 3 farm sheds and an unoccupied two-storey dwelling. The topography of the site falls steadily from west to east. The site boundaries to the north and east are established hedgerows and trees. The southern boundary is partially abutted by the curtilage of the dwelling at No. 103 Killymeal Road.

### **Description of Proposal**

This is a reserved matters application for a split-level dwelling. The proposed dwelling will be situated on land with sloping topography from west to east, hence the lower ground, which has the garage, will sit into the slope. The dwelling has a total frontage of 32m but this is in 2 sections with a courtyard garden in between. The dwelling has a proposed ridge height of 7.9m at the highest point to 3m at the lowest point.

The dwelling has an L shaped floor plan with a courtyard between.

The external walls of the proposed dwelling will have render and the flat roof will have a sedum finish. The doors will be hardwood painted timber and the windows will be PPC aluminium.

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

#### **Planning History**

Ref ID: LA09/2019/0421/F

Proposal: Proposed abandonment of existing access at 5 Edendork Road, Dungannon to make way for new access within garden serving both existing dwelling and proposed new two storey dwelling with new laneway and associative site works.

Address: Lands between 103 Killymeal Road and 7 Edendork Road, Dungannon.,

Decision: Withdrawn

Decision Date: 03.06.2019

Ref ID: LA09/2016/0965/O

Proposal: Proposed dwelling and garage

Address: Lands sited between 103 Killymeal road and 7 Edendork Road, Dungannon,

Decision: Permission Granted

Decision Date: 14.09.2017

#### **Consultees**

DETI Geological Survey were consulted and the proposed development is greater than 50m from the closest known disused shaft which lies south of the site boundary.

DFI Roads were consulted as there was an access condition on the outline planning approval LA09/2016/0965/O.

#### **Representations**

1 letter of objection was received from the owner/occupiers of 103 Killymeal Road, Dungannon. This premise is approximately 40m from the site boundary of this proposal.

The issues raised are:

Validity of Application

Concerns are raised the current application for reserved matters is not a valid planning application and states the application LA09/2019/0421/F has not been withdrawn. I am content this application is withdrawn on the planning portal. The application meets the legislative requirements for validation as outlined in the General Development Procedure Order (NI) 2015. The proposal for reserved matters has met all the outline approval conditions for LA09/2016/0965/O.

Questions 10 and 11 on the P1 form were changed upon request, following concerns raised that they were filled in incorrectly.

#### Ownership of the land

Concerns are raised the applicant is now different from the outline approval LA09/2016/0965/O. Planning permission does not confer title and relates to land rather than those persons who own or occupy it. Subsequently the applicant can vary from different applications. Any dispute in relation to landownership or right of way would be a civil matter.

#### Planning Policy

Concerns are raised that this reserved matters application is a different proposal than the outline LA09/2016/0965/O and should be made invalid. This is a reserved matters application where the design of the proposed dwelling and the integration will be considered. The principle of development has already been established at the outline stage so whether the proposal meets the policy CTY 10 for a dwelling on a farm does not need to be considered again.

#### **Planning Policy Consideration**

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

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

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

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

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

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

However, the principle of development has already been established through the approval of LA09/2016/0965/O. This proposal has already been considered and has complied with CTY 10. All that remains are for the proposal to be considered under Planning Policies CTY 13 and 14. The outline approval LA09/2016/0965/O set out a number of conditions for the reserved matters to comply with and upon review of these, I am content that these have all been complied with.

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

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As noted, the application has fully complied with all the outline conditions in terms of siting and access.

The application site is located at the end of an existing laneway and is located 170m south of the Edendork Road and 230m east of the Killymeal Road. The site is a portion of a larger agricultural field that will cluster with the existing farm buildings at No. 7 Edendork Road. In addition, there are no long-term critical views of the site from both the Edendork Road and Killymeal Road as shown in figures 1 and 2 below. The site levels fall from west to east away from public vantage points. On balance I am satisfied the proposal will not appear a prominent feature in the landscape.



Figure 1 View along the Edendork Road of the laneway and access to the site



Figure 2 View from the Killymeal Road

There is established trees and hedgerows along the northern and eastern boundaries of the application site, which will aid integration. An orchard/fruit trees is proposed on the southern boundary as indicated on Drawing No. 02 date stamped received 10<sup>th</sup> June 2019. I am content new planting will not be primarily relied on for the purposes of integration.

The proposal includes a garage, which will be located on the lower ground floor on the split-level dwelling. I am content the garage will be well integrated, as it will form a part of the proposed dwelling. The proposal will use an existing laneway so I am content the access will integrate into the landscape.

I have no concerns regarding the proposed dwelling design in terms of scale, form, massing or finishes. The proposed dwelling is a contemporary dwelling with a split-level ground floor, which will fit with the sloping topography of the site as shown on figure 3 below. The proposed dwelling is large in scale but I consider this is acceptable due to no long-term critical views and the size of the plot. I consider the massing is acceptable as the dwelling is an L-shaped rectangular form with a courtyard. There will be rendered external walls, sedum roof and aluminium windows. I am content the solid to void ratio between window openings and wall coverage is appropriate and acceptable. The proposed dwelling has a contemporary finish but in terms of 'Building on Tradition' Design Guidance, this is acceptable. The proposal is a contemporary version of the traditional farmhouse and outbuildings layout with courtyard.



Figure 3 View of the site showing the sloping topography and clustering with existing farm buildings

I consider the proposed dwelling will blend with the topography of the site as it is split-level and will sit into the slope.

I am content the proposed dwelling will be visually linked and cluster with adjacent farm buildings.

I consider the proposal does not offend Policy CTY13 of PPS 21.

#### **CTY 14 – Rural Character**

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Again, I do not consider the proposed dwelling would appear unduly prominent in the landscape due to the existing natural and proposed boundaries around the site. As stated earlier in the assessment, there are no critical views from the public road. I am content the dwelling will not result in a suburban style build-up of development when views with existing dwellings. The traditional pattern of development in the surrounding area is largely single storey dwellings. I have no concerns about the proposed dwelling, as it will sit into the slope. I am content the proposal will not add or create ribbon development. The proposal will use an existing laneway so I consider this will not damage rural character.

#### **Neighbour Amenity**

The nearest dwelling to the application site is No. 103 Killymeal Road. I consider the proposed dwelling will have some impact on their neighbour amenity as the lower terrace of the garden at the proposed dwelling will face towards No. 103 but it is considered acceptable. There will be no loss of privacy or loss of light to their property as No. 103 is approximately 30m from the site boundary with the application site. Additional planting of

trees is also proposed in front of the southern elevation of the dwelling at the site, which will block any direct views to neighbouring properties.

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

A consultation was sent to DFI Roads for comments, in their response confirmed that they had no objections to the proposal subject to informatics and conditions.

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

**Neighbour Notification Checked** Yes

**Summary of Recommendation:**

The proposal is recommended for approval as it complies with CTY13 and CTY 14 in PPS 21.

**Conditions:**

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-
  - i. The expiration of a period of 5 years from the grant of outline planning permission; or
  - ii. The expiration of a period of 2 years from the date hereof.

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

2. Prior to commencement of the development hereby permitted, visibility splays of 20.0m x 60m shall be provided in northeasterly direction and 2.0 x 33.0m in southwesterly direction and any forward sight distance shall be provided in accordance with the approved drawing No.02 bearing date stamp 10<sup>th</sup> June 2019, or as may otherwise be agreed in writing with the Department. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

3. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 date stamped 10<sup>th</sup> June 2019 shall be carried out in the first planting season following the occupation of the development hereby approved. Any tree shrub or other plants identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the development integrates into the countryside

4. 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.

**Informatives**

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

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

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

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

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

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

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

It is the responsibility of the developer to ensure that

- Surface water does not flow from the site onto the public road
- The existing roadside drainage is accommodated and no water flows from the public road onto the site
- Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway
- The developer should note that this planning approval does not give consent to discharge water into a Transportni drainage system.

**Signature(s)**

**Date:**



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> LA09/2019/0818/RM	<b>Target Date:</b> 26/09/2019
<b>Proposal:</b> Replacement Dwelling.	<b>Location:</b> 160m South East of 35 Mullybrannon Road Dungannon.
<b>Referral Route:</b> One objection received.	
<b>Recommendation: APPROVAL</b>	
<b>Applicant Name and Address:</b> Syerla Enterprises Ltd 34 Culrevog Road Dungannon	<b>Agent Name and Address:</b> J.Aidan 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b> One objection received and fully considered citing concerns over road safety and works being carried out without their permission	
<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	1	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	

### Summary of Issues

### Characteristics of the Site and Area

The site is a 0.63ha parcel of land located within the rural remainder approximately 2 miles south of Dungannon. It is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site lies approximately 160m from the public road and comprises 2 no. agricultural fields and a derelict dwelling. The site has not altered since the granting of outline planning permission. There is little development pressure in the area with development taking the form of single dwellings and associated outhouses.

### Description of Proposal

Reserved Matters application for replacement dwelling

### Planning Assessment of Policy and Other Material Considerations

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

### Relevant Histories

M/2003/1079/O - Replacement Dwelling House - 160m South West of 35 Mullybrannon Road Dungannon - PERMISSION REFUSED 20/09/2004  
M/2008/0055/O - Proposed replacement dwelling - 150m South West of 35 Mullybrannon Road, Dungannon - PERMISSION GRANTED 20/12/2011  
LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon - PERMISSION GRANTED 19/04/2019

The principle of development has been established through the recent approval of LA09/2019/0145/O. Although the address for the OPP reads "South East of 35 Mullybrannon Road", the site itself lies to the south west and corresponds directly with this current application. This Reserved Matters proposal complies with all the conditions set down at outline stage.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. One objection has been received which relates to concerns over road safety, the unsuitability of this lane for domestic use and concern over works that have been undertaken previously on the access laneway. The objector has stated that due to circumstances out of their control they were unable to object to outline planning at the time, however their objections to this application equally apply to the previous application. As planning permission for a dwelling has already been granted and the principle of development has already been approved, the objection can only relate to the current application and cannot be applied retrospectively. As this is a Reserved Matters application the issues under consideration are the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site.

The means of access from the dwelling on site to the public road is currently existing. DfI Roads were consulted on the outline planning application and advised that *the existing access visibility and gradient are substandard, splays of (2.4m \* 60.0m), would normally be required, however in cases of replacement dwellings using existing accesses that do not comply with current standards, it may not be defensible to issue recommendations for refusal, unless there are clear intensification arguments*. There is no intensification of the access proposed. In addition, no works are detailed to be carried out to the access laneway, or to the access point with the public road. The applicant has been informed at OPP stage that it is strongly advisable to improve the access point however this cannot be enforced, and was not a condition of the OPP, as the access laneway to the dwelling is existing and is not being altered. With regard to the works already carried out on the laneway, this is not a material planning consideration as the works are not proposed under this application and do not form part of our consideration. If works have been carried out to date without the relevant permissions this would be considered a civil matter to be resolved between the relevant parties. The act of improving an access by re-stoning and widening within its limits would not necessarily require planning permission.

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

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies.

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

As the principle of development has already been established, the matters reserved under the OPP must now be considered.

CTY 13 of PPS21 – Integration and Design of Buildings states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed dwelling will be 6m in height and 24.7m in length including the two subordinate projections to either side of the main dwelling. The windows are mostly vertical in emphasis with a strong relationship of solid to void. The finishes of coloured plaster dash to the walls with facing brick detail are considered acceptable and the chimneys are expressed from the ridgeline. The proposed levels shown are considered acceptable. The existing vegetation is shown to be retained, augmented by addition landscaping which will aid integration on the site. In my view the proposal will integrate satisfactorily into the landscape, as it will blend with the landform and will not be a prominent feature in the landscape. It therefore meets policy criteria contained within policy CTY13 of PPS21. CTY 14 of PPS21 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. The proposal complies with CTY 14.

I have no ecological, flooding or residential amenity concerns, given the distance from any neighbouring properties.

**Neighbour Notification Checked      Yes**

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

I recommend approval as the site complies with the conditions set down at OPP stage and the design of the dwelling is considered acceptable.

#### **Conditions:**

1. The development to which this approval relates must be begun by whichever is the later of the following dates:-

- i. The expiration of a period of 5 years from the grant of outline planning permission;
- or
- ii. The expiration of a period of 2 years from the date hereof.

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

2. The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on the approved plan 01 date stamped 13 JUN 2019 is demolished and all rubble and foundations have been removed in accordance with the details on the approved plans.

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

3. All hard and soft landscape works as detailed on drawing no 02 bearing the stamp dated 13 JUN 2019 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Informatics**

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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	13th June 2019
<b>Date First Advertised</b>	27th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 33 Mullybrannon Road Dungannon Tyrone Iris Wylie 33, Mullybrannon Road, Dungannon, Tyrone, Northern Ireland, BT71 7ER The Owner/Occupier, 35 Mullybrannon Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	21st June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b> <p>Ref ID: LA09/2019/0145/O            Proposal: Replacement Dwelling.            Address: 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER.,            Decision: PG            Decision Date: 19.04.2019</p> <p>Ref ID: LA09/2019/0818/RM            Proposal: Replacement Dwelling.            Address: 160m South East of 35 Mullybrannon Road, Dungannon.,            Decision:            Decision Date:</p> <p>Ref ID: M/2003/1079/O            Proposal: Replacement Dwelling House            Address: 160m South West of 35 Mullybrannon Road Dungannon            Decision:            Decision Date: 20.09.2004</p> <p>Ref ID: M/2004/0846/O            Proposal: Site for Dwelling            Address: 60M SW of 33 Mullybrannon Road, Dungannon</p>	

Decision:  
Decision Date: 23.09.2004

Ref ID: M/2008/0055/O  
Proposal: Proposed replacement dwelling  
Address: 150m South West of 35 Mullybrannan Road, Dungannon  
Decision:  
Decision Date: 20.12.2011

Ref ID: M/2012/0554/F  
Proposal: Detached domestic double garage with first floor domestic storage  
Address: 33 Mullybrannon Road, Dungannon. BT71 7ER,  
Decision: PG  
Decision Date: 20.11.2011

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

Drawing No. 03 rev. 01  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Garage Plans  
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> LA09/2019/0837/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and garage based on Policy CTY 2a (New dwelling in existing clusters).	<b>Location:</b> 40m NW of No13 Brookemount Road Cookstown BT80 0BB.
<b>Referral Route:</b>  To Committee – Refusal – Contrary to CTY 1, 2a, 8 and 14 of PPS 21.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mr Terry Devlin 13 Brookemount Road Cookstown BT80 0BB	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### **Site Location Plan**



### **Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### **Representations:**

Letters of Support	None Received
Letters of Objection	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, 2a, 8 and 14 of PPS 21.

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

The site is located approximately 0.27km North West of the development limits of Ballylifford and from this it is situated within the open countryside as per defined in the Cookstown Area Plan 2010. The site is identified as 40m NW of No13 Brookemount Road, Cookstown, wherein the red line covers an agricultural field which is bounded by a line hedging along the northern and southern boundaries which meet at a point at the most western part of the site. The eastern boundary is defined by a line fencing and hedging separating the site and the neighbouring dwelling. The surrounding area is characterised by predominately agricultural buildings with a scattering of residential properties.

**Representations**

There were three neighbour notifications sent however there were no representations received.

**Description of Proposal**

This is a proposed outline application for a proposed site for a dwelling and garage based on Policy CTY 2a (New dwelling in existing clusters), the site is identified as 40m NW of No13 Brookemount Road, Cookstown.

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

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

CTY 13 – Integration and Design of Buildings in the Countryside; and

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Within the supporting statement the application was proposed to comply under CTY 2a and CTY 8 respectively. To take each one separately, to start 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.

In terms of the first criteria, I note that the site lies outside of a farm but it is difficult to determine if there is a cluster there at all, it appears to be a ribbon of development inclusive of four dwellings wherein the site intends to extend this. I note there is another dwelling across the road however it does not give the appearance of a cluster. Continuing on from this, as it does not appear as cluster therefore it is not seen as a visual entity.

In the submitted plans, the agent has identified two focal points in which they believe is associated with the site/cluster. To take each separately, the first identified focal point is that of the Ballinderry Rectory, I hold the opinion that this is not a focal point but more just a dwelling. Even if it were deemed as a focal point the physical separation distance between it and the site/cluster is too much that I hold the opinion that there is no association. Secondly, the agent identified St. John's Church and Hall as focal points however these are located within the development limits of Ballylifford and cannot be used as a result, but again due to the separation distances there is still no association.

The fourth criteria requires the proposed development to be able provide suitable degree of enclosure and to be bounded on at least two sides with other development in the cluster. I am content that the site bounds on the south eastern boundary with No.13 Brookmount Road but it also partially bounded along south western boundary and strictly does bound on two sides if not fully. But as noted I hold the opinion that there is no cluster therefore it cannot be seen as rounding off and it will alter the existing character through extending the existing ribbon of development. Finally, in this location I am of the opinion that a dwelling is unlikely to have an adverse impact on residential amenity. For the above reasons it is evident that the proposed development has failed under policy CTY 2a.

As noted above it has been concluded that the dwelling would extend the existing ribbon of development along the Brookemount Road from such it also fails under CTY 8 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this an outline application no design details etc. have been submitted however an indicative position has been provided. From review of the plans I am of an opinion that an appropriately designed dwelling would not be prominent in the landscape. The proposed site has existing vegetation along all boundaries which should be retained where possible and supplemented with additional landscaping to further aid integration, therefore a landscaping scheme is required in any 'Reserved Matters' application. I am of the opinion that if permitted the dwelling should be restricted to a 6.0m ridge height from finished floor level.

Policy CTY 14 deals with rural character and states that planning permission will be granted where the building it does not cause detrimental change to, or further erode the rural character of the area. As stated I am content that an appropriately designed

dwelling will not be prominent feature nor will it result in a suburban style build-up of development. However as stated it is seen that the proposed dwelling would result in the addition to a ribbon of development and therefore fails under CTY 14.

I note that no other case such as a farm case has been put forward by the agent at any stage therefore the application is taken as per submitted and has failed under PPS 21 and I recommend refusal.

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

DFI Roads were consulted and responded stating DFI Roads do not offer an objection subject to the conditions as per attached RS1 Form being complied with at Reserved Matters Stage.

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policies CT1 – General Principles and CT2 – Dwellings in the Countryside. With regards to CT1 I am content that the proposed application is capable of visually integrating whilst respecting rural character and will not result in urban sprawl nor mar the distinction between the settlement and the countryside but as this is an outline application no design details have been submitted but only an appropriately designed dwelling will be permitted. Furthermore I am content that the proposed dwelling would be able group with existing surrounding buildings and from this it complies under CT1.

In terms of CT2, the application is to be considered under dwelling in an existing non-farm cluster, in which I note that there doesn't appear to be a cluster rather an existing ribbon of development and it is not associated with any focal point. From this I am of the opinion that the application would fail under the Draft Strategy however I note that the Draft Strategy has ended its early consultation period however has received a number of objections therefore there is no significant determining weight given at this stage.

I have no flooding, ecological or amenity concerns, on balance I am content that the application fails under CTY 1, 2a, 8 and 14 of PPS 21 and refusal is recommended.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>	
Refusal	
<b>Reasons for Refusal:</b>	

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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that is considered not to be within an existing cluster.

3. 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 extension of ribbon development along the Brookmount Road.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted extend a ribbon of development along the Brookmount Road and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	14th June 2019
<b>Date First Advertised</b>	27th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 11a Brookmount Road Cookstown	
The Owner/Occupier, 13 Brookmount Road Cookstown Londonderry	
The Owner/Occupier, 18 Brookmount Road Cookstown Londonderry	
<b>Date of Last Neighbour Notification</b>	24th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2019/0837/O Proposal: Proposed site for a dwelling and garage based on Policy CTY 2a (New dwelling in existing clusters). Address: 40m NW of No13 Brookemount Road, Cookstown, BT80 0BB., Decision: Decision Date:	
Ref ID: I/1974/0218 Proposal: HV O/H LINE Address: KILLYMUCK, COOKSTOWN Decision: Decision Date:	
Ref ID: I/1992/0444 Proposal: Bungalow and garage Address: ADJACENT TO 11 BROOKMOUNT ROAD COOKSTOWN 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:

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

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> LA09/2019/0846/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and Garage	<b>Location:</b> 30m east of 32a Mulnavoo Road Draperstown
<b>Referral Route:</b>	
To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21 and one objection received.	
<b>Recommendation:</b> REFUSE	
<b>Applicant Name and Address:</b> N Bradley Esq 30 Mulnavoo Road Draperstown BT45 7LR	<b>Agent Name and Address:</b> 350 Hillhead Road Knockloughrim Magherafelt BT45 8QT
<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	Standing Advice

### **Representations:**

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

### **Summary of Issues**

Contrary to CTY 1, 8 and 14 of PPS 21 and one objection received. Summary of objection:

- Issue raised over full ownership lands declared in the P1, we reference to the road access sight splays towards the west.
- Issue that the site does not meet the policy stated under PPS21.
- CTY 8 – the site does not comply as the site and 32a Mulnavoo Road share a frontage onto the shared private laneway wherein 30 and 30a Mulnavoo Road fronts directly onto the Mulnavoo Road.
- CTY 13 – Opinion that the site will be prominent in the skyline and will need two new boundaries with heavily reliance on new landscaping from such will be unable to integrate.
- CTY 14 – the proposal along with the access route will create a prominent suburban style development.

- Concerns raised over compliance under PPS 3 – issued raised over safety aspects associated with intensification of the access onto the public road need to be upheld.

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

The site is located approximately 0.96km south east of the development limits of Moneyneany and is situated within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 30m east of 32a Mulnavoo Road, Draperstown in which the site encompasses a portion of a much larger agricultural field with access being taken off the shared laneway onto the Mulnavoo Road. I note that the shared laneway also serves a number of residential properties. The immediate and surrounding area is defined by a mix of residential and agricultural land uses.

#### Relevant planning history

LA09/2019/0849/O - Dwelling and garage - 55m East of 32a Mulnavoo Road, Draperstown – Ongoing

LA09/2019/0733/O - Infill dwelling - 156m S.W. of 30 Mulnavoo Road, Draperstown, - Ongoing

#### Representations

Four neighbour notifications were sent out however one objection was received.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage, the site is identified as 30m east of 32a Mulnavoo Road, Draperstown.

### **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 8 – Ribbon Development

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 dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present,

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

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. With regards to the site I note that dwellings to the east numbered 30a and 32 all share a frontage onto the Mulanvoor Road wherein the dwellings to the west 32a, 32b and 32c all share a common frontage onto the shared private laneway. From such, I contend that there is even a gap between a substantial and continuously built up frontage. From this I am of the opinion that the application fails under CTY 8.

I note that no farm information or any policy case has been presented to the Council, from such the application is recommended for refusal.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is noted that this is an outline application therefore the exact design details have not been submitted, however I am of the opinion that an appropriately designed dwelling would not appear as prominent in the landscape. I note that the given the undulating landform and backdrop of mature trees aids in integration but as much of the existing vegetation should be maintained. Given the nature of the red line new boundaries will require to be planted out therefore a landscaping plan will be needed in any 'Reserved Matters' application to ensure the dwelling is able to integrate. Finally, I feel it necessary to restrict the ridge height to 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. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape, from this I am content that the development is able to respect the pattern of development in the area. As noted the application has failed under CTY 8 in that there is no gap between a substantial and continuously built up frontage therefore it consequently also fails under CTY 14.

#### Other policy and material considerations

##### PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that Mid Ulster Council should note that the existing lane serves 3 no dwellings at present and that 3 further applications that Dfi Roads are aware of including this application have been submitted for single houses

all accessing from this lane. It is normally accepted within the urban area that development in excess of 5 residential units requires the access road to be brought up to an adoptable standard. Refer to Creating Places page 163 paragraph 4 for guidance. DfI Roads will not adopt or maintain the access lane in its present layout. It should also be noted that the sightlines at the Mulnavoo Rd / laneway junction has been restricted by hedge planting on the easterly direction. If council planning are of a mind to approve taken into consideration the number of potential houses being accessed from the lane and that the applicant has control to provide the 2.4m x 60.0m sightlines in both directions then the following conditions and RS1 form are attached detailing matters to be addressed at reserved matters stage.

To respond to the comments raised by the objector, in relation to the ownership issues in relation to road access I note that planning does not confer title and it would be up to the applicant that to ensure they owned all relevant lands or attained all applicable right of ways. In terms of the concerns over failure under PPS 21, I note that all concerns have been addressed above. Finally, in terms of concerns over road safety, I note that DFI Roads were consulted and made comment to what the relevant sightlines would be and it would be up the applicant to ensure he got these however as this application has been recommended for refusal this has not been asked for.

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policies CT1 – General Principles and CT2 – Dwellings in the Countryside. With regards to CT1 I am content that the proposed application is capable of visually integrating whilst respecting rural character and will not result in urban sprawl nor mar the distinction between a settlement and countryside. I note that this is only an outline application therefore no design details have been submitted however only an appropriately designed dwelling will be permitted.

Furthermore I am content that the proposed dwelling would be able cluster with existing surrounding buildings and from this it complies under CT1. In terms of CT2, the application is to be considered under dwelling infilling in a small gap, in which I am of the opinion that the site does not sit within a gap located between three or more buildings, each fronting onto a road. From this I am of the opinion that the application would fail under the Draft Strategy however I note that the Draft Strategy has ended its early consultation period however has received a number of objections therefore there is no significant determining weight given at this stage.

I have no ecological, flooding or residential amenity concerns. For the above reasons I consider the application to fail under policy CTY 1, 8 and 14 of PPS 21 and must recommend refusal.

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

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	18th June 2019
<b>Date First Advertised</b>	4th July 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 30a ,Mulnavoo Road,Draperstown,Londonderry,BT45 7LR	
The Owner/Occupier, 32a Mulnavoo Road Draperstown Steven & Violet Linton 32a Mulnavoo Road, Draperstown, Londonderry, Northern Ireland, BT45 7LR	
The Owner/Occupier, 32c Mulnavoo Road Draperstown	
<b>Date of Last Neighbour Notification</b>	24th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2019/0849/O Proposal: Dwelling and garage Address: 55m East of 32a Mulnavoo Road, Draperstown, Decision: Decision Date:	
Ref ID: LA09/2019/0846/O Proposal: Dwelling and Garage Address: 30m east of 32a Mulnavoo Road, Draperstown, Decision: Decision Date:	
Ref ID: LA09/2019/0733/O Proposal: Infill dwelling Address: 156m S.W. of 30 Mulnavoo Road, Draperstown, Decision: Decision Date:	
Ref ID: H/2002/0744/F Proposal: Dwelling and Garage Address: 250m W of 32 Mulnavoo Road, Draperstown Decision:	

Decision Date: 21.01.2003

Ref ID: H/2002/0349/F

Proposal: Dwelling & Garage.

Address: 200m W of 30 Mulnavoo Road, Draperstown.

Decision:

Decision Date: 27.01.2003

Ref ID: H/2002/0454/F

Proposal: Dwelling and Garage

Address: Mulnavoo Road, Mullaghnamaragh, Draperstown

Decision:

Decision Date: 18.10.2002

Ref ID: H/2001/0457/O

Proposal: Site of dwelling & garage

Address: 120m West of 30 Mulnavoo Road, Mullaghnamaragh, Draperstown

Decision:

Decision Date: 24.09.2001

Ref ID: H/1991/0036

Proposal: DWELLING

Address: MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1998/0012

Proposal: SITE OF DWELLING

Address: TO REAR OF 30 MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0849/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 55m East of 32a Mulnavoo Road Draperstown
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21 and one objection received	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> N Bradley Esq 30 Mulnavoo Road Draperstown BT45 7LR	<b>Agent Name and Address:</b> Russell Finlay 350 Hillhead Road Knockcloghrim Magherafelt BT45 8QT
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### **Site Location Plan**



### **Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice

### **Representations:**

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

### **Summary of Issues**

Contrary to CTY 1, 8 and 14 of PPS 21 and one objection received. Summary of objection:

- Issue raised over full ownership lands declared in the P1, we reference to the road access sight splays towards the west.
- Issue that the site does not meet the policy stated under PPS21.
- CTY 8 – the site does not comply as the site and 32a Mulnavoo Road share a frontage onto the shared private laneway wherein 32 and 30a Mulnavoo Road fronts directly onto the Mulnavoo Road.

- CTY 13 – Opinion that the site will be prominent in the skyline and will need two new boundaries with heavily reliance on new landscaping from such will be unable to integrate.
- CTY 14 – the proposal along with the access route will create a prominent suburban style development.
- Concerns raised over compliance under PPS 3 – issued raised over safety aspects associated with intensification of the access onto the public road need to be upheld.

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

The site is located approximately 0.96km south east of the development limits of Moneyneany and is situated within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 55m east of 32a Mulnavoo Road, Draperstown in which the site encompasses a portion of a much larger agricultural field with access being taken off the shared laneway onto the Mulnavoo Road. I note that the shared laneway also serves a number of residential properties. The immediate and surrounding area is defined by a mix of residential and agricultural land uses.

#### Relevant planning history

LA09/2019/0846/O - Dwelling and garage - 30m East of 32a Mulnavoo Road, Draperstown – Ongoing

LA09/2019/0733/O - Infill dwelling - 156m S.W. of 30 Mulnavoo Road, Draperstown, - Ongoing

#### Representations

Five neighbour notifications were sent out however one objection was received.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage, the site is identified as 55m east of 32a Mulnavoo Road, Draperstown.

### **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 8 – Ribbon Development

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 dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is

controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

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

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. With regards to the site I note that dwellings to the east numbered 30a and 32 all share a frontage onto the Mulanvo Road wherein the dwellings to the west 32a, 32b and 32c all share a common frontage onto the shared private laneway. From such, I contend that there is even a gap between a substantial and continuously built up frontage. From this I am of the opinion that the application fails under CTY 8.

I note that no farm information or any policy case has been presented to the Council, from such the application is recommended for refusal.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is noted that this is an outline application therefore the exact design details have not been submitted, however I am of the opinion that an appropriately designed dwelling would not appear as prominent in the landscape. I note that the given the undulating landform and backdrop of mature trees aids in integration but as much of the existing vegetation should be maintained. Given the nature of the red line new boundaries will require to be planted out therefore a landscaping plan will be needed in any 'Reserved Matters' application to ensure the dwelling is able to integrate. Finally, I feel it necessary to restrict the ridge height to 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. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape, from this I am content that the development is able to respect the pattern of development in the area. As noted the application has failed under CTY 8 in that there is no gap between a substantial and continuously built up frontage therefore it consequently also fails under CTY 14.

**PPS 3 - Access, Movement and Parking;**

DFI Roads were consulted and responded to state that Mid Ulster Council should note that the existing lane serves 3 no dwellings at present and that 3 further applications that Dfi Roads are aware of including this application have been submitted for single houses all accessing from this lane. It is normally accepted within the urban area that development in excess of 5 residential units requires the access road to be brought up to an adoptable standard. Refer to Creating Places page 163 paragraph 4 for guidance. Dfi Roads will not adopt or maintain the access lane in its present layout. It should also be noted that the sightlines at the Mulnavoo Rd / laneway junction has been restricted by hedge planting on the easterly direction. If council planning are of a mind to approve taken into consideration the number of potential houses being accessed from the lane and that the applicant has control to provide the 2.4m x 60.0m sightlines in both directions then the following conditions and RS1 form are attached detailing matters to be addressed at reserved matters stage.

To respond to the comments raised by the objector, in relation to the ownership issues in relation to road access I note that planning does not confer title and it would be up to the applicant that to ensure they owned all relevant lands or attained all applicable right of ways. In terms of the concerns over failure under PPS 21, I note that all concerns have been addressed above. Finally, in terms of concerns over road safety, I note that DFI Roads were consulted and made comment to what the relevant sightlines would be and it would be up the applicant to ensure he got these however as this application has been recommended for refusal this has not been asked for.

I note that the Mid Ulster Local Development Plan 2030 – Draft Strategy has now been published and it is considered as a material consideration. Under the Draft Strategy the proposed application would be considered under policies CT1 – General Principles and CT2 – Dwellings in the Countryside. With regards to CT1 I am content that the proposed application is capable of visually integrating whilst respecting rural character and will not result in urban sprawl nor mar the distinction between a settlement and countryside. I note that this is only an outline application therefore no design details have been submitted however only an appropriately designed dwelling will be permitted. Furthermore I am content that the proposed dwelling would be able cluster with existing surrounding buildings and from this it complies under CT1. In terms of CT2, the application is to be considered under dwelling infilling in a small gap, in which I am of the opinion that the site does not sit within a gap located between three or more buildings, each fronting onto a road. From this I am of the opinion that the application would fail under the Draft Strategy however I note that the Draft Strategy has ended its early consultation period however has received a number of objections therefore there is no significant determining weight given at this stage.

I have no ecological, flooding or residential amenity concerns. For the above reasons I consider the application to fail under policy CTY 1, 8 and 14 of PPS 21 and must recommend refusal.

**Neighbour Notification Checked****Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th June 2019
<b>Date First Advertised</b>	4th July 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 30a ,Mulnavoo Road,Draperstown,Londonderry,BT45 7LR	
The Owner/Occupier, 32a Mulnavoo Road Draperstown Steven & Violet Linton 32a Mulnavoo Road, Draperstown, Londonderry, Northern Ireland, BT45 7LR	
The Owner/Occupier, 32c Mulnavoo Road Draperstown	
<b>Date of Last Neighbour Notification</b>	24th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
Ref ID: LA09/2019/0849/O Proposal: Dwelling and garage Address: 55m East of 32a Mulnavoo Road, Draperstown, Decision: Decision Date:	
Ref ID: LA09/2019/0846/O Proposal: Dwelling and Garage Address: 30m east of 32a Mulnavoo Road, Draperstown, Decision: Decision Date:	
Ref ID: LA09/2019/0733/O Proposal: Infill dwelling Address: 156m S.W. of 30 Mulnavoo Road, Draperstown, Decision: Decision Date:	
Ref ID: H/2002/0744/F Proposal: Dwelling and Garage Address: 250m W of 32 Mulnavoo Road, Draperstown Decision:	

Decision Date: 21.01.2003

Ref ID: H/2002/0349/F

Proposal: Dwelling & Garage.

Address: 200m W of 30 Mulnavoo Road, Draperstown.

Decision:

Decision Date: 27.01.2003

Ref ID: H/2002/0454/F

Proposal: Dwelling and Garage

Address: Mulnavoo Road, Mullaghnamaragh, Draperstown

Decision:

Decision Date: 18.10.2002

Ref ID: H/2001/0457/O

Proposal: Site of dwelling & garage

Address: 120m West of 30 Mulnavoo Road, Mullaghnamaragh, Draperstown

Decision:

Decision Date: 24.09.2001

Ref ID: H/1991/0036

Proposal: DWELLING

Address: MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1998/0012

Proposal: SITE OF DWELLING

Address: TO REAR OF 30 MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1989/0012

Proposal: ALTS AND ADDS TO HOUSE

Address: 30 MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1998/0253

Proposal: DWELLING

Address: ADJACENT TO 30 MULNAVOO ROAD DRAPERSTOWN

Decision:

Decision Date:

Ref ID: H/1993/0004

Proposal: ALTS AND ADDS TO DWELLING

Address: 30 MULNAVOO RD DRAPERSTOWN

Decision:

Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0853/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling & domestic garage (Change of House Type from That Approved Under M/2008/0793RM)	<b>Location:</b> 100m East of 10 Glendavagh Road Aughnacloy
<b>Referral Route:</b> Application not delegated as applicant is sibling of an elected member	
<b>Recommendation: APPROVAL</b>	
<b>Applicant Name and Address:</b> Robert Bell 5 Glendavagh Road Aughnacloy	<b>Agent Name and Address:</b> Bell Design Services 123 Crosskeys road Armagh BT60 3LD
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

### Representations:

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

### Summary of Issues

#### Characteristics of the Site and Area

The application site is a 0.5 hectare parcel of land located on the Glendavagh Road approximately 2.2 miles southeast of Aughnacloy and is outside the development limits of any settlement defined in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red comprises an access laneway and the subfloor of the dwelling approved under M/2008/0793/RM. Hawthorn hedging defines the northern, southern and western boundaries of the site whilst the eastern boundary is defined by a post and wire fence. An access laneway with layby at the roadside has been created.

The area is rural in character with a dispersed settlement pattern. Development takes the form of single dwellings with associated outbuildings.

#### Description of Proposal

Full application for proposed dwelling & domestic garage (Change of House Type from that approved under M/2008/0793/RM)

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

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

## **Planning History**

M/2005/1253/O - Proposed dwelling - 100 metres East of 10 Glendavagh Road, Aughnacloy - PERMISSION GRANTED 08.08.2005

M/2008/0793/RM - Proposed dwelling and garage - 100m east of 10 Glendavagh Road, Aughnacloy – PERMISSION GRANTED 11.09.2008

## **Representations**

Two neighbours have been notified, numbers 10 & 13 Glendavagh Road. To date there have been no objections to the proposal from any third party.

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

The site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010 and is not subject to any area plan designations, as such, existing planning policies should be applied in this assessment.

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

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. Although the access point as constructed would appear to differ slightly to that approved, orthophotography dated 1st September 2010 shows an opening made at the public road which indicates that this commenced in time and in accordance with condition 03 of M/2008/0793/RM. DfI Roads have been consulted and advise that the sightlines are in place as per the approved access, although they are marginally restricted by overgrown hedgelines NE and SW directions. A condition can be placed on any approval to address the issue of clearing these sightlines and keeping them clear thereafter. DfI Roads have also requested the provision of a turning area for service vehicles however as this is not a road safety issue it is not felt necessary to ask for these amendments.

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

The changes to the design of the dwelling is the main consideration of this proposal. The height of the dwelling has been reduced from 8.7m to 7.2m and the dwelling now has a single storey appearance as opposed to the two storey previously approved. There are no windows at first floor level on the front elevation. There is an increase in the overall length of the dwelling from 15.5m to 17.2m in length, with no change to the depth of the

dwelling. Even with the increase in length the dwelling is less prominent in the landscape. The proposed dwelling is still rural in form and is considered acceptable at this site. The new dwelling will have a lesser visual impact than that originally approved.

### **Other Material Considerations**

It is acknowledged that this dwelling was previously approved on the 11th September 2008 under M/2008/0793/RM. The dwelling has been partially constructed in accordance with the approved plans, with the access laneway and sightlines in place. Building Control have confirmed that a Building Regulations application was submitted to their office on 02 April 2009 and the application was approved on 18 May 2009. An inspection of the foundations was carried out by Building Control on 08 September 2010, prior to the commencement date of 11 September 2010 conditioned under M/2008/0793/RM. I am content that the previous planning permission was implemented in time and there is a legitimate fall back position that would allow a dwelling to be erected on this site. Usually, in these circumstances, I would recommend that a condition is attached to ensure only one dwelling is constructed on the site, however given that the proposed dwelling will be constructed on the footprint of the approved, I do not consider it necessary as it is clear only one dwelling can be built.

As the principle of a dwelling on this site has been accepted under the previous approvals, this report has assessed the design changes under CTY 13 of PPS 21 and considered that the proposed change of house type is acceptable therefore recommend approval

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> I recommend approval as the change of house type is considered acceptable	

#### **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. All hard and soft landscape works as detailed on drawing no 01 bearing the stamp dated 19 JUN 2019 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following occupation of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**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.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	19th June 2019
<b>Date First Advertised</b>	4th July 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 10 Glendavagh Road Aughnacloy Tyrone The Owner/Occupier, 13 Glendavagh Road, Aughnacloy, Tyrone, BT69 6EZ	
<b>Date of Last Neighbour Notification</b>	2nd July 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b> <p>Ref ID: M/2004/0471/O            Proposal: 1 no dwelling house for residential purposes            Address: opposite no. 10 Glendavagh Road, Glendavagh, Aughnacloy            Decision:            Decision Date: 23.09.2004</p> <p>Ref ID: M/2004/0291/Q            Proposal: Potential development site for dwelling            Address: Glendavagh Road, Aughnacloy            Decision:            Decision Date:</p> <p>Ref ID: M/1998/0479            Proposal: Site for dwelling            Address: SITE 2 GLENDAVAGH ROAD GLENDAVAGH AUGHNACLOY            Decision:            Decision Date:</p> <p>Ref ID: M/2005/1253/O            Proposal: Proposed dwelling.            Address: 100 metres East of 10 Glendavagh Road, Aughnacloy            Decision:</p>	

Decision Date: 08.08.2005

Ref ID: M/1993/0069

Proposal: Dwelling

Address: SITE NO 1 GLENDAVAGH ROAD GLENDAVAGH AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1980/0088

Proposal: 2 NO DWELLING HOUSES

Address: GLENDAVAGH, CRILLY, AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1990/0054

Proposal: Dwelling

Address: SITE 1 GLENDAVAGH ROAD GLENDAVAGH AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1999/0010

Proposal: Site for dwelling. Renewal of Planning Permission

M/95/0721

Address: SITE 1 GLENDAVAGH ROAD AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1995/0721

Proposal: Dwelling

Address: SITE 1 GLENDAVAGH ROAD AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/2008/0793/RM

Proposal: Proposed dwelling and garage

Address: 100m east of 10 Glendavagh Road, Aughnacloy

Decision:

Decision Date: 11.09.2008

Ref ID: M/2002/0095/O

Proposal: Site for dwelling (Renewal of planning application M/99/0009)

Address: Site No.2 Glendavagh Road, Aughnacloy

Decision:

Decision Date: 20.03.2002

Ref ID: M/1995/0720

Proposal: Site for Dwelling

Address: SITE NO. 2 GLENDAVAGH ROAD GLENDAVAGH AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1993/0075

Proposal: Dwelling

Address: SITE NO 2 GLENDAVAGH ROAD GLENDAVAGH AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1990/0055

Proposal: Dwelling

Address: SITE 2 GLENDAVAGH ROAD GLENDAVAGH AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/1999/0009

Proposal: Site for dwelling. Renewal of planning Permission

M/95/0720

Address: SITE 2 GLENDAVAGH ROAD AUGHNACLOY

Decision:

Decision Date:

Ref ID: M/2005/1232/O

Proposal: Proposed dwelling.

Address: 150 metres East of 10 Glendavagh Road, Aughnacloy

Decision:

Decision Date: 22.08.2005

Ref ID: M/2004/0336/F

Proposal: 3 no Poultry Houses - amended access layout

Address: adjacent to 5 Glendavagh Road, Aughnacloy

Decision:

Decision Date: 28.06.2004

Ref ID: LA09/2019/0853/F

Proposal: Proposed dwelling & domestic garage (Change of House Type from That Approved Under M/2008/0793RM)

Address: 100m EAST if 10 Glendavagh Road, Aughnacloy,

Decision:  
Decision Date:

Ref ID: M/2008/0696/RM  
Proposal: Proposed dwelling and garage  
Address: 150m East Of 10 Glendavagh Road, Aughnacloy,  
Decision:  
Decision Date: 15.09.2008

Ref ID: M/2008/0779/F  
Proposal: Change of access from that approved under M/2005/1133/O  
Address: Opposite + 55m NE of 10 Glendavagh Rd, Aughnacloy  
Decision:  
Decision Date: 28.08.2008

Ref ID: M/2005/1133/O  
Proposal: Site for dwelling and garage (renewal of M/2002/0555/O)  
Address: SE of 9 Glendavagh Road, Aughnacloy  
Decision:  
Decision Date: 05.07.2005

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

Drawing No. 02  
Type: Garage 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**

<b>Summary</b>	
<b>Committee Meeting Date:</b> 3/9/2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0931/F	<b>Target Date:</b> 7/10/19
<b>Proposal:</b> Retention of dwelling, garage, garden room, gym, retaining walls, hard landscaping and site curtilage	<b>Location:</b> 10B Fallylea Road, Maghera
<b>Referral Route:</b> Refusal recommended and 2 objections received	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> James Hughes 10B Fallylea Road Maghera, BT46 5JT	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>  This proposal fails to comply with policy EXT 1 of the Addendum to PPS 7 in that its scale and massing is over dominant and impinges on the privacy of the occupants of number 10a Fallylea Road. These occupants have objected to the proposal and the issues they have raised hold some weight in this recommendation.	
<b>Signature(s):</b>	

## Case Officer Report

### **Site Location Plan**



### **Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
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### **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**

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. All relevant neighbouring properties have been notified of the proposal. To date there has been 2 letters of objections received from the occupants of number 10a Fallylea Road. The material planning issues raised are summarised below and are considered further in my report.

- The gym/garden room detracts from the appearance and character of the surrounding area.
- Impact on privacy from overlooking
- Dominance
- Unacceptable design

- The future use of the building as a commercial property (eg) Air b and b
- Confusion over the description of the proposal/development being applied for

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

The application site is located at 10b Fallylea Road, Maghera. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. It is set back approx.130m off the public and is accessed via a long tarmac driveway. On the site is a detached storey and half dwelling and garage. There is an extensive domestic curtilage (of varied levels) associated with the dwelling - a portion of which is unauthorised in the Northern most section of the site. There is also an unauthorised chalet type building located in this parcel of unauthorised curtilage. Construction of this chalet is currently ongoing. It is accessed by foot via concrete steps coming from the rear of the existing dwelling and accessed by car via a laneway running to the North of the site. The site is well screened with mature vegetation and cannot be viewed from the public road.

This area is rural in character with an undulating topography and dispersed settlement pattern. To the immediate North of the site is a detached third party dwelling, number 10a Fallylea Road. To the SW of the site is a detached dwelling, number 10 Fallylea Road, which the applicant has shown to be in his ownership. Surrounding the rest of the site is agricultural/rough grazing land.

### **Description of Proposal**

This is full application for the retention of a dwelling, garage, garden room, gym, retaining walls, hard landscaping and site curtilage.

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

#### **Relevant Planning/Enforcement History**

H/1998/0021 – 100m NE of 10 Fallylea Road, Maghera. Dwelling and Garage. Approved 13/5/98

H/2001/0381/F – 100m to the rear of 10 Fallylea Road, Maghera. Dwelling and Garage. Approved 22.06.2001

LA09/2019/0030/CA - North of and Adjacent to 10b Fallylea Road, Maghera, Londonderry, BT46 5JT. Unauthorised building. Ongoing.

The applicant was required to submit a planning application to deal with the following breaches of planning-

- Unauthorised erection of a building (ie) gym/garden building
- Unauthorised deposition of infill material.
- Unauthorised extension of residential curtilage.

This application has been submitted to deal with these breaches. He has also decided to apply to regularise his dwelling as it was not built in accordance with the original planning

approval (H/2001/0381/F). He has done this of his own accord and was not requested to do so by the Council. Our ortho mapping would indicate that the dwelling has been constructed at this location some time between 2003 and 2006. It would therefore be immune from any enforcement action and this element of the proposal will not be considered further in this assessment.

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
- Addendum to PPS 7 – Residential Extensions and Alterations

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

The SPPS has superseded PPS 1 (General Principles). In paragraph 2.3 of the SPPS it states “The basic question is not whether owners and occupiers of neighbouring properties would experience financial loss from a particular development, but whether the proposal would unacceptably affect the amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured”.

The existing gym/garden room element of this proposal is very concerning in terms of its impact on the private rear amenity space of number 10a Fallylea Road. The building which is near completion sits on an elevated plot of land to the immediate rear of number 10a and clearly impinges on their privacy. The applicant has more than ample space around his dwelling to facilitate this building rather than erecting it on an elevated site so close to a third party.

### **Magherafelt Area Plan 2015**

This site lies outside any settlement limit defined in the Magherafelt Area Plan 2015 and is not subject to any Area Plan Zonings or Designations. As such, existing Planning Policy will be applied (ie) Addendum to PPS 7

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

The Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 - General Principles Planning Policy is applicable to this application. This proposal is at conflict with criteria (a) of this policy GP1, in that the gym/garden house has negative impact on the privacy currently afforded by the residents of number 10a Fallylea Road. It is however acknowledged that no determining weight can be given to this document as it is only at early public consultation stage.

### **Addendum to PPS 7 – Residential Extensions and Alterations**

Policy EXT 1 of this document is the relevant test in this assessment. It sets down 4 criteria which must be met.

The existing gym/garden room measures 7.7m x 7.9m x 5.4m. It is a chalet type design and has considerable glazing on the front elevation. There are two small slit windows on one gable and a door on the opposite gable. No indication is given on the plans in respect of finishes however from my site visit I can confirm that it is finished in black corrugated metal and windows and doors are white upvc. It is my opinion that this building dominates this immediate area due to its elevated siting and its scale. I do however acknowledge that it can't be viewed from the public road but its dominance is very much experienced from the nearest third party occupants at number 10a. The existing retaining walls that form part of this overall proposal are erected at various location on the site and are required due to the different levels throughout the site. They are finished in a grey stone and are not concerning in terms of their design.





This building clearly impinges on the residential amenity of number 10a by way of its dominance and loss of privacy. The windows on the gable may be small however it will be the movement associated with this building which will have a negative impact on the privacy of number 10a. The applicant has planted some small trees along the boundary between this building and number 10a however it is my opinion that this is not adequate to deal with this concern.

As the structure is near completion it is difficult to ascertain whether many existing trees or vegetation were removed to facilitate its siting.

Adequate space remains within the existing domestic curtilage of number 10b for recreational and domestic purposes. This proposal is also for an extension to the approved domestic curtilage. It is my opinion that the area that has been extended into is somewhat visually removed from the main dwelling mainly due to its elevated topography. For this reason I would not be satisfied that it is acceptable

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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<b>Summary of Recommendation:</b>
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Refuse – proposal fails to comply with policy EXT 1 of the Addendum to PPS 7
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<b>Refusal Reason</b>
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1. This proposal fails to comply with Policy EXT 1 of the Addendum to Planning Policy Statement 7 - Residential Extensions and Alteration in that the scale and massing of the existing garden room/gym is over dominant on this elevated site and impinges on the privacy of the occupants of number 10a Fallylea Road.

<b>Signature(s)</b>
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<b>Date:</b>
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<b>ANNEX</b>	
<b>Date Valid</b>	24th June 2019
<b>Date First Advertised</b>	25th July 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
The Owner/Occupier, 10 Fallylea Road Maghera Londonderry The Owner/Occupier, 10a Fallylea Road Maghera Fionnuala _ Mr Damian White _ McParland 10a Fallylea Road, Maghera, Londonderry, BT46 5JT Damian McParland 10a, Fallylea Road, Maghera, Londonderry, Northern Ireland, BT46 5JT	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	N/A
<b>Planning History</b>	
Ref ID: LA09/2019/0931/F Proposal: Retention of dwelling, garage, garden room, gym, retaining walls, hard landscaping and site curtilage Address: 10B Fallylea Road, Maghera, Decision: Decision Date:	
Ref ID: LA09/2018/1242/O Proposal: Infill Dwelling and Garage Address: Between no 10 and 12 Fallylea Road, Maghera, Decision: PG Decision Date: 12.03.2019	
Ref ID: H/1997/0008 Proposal: SITE OF DWELLING Address: BEHIND 10 FALLYLEA ROAD MAGHERA Decision: Decision Date:	

Ref ID: H/1998/0021

Proposal: DWELLING AND GARAGE

Address: 100M NE OF 10 FALLYLEA ROAD MAGHERA

Decision:

Decision Date:

Ref ID: H/1998/0122

Proposal: DWELLING

Address: 100M TO REAR OF 10 FALLYLEA ROAD MAGHERA

Decision:

Decision Date:

Ref ID: H/2001/0381/F

Proposal: Dwelling And Garage

Address: 100 Metres Rear Of 10 Fallylea Road, Maghera

Decision:

Decision Date: 22.06.2001

### **Summary of Consultee Responses**

None carried out.

### **Drawing Numbers and Title**

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department: