

A

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 9 January 2017 in the Council Offices, Ballyronan Road, Magherafelt

Members Present Councillor Clarke, Chair

Councillors Bateson, Bell, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McAleer, McEldowney, McKinney, McPeake, Mullen, Reid, Robinson and J Shiels

Officers in Attendance Mr Bowman, Head of Development Management
Mr Marrion, Senior Planning Officer
Mr McCrystal, Senior Planning Officer
Ms McCullagh, Senior Planning Officer
Ms McEvoy, Head of Development Plan & Enforcement
Karen Doyle, Senior Planning Officer
Ms McNally, Council Solicitor
Ms Grogan, Committee Services Officer

Others in Attendance	Applicant Speakers
	M/2014/0512/O John Warke
	LA09/2015/0091/F Gavin McGill – Clyde Shanks
	LA09/2015/0536/F Thomas Bell – Clyde Shanks
	LA09/2015/0536/F Ryan Dougan – Vision Design
	LA09/2015/1085/F Kevin Loughran – Applicant
	LA09/2015/1085/F Gavin Rolston – Clyde Shanks
	LA09/2015/1085/F Mr Loughrey, (for Objector-Mr Connolly)
	LA09/2016/0549/F Hayley Dallas – Ross Planning
	LA09/2016/0769/F Andy Stephens – Matrix Planning
	LA09/2016/1437/F Andrew Heasley – JUNO Planning
	Wind Farm Corlacky Rd, Swatragh – Fiona Stevens, RES
	Wind Farm Corlacky Rd, Swatragh – Garth McGimpsey, RES
	Wind Farm Corlacky Rd, Swatragh – Shanti McAllister, Design

The meeting commenced at 7.00 pm

P001/17 Apologies

Dr Chris Boomer, Planning Manager.

P002/17 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

P003/17 Chair's Business

None.

P004/17 Confirm Minutes of the Planning Committee Meeting held on Tuesday 6 December 2016

Proposed by Councillor Bateson
Seconded by Councillor McKinney and

Resolved That the minutes of the meeting of the Planning Committee held on Tuesday 6 December 2016, (P185/16 – P191/16 & P196/16), were considered and, subject to the foregoing, signed as accurate and correct.

Matters for Decision

P005/17 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

M/2014/0039/F Expansion to existing general engineering works to include additional workshop offices, toilets and storage and associated site works at 170m NW of 185 Killadroy Road, Eskra for Mr David Gill

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application M/2014/0039/F be approved subject to conditions as per the officer's report.

M/2014/0512/O Service station to include fuel provision, café, shop, tourist information, toilets, picnic area, parking, car wash and provision for park and share at lands bounded by the A4 Annaghilla Road, A5 Tullyvar Road and Tullybryan Road, Ballygawley for Alison Warke

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor McAleer and

Resolved That planning application M/2014/0512/O be approved subject to conditions as per the officer's report.

LA09/2015/0036/F Filling Station, shop with off-licence, canopy, car wash, valet store and associated site works 40m S of Grange Park, Ballygawley for PDDC Developments

Application listed for approval subject to conditions as per the officer's report.

Councillor Gildernew enquired if this application and the one previous were linked as it was his understanding that there should be a 12 mile radius between filling stations and rest stops.

Mr Marrion (SPO) advised that this is usually the case but as this was a green field site area with urban development these applications were submitted by two different applicants and approved. The location and the proximity of the site is also outside the settlement limits.

Proposed by Councillor Gildernew
Seconded by Councillor McAleer and

Resolved That planning application LA09/2015/0036/F be approved subject to conditions as per the officer's report.

LA09/2015/0091/F Part retrospective and part additional peat extraction at Moybog, Cavanoneill Road, Pomeroy for McDon Peat

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bateson
Seconded by Councillor McPeake and

Resolved That planning application LA09/2015/0091/F be approved subject to conditions as per the officer's report.

LA09/2015/0241/F 20 two storey dwellings with associated car parking and landscaping at Killymeal House and adjacent lands at Killymeal Road, Dungannon for J & V Construction

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Cuthbertson
Seconded by Councillor Reid and

Resolved That planning application LA09/2015/0241/F be approved subject to conditions as per the officer's report.

LA09/2015/0536/F Mixed use scheme comprising 11 apartments, 4 retail units (including retention with minor alterations to 39 Rainey Street façade and extension/alteration of existing rear return), amenity space, pedestrian link/pend and ancillary site works at lands at 39-41 Rainey Street, Magherafelt for Genmark Developments Ltd

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McPeake
Seconded by Councillor McKinney

Resolved That planning application LA09/2015/0536/F be approved subject to conditions as per the officer's report.

LA09/2015/0782/F Change of use to storage and distribution unit (Class B4) at site 60m N of 52 Ballymoghlan Road, Magherafelt for Cloane Properties Ltd

Councillor McPeake declared an interest in this application.

Mr McGarvey (SPO) presented a report on planning application LA09/2015/0782/F advising that it was recommended for refusal.

Councillor Reid enquired if there was any way of getting an entrance onto the site as it was a shame to see such a huge building going to waste. He said that in his opinion there would have been a number of cars entering the premises anyway.

Mr McGarvey (SPO) advised that in the past there would have only been a collection of private cars only.

Councillor McPeake advised that the Architect had contacted him today asking for the application to be deferred for an office meeting until visibility splays are resolved and felt that through negotiations progress could be made.

The Head of Development Management advised that it was clear that this shed, despite its size, was only granted permission for domestic use, and the key Policy conflict would be the intended use of the site. He said that access could be investigated again.

Councillor Cuthbertson said that there was a culture of erecting buildings without planning permission and their factual use.

Councillor Bell said that consideration should be given to deferring the application for an office meeting due to economic possibilities within the area.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell and

To defer the application for an office meeting

Proposed by Councillor Cuthbertson
Seconded by Councillor Reid and

To accept the officer's recommendation to refuse the application.

Councillor Reid asked for clarification on how clear Council Policy was on the different type of uses and if the application was deferred, would the Council be legally obligated to pass or go against.

The Head of Development Management said that going down the way of distribution would be going against PPS4 for a shed of this size and for this use for only 2

employees. The fact that the potential employment being created here in only 2 jobs reinforces the presumption against storage and distribution uses in the open countryside.

Councillor Bateson felt that each application should be considered on their own merit and not blamed for illegality.

Councillor Mallaghan's proposal was put to the vote:

FOR: 9
AGAINST: 6

Councillor Cuthbertson's recommendation was put to the vote:

FOR: 6
AGAINST 9

Resolved: That application LA09/2015/0782/F be deferred for an office meeting until a valid nature of use comes forward and to investigate issues surrounding access.

LA09/2015/0864/RM Dwelling adjacent to 19 Crawfordsburn Drive, Maghera for Mr and Mrs T McFalone

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Kearney
Seconded by Councillor Bateson and

Resolved That planning application LA09/2015/0864/RM be approved subject to conditions as per the officer's report.

LA09/2015/0875/F Dwelling and garage on a farm at 15m S of 82 Ballyronan Road, Magherafelt for Bernadette Mulholland

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Bateson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2015/0875/F be approved subject to conditions as per the officer's report.

LA09/2015/1085/F Single wind turbine, hub height 24m, rotor diameter 17m with new access track at approx.107m N of 155 Drum Road, Cookstown for JJ Loughran

Application listed for approval subject to conditions as per the officer's report.

Ms McCullagh (SPO) presented report to members on single turbine with hub height 24m, rotor diameter 17m and a maximum blade height of 32.5m, new access track from

existing factory yard to turbine and other ancillary works (reduced scheme, revised plans, shadowflicker report, Noise Impact Scheme).

The Chair, Councillor Clarke advised that a request to speak on this application had been received and invited Mr Loughry, on behalf of the objector (Mr Connolly) to address the committee.

Mr McLoughrey, advised that the objector had a number of issues which were outlined in the case officer's report, especially with regards to the visual amenity from 156 Drum Road, Cookstown. He felt that the Objector has the right to stress and clarify the points which they do not agree with and their reasons to do so before the Planning Committee make a decision.

Mr Loughrey advised that there was a similar application for a wind turbine at this exact site, it was refused and this was upheld by the PAC and that the decision for this turbine has not been given enough consideration by the case officer. If approved, this turbine would be harmful to the Connolly family, as the turbine blade would be visible to the family home on a daily basis which was totally unacceptable. The Connolly family would face the turbine each way they would turn, from opening the curtains in the morning, to playing in the garden, to going and coming from school. The PAC has suggested relocating the turbine and this has not been given enough consideration by the applicant as the turbine would still be visible to the Connolly family on a daily basis which would have a detrimental effect on their everyday life. Mr Loughrey stated that the objector stressed that it wasn't about the height of the turbine but about the visibility of it from their family home.

The Chair, Councillor Clarke advised that a request to speak on this application had been received and invited Mr Loughran (applicant) to address the committee.

Mr Loughran advised that his company had fully addressed the objector's claims and abided by any restrictions which were placed upon them. He said that his family ran a successful business which was established by his father in 1967 and employ well over 60 people. He said that when they previously applied for the wind turbine in 2015 it had been refused and now a new application has been made with a turbine height of just 24m. He said that sustainability in efficiency would be crucial to the successful running of the business.

Councillor Mallaghan advised that he had a number of concerns regarding this application. He referred to the legislation which was in place for applying for a similar application within a 2 year timeframe. He said that he acknowledged that there was a difference in height from the previous application, but felt the consistency would need to be kept as last month the Planning Department approved a 10m change in Broughderg wind turbine and this month it was totally different. He said that he would like a legal opinion on whether this application would be valid or not.

The Council Solicitor confirmed that as she understood Councillor Mallaghan's query, it wasn't a question of the validity of the application, but rather there was a power within the legislation for the Council to decline to determine a subsequent application and referred to the letter within Appendix 1 of the Report within the papers.

Councillor Mallaghan advised that this was not a decision made by the Council rather than an opinion by a Case Officer.

The Head of Development Plan said that the need to assess the amended noise reports for subsequent alterations to win turbines and to carry out consultations had increasingly led to a view that such changes should normally be dealt with via a revised planning application.

Councillor Mallaghan said that a NNC was carried out in September 2016 and nowhere in the report does it say that it's the decision of the officers.

The Chair, Councillor Clarke advised that this document states that it's the decision of the Council and it seems that it wasn't the remit of Councillors to be given that power.

The Council Solicitor advised that due to this type of situation it would appear to be reasonable for an officer to take a view on whether a subsequent application was the same or subsequently the same.

Councillor Mallaghan stressed that the decision was the professional opinion of an officer not the opinion of the Council.

The Chair, Councillor Clarke said that members were concerned whether this was a valid application or not and clarification was needed.

Councillor Cuthbertson advised that each week a list of valid applications are emailed to members which indicated which have been accepted by officers and it's an opportunity for members to make any comments before consideration. He advised that two members spoke against the application previously asked for a legal opinion on whether this should not be the case tonight.

Councillor Mallaghan felt if the point was clarified properly then this would answer Councillor Cuthbertson's question and if this is the same application then declaration would need to be made.

The Chair, Councillor Clarke advised that declaration wouldn't be needed if it was a different application.

The Council Solicitor said that advice and guidance could be offered in relation to whether there might be an actual or perceived conflict of interest but ultimately it was up to each member to take their own view on declarations of interest and the extent of such interest that might exist.

Councillor McKinney said that in his opinion this was a new application and as the two or three members who declared an interest in the previous application didn't do so this time they must be of the same opinion.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

To approve the application subject to the conditions as per the officer's report.

Councillor Glasgow advised that he knew the area quite well and that JJ Loughran was a high employer and would welcome renewable energy in the area and would be more than happy to support the application.

Councillor Robinson felt that if the application meets all criteria then the application should be approved.

Councillor Mallaghan said that he acknowledged that this was a successful business in the district and in the past 4 turbines were passed in the vicinity of their business. He said that the issue here is that a family home is located here and it was important for planning members who live in country to make a decision on how they would feel if their family life was disrupted by having this wind turbine at their front door and would propose to refuse the application on that basis.

Proposed by Councillor Mallaghan
Seconded by Councillor Bell

To refuse the application

Councillor Mallaghan's proposal was put to the vote:

FOR: 6 – Councillors Bateson, Bell, Gildernew, Mallaghan, McEldowney, and McPeake
AGAINST: 9 – Councillors Cuthbertson, Glasgow, Kearney, McAleer, McKinney, Mullen, Reid, Robinson and J Shiels

Councillor Cuthbertson's proposal was put to the vote:

FOR: 9 – Councillors Cuthbertson, Glasgow, Kearney, McAleer, McKinney, Mullen, Reid, Robinson and J Shiels
AGAINST: 6 – Councillors Bateson, Bell, Gildernew, Mallaghan, McEldowney, and McPeake

Resolved That planning application LA09/2015/1085/F be approved subject to conditions as per the officer's report.

LA09/2016/0549/F 20m high telecommunications mast carrying 3 antennae and 2 radio dishes and associated works including 3 equipment cabinets and site compound, at land 78m SE of 6 Main Street, Bellaghy for Telefonica UK Ltd

Proposed by Councillor McKinney
Seconded by Councillor McPeake and

Resolved That planning application LA09/2016/0549/F be approved subject to conditions as per the officer's report.

LA09/2016/0769/F Ancillary car parking for existing retail unit and petrol filling station, (with proposed access from Highfield Crescent) adjacent to and immediately SW of 3 Highfield Crescent, Magherafelt for Mr Kenny Bradley

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/0769/F be approved subject to conditions as per the officer's report.

Councillor Bateson enquired about access at Highfield Crescent and said that he would be concerned about how this may impact on the residents as it was within distance of the residential area and wondered why this wasn't taken into consideration.

Ms Doyle (SPO) said that this shouldn't have an impact on the residential area of Highfield Crescent as the proposed parking conditions are for deliveries, customer and staff parking only.

LA09/2016/0829/O Replacement dwelling and detached garage (existing building to be retained and incorporated as garage/store) at 86 Moneyneaney Road, Draperstown for Michael McGlone

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McPeake
Seconded by Councillor McElDowney and

Resolved That planning application LA09/2016/0829/O be approved subject to conditions as per the officer's report.

LA09/2016/0860/F Retention of part change of use of 2 rooms in existing dwelling to provide child care facilities at 30 Dixon Court, Coalisland for Grainne Scullion

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2016/0860/F be approved subject to conditions as per the officer's report.

LA09/2016/1078/F Change of use from class A1 shops to gymnasium to include replacement of side entrance door, small café area and associated internal plan alterations at 77 -79 Chapel Street, Cookstown for Wilko Ltd

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Bell and

Resolved That planning application LA09/2016/1078/F be approved subject to conditions as per the officer's report.

LA09/2016/1168/F Alteration and extension to dwelling at 45 Keerin Road, Broughderg for Sean Clarke

The Chair, Councillor Clarke declared an interest in the above application and vacated the Chair.

The Deputy Chair, Councillor J Shiels took the Chair.

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/1168/F be approved subject to conditions as per the officer's report.

The Chair, Councillor Clarke returned to the Chair.

LA09/2016/1188/F Double garage and store at 77 Cooke Crescent, Cookstown for Darren Patterson

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor Glasgow
Seconded by Councillor Reid and

Resolved That planning application LA09/2016/1188/F be approved subject to conditions as per the officer's report.

LA09/2016/1203/O Dwelling and garage adjacent to 47 Mullaghnemoyah Road, Portglenone for Mr Sean Convery

Ms Doyle (SPO) presented a report on planning application LA09/2016/1203/O advising that it recommended for refusal.

The Chair, Councillor Clarke advised that a request to speak on the application had been received by Mr Cassidy but he wasn't in attendance to address the committee.

Councillor Kearney enquired if there was ever an office meeting held in the past on this application.

The Head of Development Plan said that there wasn't but that the importance here was the visual breaks, many breaks are in the countryside and it's important to retain visible breaks between dwellings.

Proposed by Councillor Reid
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/1203/O be refused.

LA09/2016/1291/A Free standing sign with LED electronic display at 58-66 Church Street, Cookstown for Dun Leisure Ltd

Ms Doyle (SPO) presented a report on planning application LA09/2016/1203/O advising that it recommended for refusal.

Councillor McKinney left the meeting at 8.17 and returned at 8.20 pm.

Councillor Bell asked that this application be deferred for an office meeting to try and negotiate a way around concerns and relocation. He said that in order to clarify matters, further discussion was needed as an issue with a similar sign which was 500m down the road was resolved.

Ms McCullagh (SPO) advised that she has been made aware that the applicant would like to see a way forward and find a resolution.

Proposed by Councillor McPeake
Seconded by Councillor Bateson

To defer for an office meeting.

Councillor McKinney stated his opposition to this application as he said a similar scenario was raised regarding a sign in Tobermore last month.

Councillor Bell said that this was a totally different scenario as there were many other concerns regarding Tobermore as it was on a roundabout.

Councillor McEldowney left the meeting at left at 8.21 pm.

Councillor McPeake's proposal was put to the vote:

FOR: 8
AGAINST: 6

Resolved That planning application LA09/2016/1291/A be deferred for an office meeting.

Councillor McEldowney returned to the meeting at 8.24 pm.

**LA09/2016/1437/F 33kv electricity sub-station with entrance via existing laneway
at site 740m NE of 18 Shantavny Scotch, Ballygawley for Tyrone
Wind Energy**

The Chair, Councillor Clarke declared an interest in the above application and vacated the Chair.

The Deputy Chair, Councillor J Shiels took chair.

Mr Marrion (SPO) advised that this application was due to be put on the agenda last month but was put back until this month and was updated due to a typo error in the address.

Councillor Cuthbertson declared an interest in this application.

Councillor Cuthbertson raised concern about the whole situation and how conflicting information was being received as the committee were previously advised that no development had taken place on the site and now the case officer has indicated that work had taken place two days after the application was received. He further raised concern that it was now most evident that work was ongoing from June or July as foundations had already been made. When consultation was submitted on 12 December, 7 days later approval was granted. He said he was concerned as this was a very quick turnaround for all agencies to make a decision.

Councillor Cuthbertson withdrew to the public gallery while discussions took place.

Councillor Clarke also raised concern as he too was unaware of the situation. He said that when he first enquired about the commencement of work he was told it hadn't started yet and now it was apparent that it had. He said that there was a need for clear and transparent information to be relayed back to members as the committee wouldn't be comfortable making a decision to proceed before an application for permission was sought.

He said that the developer had decided to build in a different place before applying for permission, with no standard entrance. He stated that there was a need to follow the same procedures for all.

The Head of Development Management said that there was a misunderstanding regarding this application in relation to whether a site visit had taken place. A decision had been made that it wasn't necessary to have revisited the site a matter of months after the first site visit and due to the minor relocation of the building within the red line. He said the site has now been revisited by the SPTO and that TransportNI and Environmental Health were asked to comment and these have now been returned and there was no other reason to hold it for another month as all information has been received.

The Deputy Chair, Councillor J Shiels advised that a request to speak on the application had been received by Mr Heasley and asked him to address the committee.

Mr Heasley advised that the substation had to be relocated and that work had commenced on the 12 October as there was a deadline date of December 2016 so there was an onus to push along.

Councillor Gildernew said that although taking Councillor Clarke's comments into account, he didn't see anything to really hold the application up.

Proposed by Councillor Gildernew
Seconded by Councillor McPeake

Resolved That planning application LA09/2016/1437/F be approved subject to conditions as per the officer's report.

Councillor Reid said that taking everything into account he felt that it was unfair to hold this particular case to ransom as there were other numerous buildings being built before planning permission was sought.

Councillor Cuthbertson returned to the meeting.

THE Chair, Councillor Clarke returned to the Chair.

LA09/2015/0512/F Reconfiguration of internal layout within existing shed; extension of existing service centre for agricultural vehicles/machinery and new access at 149c Drumbolg Road, Upperlands for Andrew Armstrong

Application listed for approval subject to conditions as per the officer's report.

Proposed by Councillor McKinney
Seconded by Councillor Robinson and

Resolved That planning application LA09/2015/0512/F be approved subject to conditions as per the officer's report.

LA09/2015/0620/F Extension, alteration and change of use from residential dwelling house to 4 self-contained apartments at 25 Charlemont Street, Moy for Seyloran Properties Ltd

Application listed for approval subject to conditions as per the officer's report.

Proposed by Gildernew
Seconded by Councillor Reid and

Resolved That planning application LA09/2015/0620/F be approved subject to conditions as per the officer's report.

LA09/2016/0100/F Retrospective application for change of use of part of domestic garage to store and display for home based catalogue sales business, to the rear of 11A Strawmore Road, Draperstown for Mrs D Boyle.

The Chair, Councillor Clarke advised that application LA09/2016/0100/F had now been withdrawn.

Resolved That planning application LA09/2016/0100/F be withdrawn.

P006/17 Consultation response on application for a Wind Farm at Corlackey Road, Swatragh

The Head of Development Management presented report on Mid Ulster Council's response to a consultation request from DFI for a second windfarm at lands approx. 3km west of Swatragh accessed off the Corlackey Road - Ref LA09/2016/0232/F

He advised that the report was to provide the basis of a consultation response to the Department of Infrastructure on the proposed windfarm application.

The Chair, Councillor Clarke advised that a request to speak on this consultation had been received and invited Fiona Stevens to address the committee.

Ms Stevens advised the committee that they were disappointed that the Department for Infrastructure's opinion to refuse the application had been received just before Christmas and felt that it was a very hasty decision as there was no consultation. She said that no letters of objection were received and would now have to approach PAC for appeal. She said that the Windfarm meets all the requirements and that there was a very limited visual appearance and that the site is further surrounded by vegetation.

Councillor McPeake said that he would find it difficult to make a decision tonight given the amount of information and photographs that was circulated. He said that it would be very important for the committee to come to the right decision as there were a terrible blight of wrongly sighted turbines across the country and members are always arguing for a community benefit policy to be achieved. He said that a site visit may be beneficial and that it was encouraging that no objections were received but that there was still a lot of questions to be answered.

Councillor McEldowney raised concern about the Department of Infrastructure issuing a refusal letter before consultation taking place.

The Head of Development Management said that it wasn't possible to get a response in time, so the Department took the decision to refuse the application themselves. He said that the Council was only being asked for its opinion in the capacity of being a consultee in the process and that the Department or PAC would have the final decision on this regionally significant application.

Councillor Glasgow said that it may be worth considering writing to the Department of Infrastructure highlighting the disappointment held by the Council at their lack of input and that in future to make sure that decisions are given to members beforehand.

The Chair, Councillor Clarke advised that there was an opportunity to ask the PAC to investigate. He said that although this wasn't normal procedure, it's what's regionally significant and what usually takes place.

Councillor McPeake felt that the Council should not accept the recommendation of refusing the application as he wasn't confident enough given the fact that there were no objections and that it was too big of a decision to have a negative opinion.

The Chair, Councillor Clarke feels that there will be an opportunity at a later stage to make representation after PAC.

Councillor Reid suggested deferring the application for a month until after a site meeting takes place.

Councillor Bateson said that no decision should be taken tonight as the consultation process hasn't been adhered to properly by the Department of Infrastructure as they have made a decision without the input of the Council.

The Council Solicitor said that the report which came to committee was very detailed especially considering the Council was a consultee and not decision maker in the application and that any documentation that the Department for Infrastructure considers is usually available for viewing by appointment or online. She added that there was secondary legislation which dealt with a consultee's duty to respond and the timeframe, however, she could not recall the detail.

Ms Stevens asked the Committee if it would be possible to write to the Minister for Infrastructure asking to overturn his decision.

Councillor Bell said that he would be unsure how plausible that would be.

The Chair, Councillor Clarke advised that the committee needs to make a decision.

Councillor Reid said that he was disappointed and felt that it was unreasonable that no consultation was made by the Council before the Department of Infrastructure issued a letter of refusal.

Councillor Bateson proposed that the Council send a letter to the Minister of Infrastructure requesting that he defer the decision.

Proposed by Councillor Bateson
Seconded by Councillor Gildernew and

Resolved: That the Council write to the Minister of Infrastructure asking that he defer the decision of refusal.

Councillor McPeake said as this was a major application the Committees decision for a site meeting should be sought.

P007/17 Consultation response on underground gas pipeline application from DoE – LA8/2016/1328/F

Ms McCullagh (SPO) presented report to provide members with a report which will provide the basis of a consultation response to Department of Infrastructure.

Councillor Glasgow asked that TransportNI be asked to leave the road back to its original standard as it's usually after a month the road begins to sink. He said that it would be an ideal opportunity to have it properly overseen by an engineer.

The Council Solicitor said that this is usually related to the Public Realm Scheme and may be hard to justify and feels it should be raised through another forum.

Ms McCullagh said that she would liaise with the Department of Infrastructure to seek a four week extension.

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved: That Mid Ulster District Council ask the Department of Infrastructure for a four week extension for their response.

P008/17 Consultation response on review of Permitted Development rights for mineral exploration

The Head of Development Plan & Enforcement presented report to provide members with a response to the Department of Infrastructure consultation regarding proposed amendments to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 which deals with the Permitted Development rights associated with mineral exploration.

The Head of Development Management left the meeting at 9.16 pm.

Proposed by Councillor Reid
Seconded by Councillor Bateson and

Resolved: That approval be given to response being issued to the Department for Infrastructure in line with the contents of the paper.

P009/17 Confirmation of Tree Preservation Order at Mullagh Road, Maghera

The Head of Development Plan & Enforcement presented report recommending the confirmation of a Tree Preservation Order (TPO) on a Tree (horse chestnut) at 5 Mullagh Road, Maghera which is the subject of a current provisional TPO.

Proposed by Councillor Gildernew
Seconded by Councillor Kearney and

Resolved: That approval be given to the provisional TPO being confirmed without modification and noting the contents of the report.

CONFIDENTIAL BUSINESS

Proposed by Councillor Mallaghan
Seconded by Councillor Reid and

Resolved That items P010/17 to P0112/17 be taken as confidential business.

P0113/17 Duration of Meeting

The meeting was called for 7.00pm and ended at 9.40 pm.

Chair _____

Date _____

B



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 1 November 2016	Item Number:
Application ID: I/2014/0399/F	Target Date:
Proposal: A single wind turbine of up to 2.3mw power output with a maximum overall base blade to tip height of 92.5m to compliment approved planning I/2010/0211/F	Location: Beltonanean Mountain Beltonanean TD Cookstown Co Tyrone
Referral Route: Refusal recommended	
Recommendation: REFUSAL	
Applicant Name and Address: Mr Graham Bell 30 Ballinasollus Road Cookstown BT80 9TQ	Agent Name and Address: Ross Planning 9A Clare Lane Cookstown Tyrone
Executive Summary: All relevant issues have been considered, including objections, the applicant's submission and history on the site. On balance a Refusal has been recommended.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Natural Heritage	Substantive Response Received
Non Statutory	Belfast International Airport	No Objection
Non Statutory	National Air Traffic Services	No Objection
Non Statutory	Env Health Cookstown District Council	Add Info Requested

Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	No Objection
Non Statutory	Ofcom Northern Ireland	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	NIEA	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Conditions provided

Representations:

Letters of Support	None Received
Letters of Objection	98
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

The site for the proposed turbine lies in the Sperrins AONB. There has been a large volume of objection to the proposal and supporting statements from the applicant. There is a current approval under I/2010/0211/F and although the applicant has described the proposal as a turbine 'to compliment approved planning I/2010/0211/F', it has been assessed on its merits as a single turbine application, however taking surrounding planning history into account.

Characteristics of the Site and Area

The site is located in the townland of Beltonanean some 9km north west of Cookstown on Beltonanean Mountain, north of Corvanaghan Mountain. The site is accessed off Beltonanean Road on rising ground. There is an old derelict farm building and sheds with some mature trees and hedges to the SE of the site on lower ground. A 60m approved met mast is erected southeast of the proposed turbine. The current application site is located on higher ground than the approved turbine. This site lies within this designated landscape area Sperrin AONB.

Background & history

The current application I/2014/0399/F was submitted on 17 December 2014 for a single wind turbine of up to 2.3mw power output with a maximum overall base blade to tip height of 92.5m to compliment approved planning I/2010/0211/F at Beltonanean Mountain, Beltonanean TD.

I/2010/0211/F was approved for a single wind turbine of up to 2.3 megawatt power output with a maximum overall base blade to tip height of 92.5 metres. Ancillary developments will comprise turbine transformer; turbine hardstand, site entrance with sight line provision; 1 no. electrical control kiosk, construction of new access track; communications antenna; underground electrical cables and communication lines connecting wind turbine to electrical control kiosk; on-site drainage works; temporary site compound; and all ancillary and associated works at Beltonanean Mountain.

A further application I/2013/0188/F was submitted to amend the previously approved Wind Turbine (Planning Ref I/2010/0211/F) by relocating the turbine 54 metres to the north/northwest from the previously approved position; increasing the overall base to blade tip height to 119 metres; and with the addition of a proposed new electrical substation with underground electrical cables and communication lines connecting the wind turbine to electrical substation.

I/2013/0188/F was refused on 28 January 2016, at that time, by the Department Of Environment, for the following reason; 'The proposal is contrary to Part (i) of RE 1 of PPS 18 in that development would, if permitted cause an unacceptable impact on visual amenity and landscape character of a sensitive landscape, through the scale, size and siting of the turbine.' It subsequently went to appeal and the PAC dismissed the proposal on 18 December 2015 upholding the refusal reason and adding the detrimental impact on residential amenity on dwelling No. 8 Beltonanean Road.

An erected 60m anemometer mast (wind measurement) was approved under I/2008/0112/F nearby.

To the north of the site, I/2014/0413/F was submitted on 29 December 2014 for a Windfarm comprising 6 no. three bladed wind turbines with micro-siting and a maximum base blade to tip height of 126.5 metres. Ancillary developments include a permanent lattice anemometer mast of 80 metres height; turbine transformers; turbine bases, foundations and hardstands; widening and strengthening of existing tracks and construction of new access tracks, junctions and turning areas; a 33kV switch room control building with communications equipment, car parking and compound area; underground electrical cables and communication lines connecting wind turbines to the switch room control building; on site drainage works; upgrade of an existing entrance off Beltonanean Road for light vehicle use, use of the existing entrance to Davagh Forest off Slaght Road for main infrastructure traffic, with access tracks options through Davagh Forest; temporary set down areas, temporary material deposition areas, temporary construction compound; and all ancillary and associated development and infrastructure including general and excavation works at Beltonanean. The Proposed development also includes temporary works along the transport route to facilitate the delivery of turbine components including a realignment of a section of the Feegarran Road and widening of the junction of Feegarran and Slaght Roads, in the townlands of Ballynagilly and Beltonanean, Cookstown, Co Tyrone.

This application I/2014/0413/F is currently under consideration.

Current application LA09/2015/0459/F is located within a 5km Radius - The construction and operation of a wind farm comprising 8no. three bladed wind turbines with a maximum base to blade tip height of 126.5m. Ancillary developments include a permanent lattice anemometer mast of 80m height; turbine transformers; turbine bases, foundations and hardstands and temporary set-down areas; up-grading of 2 existing field entrances along the Ballynagilly Road, widening and strengthening of existing tracks and construction of new access tracks, junctions and turning areas; a 33kV switch room control building with communications equipment, car parking and compound area; underground electrical cables and communications lines connecting wind turbines to the switch room control building; on site drainage works; temporary material deposition area; temporary construction compound; and all ancillary and associated development and infrastructure including general and excavation works. The application also

includes temporary works along the transport route to facilitate the delivery of turbine components including the upgrade of the existing junctions at Slaght Road and Ballynagilly Road, and at Feegarran and Slaght Road, and realignment of a section of the Feegarran Road all in Ballynagilly Townland, Lissan (ward), Cookstown, Co. Tyrone.-

The Proposed Development Is Located At The Stanley Bell And Sons Ltd Quarry At 28 Ballynagilly Road And At Lands North Of Ballynagilly Road With The Overall Wind Farm Centred At A Point 980m To The NW Of 59 Ballynagilly Road All In Ballynagilly Townland Lissan Cookstown,

The application LA09/2015/0459/F is currently under consideration.

Policy Considerations:

The Strategic Planning Policy Statement for NI (SPPS) was published in September 2015 & consolidates 20 publications into one document and sets out strategic subject planning policy for a range of planning matters. In relation to renewable energy the aim is to facilitate the siting of renewable proposals in appropriate locations within the built and natural environment in order to achieve NI's renewable energy without compromising other environmental assets of acknowledged importance. The SPPS can be argued to give more focus to environmental considerations, particularly in relation to sensitive landscapes.

Until a plan strategy for the whole of the council area has been adopted planning applications will be assessed against existing policy (other than 1, 5 & 9) together with the SPSS.

Policy RE1 of Planning Policy Statement 18 sets out the relevant policy for renewable energy development. Applications for wind energy development will be required to demonstrate that they do not result in an unacceptable adverse impact on;

(a) public safety, human health, or residential amenity;

Key risks in relation to public safety and human health relate to a collapse of the turbine either as a result of landslide, bog burst or structural failure. Turbines can also result in ice throw, have a detrimental impact on radar and air safety, and road safety. The key issues in relation to residential amenity relate to impacts in relation to shadow flicker (which can also have health impacts), noise, over dominance and visual intrusion. These are discussed in detail under the appropriate sub headings.

(i) Stability and structural failure

The policies used for assessment of this type of development state that very few accidents have occurred involving injuries to humans , those that have are to do with failure to observe manufactures and operators instructions. Paragraph 1.3.51 of the Best Practise Guide goes on the state the only source of danger to human or animal life would be the loss of a piece of the blade or exceptionally the whole blade. Many blades are composite structure with no bolts, so blade failure is therefore most unlikely.

(ii) Ice throw

In relation to ice throw, which is unlikely in most sites in NI, even where icing does occur the turbines own vibration sensors are likely to detect the imbalance and inhibit the operation of the machines.

(iii) Shadow Flicker

A shadow flicker report was submitted in April 2014. It was prepared by Ellesmere Business Services. The report concludes that the predicted level of shadow flicker at the nearest dwelling will not exceed that recommended in Planning Policy Statement 18.

According to the Best Practice Guide to PPS 18 shadow flicker generally only occurs in relative proximity to sites and has only been recorded occasionally at one site in the UK. It states in the Best Practice Guidance to Planning Policy Statement 18 - Renewable Energy that. Problems caused by shadow flicker are rare. At distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low. It is recommended that shadow flicker at neighbouring offices or dwellings within 500m should not exceed 30 hours per year or 30 minutes per day.

In this case, 10 x 71m is the rotor diameter = 710m. When a calculation was done no dwelling lies outside of 130 degrees either side of north and therefore none will be affected by shadow flicker. No dwellings are located within in shadow flicker zone and according to the shadow flicker report submitted in December 2015, there is agreement that there are no properties within the 10 rotor diameter that have the potential to experience shadow flicker.

As well as the issue of shadow flicker, objections were received in relation to separation distances. PPS 18 Best Practice Guidance states that a minimum separation distance of 500m should be achieved between dwellings and wind farms. This proposal is for a single wind turbine and the Council is satisfied that a lesser separation distance is acceptable in this instance. SPSS goes further in defining a wind farm as development comprising more than 2 turbines. PPS 18 Best Practice, Para. 1.3.52 states that the best practice separation distance of 10 times rotor diameter to occupied property should comfortably satisfy safety requirements as problems caused by shadow flicker are rare and distances greater than 10 rotor diameters from a turbine potential for it is very low. This distance has been complied with in this instance.

The Public Health Agency, Department of Energy and Climate Change in considering the effects of shadow flicker from turbines concluded that 'the frequency of the flickering caused by a wind turbine rotation is such that it should not cause a significant risk to health.

(iv) Road Safety

Objections were raised in relation to increased traffic and road safety.

Approval for access has been granted for a wind turbine under I/2010/0211/F and this application will avail of the same access. Transport NI had no objections subject to conditions to this proposal in relation to safety concerns.

The development site is a mosaic of blanket bog and wet heath with a track running through it on which the turbine will be located. The habitat directly adjacent to the proposed turbine location has been well drained resulting in drier areas, and NIEA: Natural Heritage have raised no objection to this.

(v) Noise issues

A number of the objections received have related to Noise associated from the turbine, and their concerns were forwarded to Environmental Health for their consideration. The applicant has submitted his own acoustic assessment which were forwarded to EHO.

It is stated by EHO that the applicant's report has taken into account wind shear and uncertainty impacts and it has been demonstrated that ETSU-R-97 derived noise limits should be achieved within the curtilage of all non-finally involved dwellings in the locale. Environmental Health have no objection subject to conditions.

(vi) Aviation safety

Objectors raised concerns relating to potential television, radio and mobile communication interference. However there is no evidence to suggest the development will give rise to unacceptable electromagnetic interference to communications installations, radar or air traffic control systems, emergency services communications or other telecommunications systems. OFCOM has no objection to the proposal. NATS has no objection to the proposal. Ministry of Defence and Belfast International Airport also have no objection to the proposal. Belfast International Airport have confirmed they have no objection in terms of aviation safety.

(vii) visual amenity, intrusion and over dominance

The proposed turbine would have a significant impact on residential amenity of No.8 Beltonanean Road. The kitchen, dining and living area of this property face the direction of the proposed wind turbine as well as the rear and side garden area, where the turbine would dominant views. While the existing concrete water storage tanks to the rear will partially screen the hub of the turbine and the existing evergreen trees, all of the moving blades would be in constant view from their rear main living areas and rear & side garden.

The PAC supported this view in the recent appeal 2014/A0234 (Annex A) where they found the impact of a 119m high turbine (located on 295m on the contour lines), to have an unacceptable impact on No.8. The key issue as highlighted in this appeal decision was 'the constant view of the moving blades in their totality', not including the tower. As shown in the photomontage in Annex B, this would remain the case as the blades would still be an 'unavoidable presence'.

No.8 Beltonanean Road would be 823m from the proposed turbine and I do note this turbine will be approx. a further 115m than the approved turbine. However it will sit on contour line 315m, so added to its proposed height (92.5m) it will be in total 408m, in comparison to a total of 414m (119 m height on contour line 295m) which the Commissioner, in appeal 2014/A0234, found to be unacceptable. Annex B shows a visual of the granted and proposed turbine from the viewpoint of No.8. This turbine will sit higher in the landscape, albeit not on the tip of the mountain and it still remains visually unacceptable for this property. The topography of the land will mean that on some sections of the Beltonanean Road the mountain would screen the lower part of the turbine, however it will remain an elevated and unacceptable dominant presence for No.8, which is located on much lower ground than both the approved and proposed turbine. (See Annex C)

The applicant has argued No.8 is not in direct line of sight of the turbine and so is not directly affected. However in the above mentioned appeal decision (Annex A) in paragraph 18, the Commissioner notes the 'kitchen and dining area are positioned to directly face the turbine'. The location of both turbines are shown in Annex C and this issue still remains. I have taken into full account the applicants points on the matter relating to the impact on No.8.

Having visited this property, who have objected on visual impact grounds, I am of the opinion this proposal would have a significant effect on their residential amenity and remain contrary to part (a) of RE1 in PPS18.

No. 17 Beltonanean Road, who also objected on amenity grounds, are not significantly affected directly from their dwelling. This is due to the orientation of the property and its location set back from the road on much lower ground. There is also strong hedging screening the view until reaching the top of the entrance at the road edge. However when then travelling towards the site along Beltonanean Road, the turbine will come into full view as described at the viewpoints highlighted in this report.

In the letter from the agent dated 29 November 2016 the Lavender Test is mentioned in terms of residential amenity considerations made by Inspector Lavender in England. The cases mentioned are historical GB cases, and the more recent NI cases relating to PPS18, which have been considered, are more comparable in this instance. Residential amenity remains the main concern, which has been fully considered in the planning assessment.

Objectors also raised safety concerns over the potential falling of the turbine. Supplementary guidance advises that in terms of safety for smaller individual turbines a fall over distance plus 10 per cent is often used as a safe separation distance. The closest dwellings fall well outside the recommended fall over distance (101.75m). This is not considered a significant enough reason to merit refusal of the proposal.

PPS18 goes on to state that development that generates energy from renewable resources will only be permitted provided the proposal, and any associated buildings and infrastructure, will not result in an unacceptable adverse impact on:

(b) Visual amenity & landscape character:

Paragraph 1.3.25 of Best Practise Guide acknowledges that wind turbines will often be highly visible and it will normally be unrealistic to seek to conceal them. It states that developers should seek to ensure that through good siting and design, landscape and visual impacts are limited and appropriate to the location.

PPS18 also refers to Supplementary Guidance 'Wind Energy Development in NI's landscapes' and says this should be taken into account in assessing all wind turbine proposals. Paragraph 4.13 of PPS18 states that wind turbines are likely to have the greatest visual effects of any renewable energy development, varying on the location, landscape and setting of the proposal. This site is located within Landscape Character Area no. 41 – Slieve Gallion, which is indicated to have a high to medium sensitivity. It is located within the south westerly part of LCA41, and the Supplementary Planning Guidance – Wind Energy Development in NI's Landscape, states this outlier hilly area, although adversely affected by sand & gravel extraction and forestry, are visibly prominent thus increasing the sensitivity of this area to wind energy development. The SPPS at paragraph 6.223 states that a cautious approach should apply for renewable energy proposal within designated landscapes which are of significant value. The site is also located within the Sperrin AONB. It encompasses a largely mountainous area of great geological complexity. This area is rich in historic and archaeological heritage and folklore. The area has been given this designation to conserve and enhance its natural beauty.

The SPPS states in such sensitive landscapes it may be difficult to accommodate renewable energy proposals without detriment to the regions cultural and heritage assets. The approved turbine I/2010/0211/f was given permission prior to the publication of the SPPS, where previously PPS18 stated a 'sensitive' approach should be taken' to renewable projects. The SPPS strengthens the importance of protecting areas of a sensitive nature, such as the Sperrins AONB, by stating a 'cautious' approach will apply.

NIEA: NED Landscape Division have stated they do not consider the proposal to have a regionally significant impact on the Sperrin AONB, they do urge the Council to consider potential

local landscape impacts in line with relevant policy guidelines. Policy NH6 of PPS2 relating to Areas of Outstanding Beauty is relevant. This policy states that permission will only be granted for a new development within an AONB where it is of an appropriate design, size and scale for the locality and certain criteria is met.

The siting and scale of the proposal is not sympathetic to the special character of the AONB in general and of the particular locality and remains contrary to part (a) of this policy. The quality, character and heritage value of the landscape in this AONB lies in its tranquillity and distinctiveness and visual appeal and a turbine will not be sympathetic or sensitive to this and will not enhance the quality of its landscape.

Recent appeal decision 2015/A0083 (Annex D) also supports the view that AONB character should be protected and in this case, a single wind turbine appeal was dismissed, due to its impact on amenity and landscape character of the Sperrins AONB. Also Annex G highlights the importance of this same issue in relation to a wind farm application at Mullaghturk mountain.

Visual Impact Assessment - Critical Viewpoints

There are both short and long range views of the site. The proposed wind turbine will be considered skyline from along the site frontage along Beltonanean Road and Beltonanean Lane. Annex E shows a map of critical views of the proposed turbine.

Longer distance views at SW of the site, VP3 (Tullnacross Road) and VP4 (at the entrance to Dunamore Riverside Walk), would see the turbine viewed in the context of existing farm building, dwellings and buildings associated with Quarries would be read together in the foreground.

While it is acknowledged between the viewpoints 3 & 4 and the site there has been some quarrying activity and part of the character has been affected, this would be viewed as the wider context, and the turbine when viewed from these two critical views would remain unacceptable in the skyline and significantly alter the landscape of its immediate surroundings. It would also have long distant inter-visibility with the turbines included in the two wind farm applications, I/2014/0413/F and LA09/2015/0459/F.

Visual impact is much greater at shorter range viewpoints on Beltonanean Road, where the immediate character of the area has an exposed, open and largely uninhabited character. At VP2 the turbine would be viewed almost in full, in a skyline position with no benefit of any backdrop. It would result in an over dominant structure at this location. At this viewpoint there is a feeling of unspoilt countryside and three hills of the mountain are on view. Albeit there is an approval of one turbine, not yet constructed, another would further erode the character of this AONB.

When travelling from VP2 to VP5 one would be aware of the dominance of a turbine on the site in this sensitive location along the Beltonanean Road. When at VP12 looking towards the site the turbine would be a stark over dominant structure in the landscape.

At viewpoint V6, located adjacent to No.8 Beltonanean Road, even with partial screening due to Beltonanean Mountain, the turbine blades will still be in full view, and it will be unacceptable in terms of scale, size and dominance.

At VP1, when on Beltonanean Lane looking towards the site, the view highlights the quality of the unspoilt nature of the AONB. Both at this point, before the forestry area and after you pass it, still continuing on Beltonanean Lane towards the site, the turbine would be detrimental to the existing scenic quality. There would be unacceptable change to the character of the area and due to the size and scale of the turbine, it would be detrimental to the Sperrin AONB.

In line with policy this application also needs to be considered in the context of other approvals in the locality. There is an approved turbine that is 92.5m to tip height to the south on lower ground and a current application for a wind farm I/2014/0413/F (6 wind turbines) to the north of the site. Annex F details a map of wind development history in the immediate area.

Consideration of the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications is important. Wind farm application I/2014/0413/F is yet to be determined so significant weight cannot be attached to its impact, it would when viewed together with the approved turbine at all identified viewpoints above, result in an unacceptable cumulative visual impact.

The proposed turbine would be viewed with approval I/2010/0211/F. It is my opinion that although one turbine on the site has been approved, one more would tip the balance, and it would not respect the sensitive nature of this location, and would remain contrary to policy.

It should be noted the applicant did offer to relocate the proposed turbine in an attempt to alleviate the impact on No.8 Beltonanean Road. It was considered by MUDC there would be no benefit in the applicant doing this due to other significant concerns which the proposed relocation would not have been able to overcome.

The agent has raised the issue in his letter dated 29 November 2016 that cumulative impact assessment should be based on the date each application is received, and each should be considered on its own merits and should not take account subsequent applications. However PPS18 clearly states that a development should take into consideration the 'cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undermined applications'.

(c) Biodiversity, nature conservation or built heritage interests:

The development is located in an area that is used by several bird species of conservation importance with conifer plantations to the north and west of the proposed site. The nearest recorded bird breeding sites are located approx. 2km from the development however during the second site visit nu NIEA, one snipe was noted approx 100m from the turbine location.

However NIEA Natural Heritage are content that the proposed development will not pose a significant risk to these bird species as long as construction work is carried on outside bird breeding season. A habitat management plan and bird monitoring programme would therefore be required to mitigate and monitor any potential impacts on the snipes. This could be conditioned if approved. Informatives would also be added to any approval advising of the Conservation Regulations 1995.

Within the local area there are known habitats, however a Habitats Regulation Assessment (HRA) Screening was carried out by NIEA and it was determined this proposal would not have a significant impact on them subject to relevant conditions.

Objectors have raised the point a turbine in the area would detract tourists. The applicant argues the point that the area is not high in tourism value and is used mainly for agricultural purposes. Objections were raised in relation to the detrimental impact the turbine may have on the landscape of the area and that on Beaghmore Stone Circles. The visual impact of the proposal has been considered against PPS 18 and the Best Practice Guidance. NIEA- Archaeology and Built Heritage – Historic Monuments Unit, following a request for photo montages, are of the opinion that the proposal's impact upon the setting and public views associated with the State Care monument – Beaghmore Stone Circle's complex, is not significant enough to be a refusal reason on its own, and on the basis on the information submitted they were content with the

proposal. I would be in agreement this would not be the most critical viewpoint, but there is still a visual impact and with the other mentioned views, it is such that it would be detrimental to this AONB.

(d) Local natural resources, such as air quality or water quality:

No significant issues in relation to these issues were highlighted through the HRA screening and there were no objections from relevant consultees. Water Management Unit have considered the impacts of the proposal on the surface water environment and on the basis of the information provided the applicant refers and adheres to their generic standing advice.

(e) Public access to the countryside.

Approval for access has been granted for a wind turbine under I/2010/0211/F and this application will avail of the same access. Transport NI had no objections subject to conditions to this proposal in relation to safety concerns.

Applications for wind energy development will also be required to demonstrate all of the following criteria as laid out in PPS18;

- (i) that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines;
- (ii) that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications;
- (iii) that the development will not create a significant risk of landslide or bog burst;
- (iv) that no part of the development will give rise to unacceptable electromagnetic interference to communications installations; radar or air traffic control systems; emergency services communications; or other telecommunication systems;
- (v) that no part of the development will have an unacceptable impact on roads, rail or aviation safety;
- (vi) that the development will not cause significant harm to the safety or amenity of any sensitive receptors¹ (including future occupants of committed developments) arising from noise; shadow flicker; ice throw; and reflected light; and
- (vii) that above-ground redundant plant (including turbines), buildings and associated infrastructure shall be removed and the site restored to an agreed standard appropriate to its location.

The above issues have all been fully considered in the planning assessment.

The publication Best Practise Guidance to PPS18 'Renewable Energy' was also taken into account in assessing this proposal which and the criteria for wind energy development has been fully considered for this proposed turbine.

OTHER MATERIAL CONSIDERATIONS:

A large volume of objections have been received (98 in total) outlining various issues of concern. These have been fully considered and relevant planning issues taken into account.

Much information has been submitted by the applicant, agent and a local councillor, supporting the application and countering objectors concerns. All this information has been taken into account and fully considered in the planning assessment.

The further submission by the agent dated 29th Nov 2016, raises issues again in relation to residential amenity of No.8, visual impact and cumulative impact. These are issues which have been addressed in the consideration, and this letter has been taken into account, however they do not change the conclusion of the report.

- **Impact on property values**

The SPSS in paragraph 2.3, sets out the Council's position on this matter - The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. This has been considered earlier in the report.

- **Environmental Impact Assessment**

Based on the information provided, it was considered that an Environmental Statement was not warranted in this case. It was perceived through the EIA determination that any likely environmental effects could be adequately dealt with through the normal development control procedure and consultation process.

- **Wider Environmental, Economic and Social benefits**

Policy RE1 of PPS18 states the wider environmental, economic and social benefits are material considerations that should be given significant weight in determining a planning application. The SPSS also states they should be given appropriate weight.

The applicant has submitted information in relation to this argument in terms of business rates and corporation tax. He states on the Mid Ulster Councils web page under the business section it states "Mid Ulster District Council is committed to working to ensure business and employment opportunities, support for rural communities, the regeneration of our towns and villages and investment in the district's tourism potential is maximised" in paragraph 1.4 of the Mid Ulster Councils economic development plan 2015-2020 it states that the aim is to promote sustainable energy including renewable energy initiatives. The business rates on a 2-2.5mw wind turbine in Northern Ireland today is between £20-£25k. If his development was operational (2 turbines – this application and his other approval) the business rates to local council would amount to £40-£50k a year which amounts to £1m-£1.25m over the life time of the project. Mr Bell's accountant carried out a business plan for him and states if his development was operational it would be paying upwards of £50k a year corporation tax, when combined with the business rates his development would contribute £2m-£2.5m to the economy over its lifetime in taxes and rates (£100k per year) so it will have a significant benefit to local council and the wider economy.

There are obvious benefits such a reduction in CO2 emissions and a cleaner energy supply. It will also assist in reducing NI's dependency on fossil fuels, and help it achieve its renewable energy obligations. The proposal will also provide direct and indirect employment during the construction phase and through maintenance.

However, it must be determined if the benefits outweigh any detrimental and unacceptable impact the proposal would have on the visual amenity and landscape character of the AONB, and the impact on residential amenity, and in this case they do not.

- **Other Planning Decisions**

The applicant has provided a number of planning references relating to what he feels are comparable decisions. These have been considered as part of the planning assessment. However significant weight cannot be given to these as each proposal is assessed on its own merits within its own distinct location, and they are not directly comparable. Most recently raised was application LA09/2015/1085/F for a turbine on Drum Road, in terms of comparing similar issues relating to visual impact and neighbouring amenity. However it is extremely rare that two proposals in two differing locations give rise to comparable impacts in planning policy terms.

CONCLUSION

There are a number of significant views from the proposed turbine and because of its size, prominence and degree of visibility, it would not be sympathetic to the special character of this AONB. When viewed with approved and potential wind turbines the cumulative visual impact would be significantly detrimental in this AONB and there is an unacceptable impact on the residential amenity on a nearby dwelling. The proposal is therefore recommended for refusal for the three reasons stated below.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

1. The proposal is contrary to Policy RE1 of Planning Policy Statement 18 - Renewable Energy in that the development would, if permitted, have an unacceptable impact on the visual amenity and landscape character of the area, which is located within the Sperrin AONB, by reason of the scale and siting of the turbine and the sensitivity of the landscape, and also due to the cumulative impact of existing turbines, those which have permissions and those that are currently the subject of valid but undetermined applications.
2. The proposal is contrary to Policy NH6 of Planning Policy Statement 2- Natural Heritage & The SPPS, in that the site lies within the designated Sperrin AONB and the development would, if permitted, be detrimental to the environmental quality of the AONB by reason of lack of sensitivity to the distinct character and the landscape quality of the area.
3. The proposal is contrary to Policy RE1 of Planning Policy Statement 18 - Renewable Energy in that the development would, if permitted, have an unacceptable impact on residential amenity of nearby residential property No 8 Beltonanean Road, as a result of being overly dominant and an unavoidable presence.

Signature(s)

Date:

ANNEX	
Date Valid	17th December 2014
Date First Advertised	14th January 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) Barney Girvan 1 33A Corvanaghan Road Corvanaghan Niall McAleer 1 The Cloisters, University Avenue, Belfast,BT7 1GD Eugene & Geraldine Connolly 10 Beltonanean Lane Beltonanean Cookstown Eugene & Geraldine Connolly 10, Beltonanean Lane, Cookstown, Tyrone, Northern Ireland, BT80 9TH Eugene Connolly 10, Beltonanean Lane, Cookstown, Tyrone, Northern Ireland, BT80 9TH Christopher McNamee 111 Broughderg Road Broughderg Greencastle James McKee 111, Feegarron Road, Cookstown, Tyrone, Northern Ireland, BT80 9TE Amy McKee 111, Feegarron Road, Cookstown, Tyrone, Northern Ireland, BT80 9TE Laura McKee 111, Feegarron Road, Cookstown, Tyrone, Northern Ireland, BT80 9TE Eamon McKee 111, Feegarron Road, Cookstown, Tyrone, Northern Ireland, BT80 9TE Trea McKee 111, Feegarron Road, Cookstown, Tyrone, Northern Ireland, BT80 9TE Patrick McGuigan 124 Broughderg Road Broughderg Greencastle Ann McDermott 149 Broughderg Road Crouck Greencastle Mark Connolly 16 Beltonanean Lane Beltonanean Cookstown Matt McRory 17 Beltonanean Road,COOKSTOWN,BT80 9TR Olcan McRory 17 Beltonanean Road,Cookstown,BT80 9TR Pat McRory 17 Beltonanean Road,Cookstown,BT80 9TR Nia McRory 17 Beltonanean Road,Cookstown,Co Tyrone Janette McRory 17 Beltonanean Road,Cookstown,Co Tyrone Janette & Pat McRory 17 Beltonanean Road,Cookstown,bt80 9TR	

K Gibson
17 Knockmore Park, Carrickfergus, Antrim, Northern Ireland, BT38 8PQ
Brenda McRory
2 Adelaide Road, Ipswich, Suffolk, England, IPY 5PR
Aaron Dobbin
2 Liggins Road, Greencastle, Co Tyrone
Nula Dobbin
2 Liggins Road, Greencastle, Co Tyrone
James Heasley
2 Liggins Road, Greencastle, Co Tyrone
Laurance McCrory
21 Maryville Sheskinshule Sheskinshule
Joan Mitchell
22 Lough Fea Road, Cookstown, Tyrone, Northern Ireland, BT80 9QL
Mona Cullen
27 Gargrim road, Fintona, Co Tyrone
PJ Cullen
27 Gargrim road, Fintona, Co Tyrone
Perry McCrory
28 Crouck Road Crouck Mountfield
Sheena Monaghan
3, Beaghmore Road, Cookstown, Tyrone, Northern Ireland, BT80 9PB
Kerry McCrory
30 Liggins Road Liggins Mountfield
Shaun McCrory
30 Liggins Road, Greencastle, Co Tyrone
Sarah Charles
36 Ballynasolus Road Ballynasollus Cookstown
Brigid McRory
38 Ballynasolus Road Ballynasollus Cookstown
Brendan McCrory
38 Crouck Road Crouck Mountfield
Fidelma O'Kane
384, Crockanboy Road, Creggan, Tyrone, Northern Ireland, BT79 9AF
Bernard McCrory
40 Crouck Road Crouck Mountfield
Bernie McDonnell
40A Fingrean Road Altdrumman Sixmilecross
Vincent McCrory
42 Crouck Road Crouck Mountfield
John Meenagh
42 Fingrean Road Altdrumman Sixmilecross
Michael McCrory
44 Ballynasolus Road Ballynasollus Cookstown
Michael & Margaret McCrory
44, Ballynasolus Road, Cookstown, Tyrone, Northern Ireland, BT80 9TQ
Teresa McCrory
46 Crouck Road, Glenhull, Omagh, BT79 8HT
James Monaghan
5 Beaghmore Road Beagh More Cookstown

Annmarie Corey
 54 Blackrock Road Beagh More Cookstown
 A McAllister
 6 Beltonanean Road Corvanaghan Cookstown
 Carmel Mulholland
 63 Mount Pleasant Road Jordanstown Newtownabbey
 Bridie Monaghan
 67 Corvanaghan Road Evishbrack Cookstown
 Conor Monaghan
 69 Corvanaghan Road Evishbrack Cookstown
 Mary Potter
 8 Ashwood Heights Derryloran Alias Kirktown Cookstown
 Monina Connolly
 8 Beltonanean Lane Beltonanean Cookstown
 Kathleen Ward
 8 Beltonanean Road Beltonanean Cookstown
 Bronagh Bloomer
 8 Millview, Cookstown, Tyrone, BT80 9RU
 Gary & Kathleen Ward
 8, Beltonanean Road, Cookstown, Tyrone, Northern Ireland, BT80 9TP
 Tiarnan McNamee
 84 Davagh Road Broughderg Draperstown
 Mary McNamee
 84 Davagh Road Broughderg Draperstown
 Leanne Skidmore
 96 Clogherny Road Clogherny Glebe Upper Beragh
 Mairead McNally
 97, Feegarron Road, Cookstown, Tyrone, Northern Ireland, BT80 9TA
 Molly Hart
 Flat 5 Charles Shiels Institute Tower Hill

Date of Last Neighbour Notification

7th September 2016

Date of EIA Determination**5/7/16****ES Requested**

No

Planning History

Ref ID: I/2007/0239

Proposal: Request for EIA Determination for a Single Wind Turbine

Address: Beltonanean Mountain, Cookstown

Decision:

Decision Date:

Ref ID: I/2008/0112/F

Proposal: Proposed construction and installation of a 60m high anemometer (wind measurement) mast accessed by quad vehicle.

Address: Beltonanean Mountain, Beltonanean TD, Co Tyrone.

Decision: Approval
Decision Date: 22.08.2008

Ref ID: I/2010/0211/F

Proposal: A single wind turbine of up to 2.3 megawatt power output with a maximum overall base blade to tip height of 92.5 metres. Ancillary developments will comprise turbine transformer; turbine hardstand, site entrance with sight line provision; 1 no. electrical control kiosk, construction of new access track; communications antenna; underground electrical cables and communication lines connecting wind turbine to electrical control kiosk; on-site drainage works; temporary site compound; and all ancillary and associated works at Beltonanean Mountain.

Address: Beltonanean Mountain, Beltonanean TD, Cookstown, Co. Tyrone.

Decision: Approval
Decision Date: 17.05.2012

Ref ID: I/2008/0684/F

Proposal: Wind farm consisting of 2 wind turbines of up to 1.3 megawatt power output (2.6 MW total) each with a maximum overall base to blade tip height of 81 metres; Ancillary developments will comprise a single meteorological mast of up to 50 metres in height, turbine transformers; turbine hardstands, site entrances with sight line provision; 2 no. electrical control kiosks, construction of new access tracks and junctions; communications antennae; underground electrical cables and communications lines connecting wind turbines to electrical control kiosks; on site drainage works; temporary site compounds and all ancillary and associated works at Beltonanean Mountain.

Address: Beltonanean Mountain, Beltonanean TD, Co Tyrone.

Decision:
Decision Date: 08.02.2010

Ref ID: I/2008/0362/E

Proposal: Proposed single wind turbine development

Address: Beltonanean Mountain, Cookstown

Decision:
Decision Date:

Ref ID: I/2012/0294/DETEIA

Proposal: request for determination as to the need for an Environmental Impact Assessment for a proposed increase in height to, and relocation of, the approved Beltonanean Wind Turbine at Beltonanean Mountain Cookstown, Co Tyrone - planning ref I-2010-0211-F

Address: Beltonanean Mountain, Beltonanean TD, Cookstown, Co. Tyrone.,

Decision: NRES
Decision Date:

Ref ID: I/2013/0188/F

Proposal: Planning application to amend the previously approved Beltonanean Mountain Wind Turbine (Planning Ref I/2010/0211/F) by relocating the turbine 54 metres to the

north/northwest from the previously approved position; increasing the overall base to blade tip height to 119 metres; and with the addition of a proposed new electrical substation with underground electrical cables and communication lines connecting the wind turbine to electrical substation.

Address: Beltonanean Mountain, Beltonanean Townland, Cookstown, Co Tyrone,

Decision: RL

Decision Date:

Ref ID: I/2014/0413/F

Proposal: Windfarm comprising 6 no. three bladed wind turbines with micro-siting and a maximum base blade to tip height of 126.5 metres. Ancillary developments include a permanent lattice anemometer mast of 80 metres height; turbine transformers; turbine bases, foundations and hardstands; widening and strengthening of existing tracks and construction of new access tracks, junctions and turning areas; a 33kV switch room control building with communications equipment, car parking and compound area; underground electrical cables and communication lines connecting wind turbines to the switch room control building; on site drainage works; upgrade of an existing entrance off Beltonanean Road for light vehicle use, use of the existing entrance to Davagh Forest off Slaughter Road for main infrastructure traffic, with access tracks options through Davagh Forest; temporary set down areas, temporary material deposition areas, temporary construction compound; and all ancillary and associated development and infrastructure including general and excavation works at Beltonanean, Ballynasollus, Beleevna-More and Ballynagilly Townlands, Cookstown, Co Tyrone. The Proposed development also includes temporary works along the transport route to facilitate the delivery of turbine components including a realignment of a section of the Feegarran Road and widening of the junction of Feegarran and Slaughter Roads, in the townlands of Ballynagilly and Beltonanean, Cookstown, Co Tyrone.

Address: Beltonanean, Ballynasollus, Beleevna-More and Ballynagilly Townlands, Cookstown, Co Tyrone,

Decision:

Decision Date:

Ref ID: I/2013/0348/PREAPP

Proposal: A wind farm consisting of 11 no wind turbines each with a maximum overall blade to tip height of 119 metres; turbine transformers; electrical control building; communications antennae on control building, widening of existing tracks, construction of new access tracks, junctions and site entrance; turbine hardstands; underground electrical cables and communications lines; drainage works; a temporary site compound; and all ancillary developments and associated works.

Address: Beltonanean Road, lands west of cookstown, Co. Tyrone.,

Decision: EOLI

Decision Date:

Ref ID: I/2014/0399/F

Proposal: A single wind turbine of up to 2.3mw power output with a maximum overall base blade to tip height of 92.5m to compliment approved planning I/2010/0211/F

Address: Beltonanean Mountain, Beltonanean TD, Cookstown, Co Tyrone,

Decision:

Decision Date:

ANNEX A – APPEAL DECISION 2014/A0234

ANNEX B – PHOTOMONTAGE FROM NO.8 BELTONANEAN ROAD

ANNEX C – CONTOUR MAP

ANNEX D – APPEAL DECISION 2015/A0083

ANNEX E – CRITICAL VIEWPOINTS

ANNEX F -HISTORY MAP AND TABLE

ANNEX G – APPEAL DECISION 2007/A1313



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7th February 2017	Item Number:
Application ID: M/2014/0596/F	Target Date:
Proposal: Wind Turbine (amended turbine)	Location: 435m NE of 14 Culkeeran Road Moy Dungannon
Referral Route: Application that has received objections	
Recommendation:	Approve
Applicant Name and Address: Mr Adrian McMullan 14 Culkeeran Road Moy Dungannon BT71 7DZ	Agent Name and Address: Strategic Planning 4 Pavilions Office Park Kinnegar Drive Holywood BT18 9JQ
Executive Summary: The proposal is for retention of this turbine on a site that has planning permission for a turbine. Objections have been received from Dungannon Airfield about safety of its users.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Transport NI - Enniskillen Office	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Substantive Response Received
Non Statutory	Natural Heritage	Substantive Response Received
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. LMS	No Objection
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	No Objection
Non Statutory	Ofcom Northern Ireland	Substantive Response Received

Non Statutory	National Air Traffic Services	No Objection
Non Statutory	Belfast International Airport	No Objection
Statutory	NIE - Windfarm Developments	Content
Statutory	NIEA	Advice
Statutory	Transport NI - Enniskillen Office	Content
Non Statutory	CAA - Directorate of Airspace Policy	Considered - No Comment Necessary
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

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

A total of 2 objections were received from the same objector, the concerns are summarised below:

- impact on health and safety of aircraft using Dungannon Airfield

Characteristics of the Site and Area

The application currently under consideration is for the retention of an Endurance X35 Turbine which has 3 blades with a 35m blade diameter and a hub height of 30.4m, this has an overall tip height of 47.9m, it also proposes to retain a small electrical connection building and a control building. The development is all accessed off a hardcore lane that runs along the hedge on the east side of the field. The turbine is located on the north side of Culkeeran Road which is to the west of the Moy/Dungannon Road and just to the north of Moy. The area has a number of single houses and farm groups with poultry units attached to them. The Landscape Character Assessment identifies this as Loughgall Orchard Belt which has a high to medium sensitivity to wind development. The turbine is located in a field that is in grass and is at the top of the slope with low hedges around it.

This application seeks planning permission for the retention of this three blade turbine, the associated electrical connection building and the turbine control building. The access lane proposed is not as constructed on site. This application is in substitution for a turbine that had a 32.5m hub height and 32m dia blades with overall tip height of 48.5m, it was approved 31st July 2013 and is still within the 5 year time for commencement of the development.

Planning Assessment of Policy and Other Material Considerations

This application falls to be considered against the provisions of the Dungannon & South Tyrone Area Plan 2010 (DSTAP 210), the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement (PPS) 2 – Natural Heritage, PPS6 – Planning, Archaeology and the Built Environment, PPS21 – Sustainable Development in the Countryside and PPS18 – Renewable Energy.

Members are advised there are no specific policies for this type of development contained within the DSTAP 2010 and PPS21, policy CTY 1 permits planning permission in the countryside provide it meets with other policy considerations. The SPPS does not provide any clarification or policy direction in relation to single turbines but does require wider environmental, economic and social benefits to be given appropriate weight in determining such applications. No information has been submitted for consideration in relation to the economic or social benefits of the turbine. Therefore the main policy consideration for this proposal is contained within RE1 of PPS18.

Members should note a turbine with a 32.3m hub height and 32m blade diameter was considered acceptable on this site. There is a fallback position which allows that turbine to be erected, as it is still within 5 years from the date of the original planning permission. As this is a straight swap for the approved turbine I do not consider the cumulative impact of the proposed turbine, in terms of numbers, will be any greater than the approved turbine.

This application essentially requires the members to consider a decrease in height of the turbine hub from 32.3m to 30.4m and an increase in the blade length from 16m to 17.55m which decreases the tip height from 48.3m to 47.95m. The issues for consideration relate to the visual impact of this revised turbine, the impact on residential amenity due to the increased tip height and increased shadow flicker, dominance and noise, nature conservation concerns and impact on the users of Dungannon Airfield.

The Landscape Character Assessment (LCA) indicates the site is located within the south part of LCA 47 – Loughgall Orchard Belt which has an overall sensitivity for wind energy development of high to medium. Members should note the Department accepted this site can accommodate a wind turbine with tip height of 48.3m so it had no concerns about the sensitivity of this site for a turbine. The turbine location is in the same position as the previous approval, which is on a top of slope location and again this has been accepted as suitable by the Department. The turbine is visible from the M1/A4 before the Moygashel turn off, it is also visible from the A29 on approach to Moy from Dungannon and on approach to Moy from Eglish and Tamnamore. Closer up, on Culkeran Road and Rhone Road there are intermittent views of the turbine and some of these are prolonged with little intervening buildings, structures, vegetation or landform to screen the turbine. Members should be aware that the blades on the turbine under consideration are wider than the approved turbine and in my opinion have a greater visual impact than the approved, so while there is a decrease in the size of the structure its overall visual presence is greater. That said, given the visual presence of the 2 blade turbine opposite, weighed up with what has been approved on the site, I do not consider the turbine has an unacceptable visual impact.

A bat survey was submitted with the application, NIEA have considered this and do not have any concerns about the impact of this turbine on bats. No other ecology or habitat concerns have been raised by NIEA or 3rd parties.

Environmental Health Officers have considered the noise from the turbine and do not consider there will be any adverse impacts on residential amenity due to noise, provided a number of conditions are attached to control noise and amplitude modulation. I consider it is necessary to impose these conditions to ensure the turbine does not create an unacceptable noise impact on nearby residential properties issue during its lifetime. A report and map have been provided which shows 12 dwellings and one committed site for a dwelling within 500m of the turbine. It also shows one property, 125 Moy Road, is located within 350m (10 times rotor dia.) of the turbine which is the area of potential impact from shadowflicker for this turbine. The walls of the dwelling do not directly face the turbine and the dwelling is at the edge of the zone where guidance indicates that properties are less likely to be significantly impacted by shadow flicker.

As such I do not consider the turbine will cause an unacceptable shadow flicker on 125 Moy Road.

Dungannon Airfield is a private grass air strip located approx. 2100mts to the NE of the turbine, it is aligned on a NNW/SSE bearing which means aircraft approaching or taking off it may be at risk of collision or from wind shear due to turbulence. The University of Liverpool has carried out a study on turbulence from turbine blades <30 dia. The survey indicates that turbulence from those turbines is mostly dissipated at 5x rotor diameter (CAP 764 – CAA Policy and Guidelines on Wind Turbines). In the case of this turbine that zone is approx. 175 from this turbine and approx. 2100m from the end of the runway. Met Office figures indicate the prevailing wind for NI is from the SW, which means any turbulence from the turbine will mostly be orientated away from the airfield. The Civil Aviation Authority, MoD and Belfast International Airport were consulted about a larger turbine on this site and offered no operational objections to the development. CAA have advised if any local airfields are located close to the site it should be light by an omni-directional light. The turbine has a red navigation light attached to it and I consider this will assist aircraft in identifying it and reduce the likelihood of a collision. I do not consider there is a significant risk to light aircraft using Dungannon Airfield from this turbine. The turbine is located outside any consultation zone for Northern Ireland Environment Agency and does not provide a direct hydrological link to any European Sites. As such the potential impacts of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995, as amended. The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

The turbine is located outside the fallover distance plus 10% of the road and NIE have advised this turbine will not impact on existing or proposed infrastructure, therefore I do not consider this turbine will adversely impact on public safety. It has also been confirmed the turbine will not impact on any radio links.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Following consideration of the content of the objection letters and assessment against policy and associated guidance it is my recommendation the proposal can be approved with the conditions attached.

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 level of noise immissions from the wind turbine hereby permitted (including the application of any tonal penalty when calculated in accordance with the procedures described on pages 104 - 109 of ETSU-R-97) shall not exceed values set out in Table 1 below. Noise limits for any dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in Table 1 shall be represented by the physically closest location listed in the tables unless otherwise agreed by the Planning Authority.

Table 1: Noise Limits dB LA90 for All Periods

	Standardised wind speed at 10m height (m/s) within the site averaged over 10 minute periods								
Property	4	5	6	7	8	9	10	11	12
125 Moy Road	34.5	36	37.6	38.6	39.8	40.3	40.8	40.8	40.8
14 Culkeeran Rd	32.2	33.7	35.4	36.3	37.5	38	38.5	38.5	38.5

Reason: To control the noise levels from the development at noise sensitive locations.

3. Within 4 weeks of a written request by the Planning Authority, following a reasonable noise complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise immissions from the wind farm at the complainant's property following the procedures described in Pages 102-109 of ETSU-R-97. Details of the noise monitoring survey shall be submitted to the Planning Authority for written approval prior to any monitoring commencing. The Planning Authority shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring.

Reason: To control the noise levels from the development at noise sensitive locations.

4. The wind turbine operator shall provide to the Planning Authority the results, assessment and conclusions regarding the noise monitoring required by Condition 3, including all calculations, audio recordings and the raw data upon which that assessment and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the Planning Authority under condition 3 unless, in either case, otherwise extended in writing by the Planning Authority.

Reason: To control the noise levels from the development at noise sensitive locations.

5. Within 4 weeks from receipt of a written request from the Planning Authority, following an amplitude modulation (AM) complaint to it from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall submit a scheme for the assessment and regulation of AM to the Planning Authority for its written approval. The scheme shall be in general accordance with:

Any guidance endorsed in National or Northern Ireland Planning Policy or Guidance at that time, or in the absence of endorsed guidance,

Suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,

The methodology published by Renewable UK on the 16th December 2013; and implemented within 3 months of the written request of the Planning Authority unless otherwise extended in writing by the Planning Authority.

Reason: To control the levels of AM from the development at noise sensitive locations.

6. Within 6 months of the permanent cessation of electricity generation by the turbine hereby approved, all above ground structures shall be removed and the site restored to its former condition.

Reason: To restore the site and maintain the landscape quality of the area.

7. The structure should be fitted with an aviation warning light. The light should be fitted with a minimum intensity 25 Candela omni-directional red light or equivalent infra-red light fitted at the highest practicable point of the structure.

Reason: In the interests of the aviation safety.

Signature(s)

Date:

ANNEX	
Date Valid	22nd December 2014
Date First Advertised	14th January 2015
Date Last Advertised	22nd December 2016
Details of Neighbour Notification (all addresses) Glenn Millar Dungannon Airfield, 1 Mullybrannon Road, Dungannon, BT71 7ER Glenn Millar Dungannon Airfield, 1 Mullybrannon Road, Dungannon, Co. Tyrone, BT71 7ER	
Date of Last Neighbour Notification	13th December 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: M/2012/0432/F Proposal: Erection of wind turbine (32.3m hub height, 32m blades) Address: 430m NE of 14 Culkeeran Road, Moy, Dungannon, Decision: PG Decision Date: 31.07.2013 Ref ID: O/2008/0822/Q Proposal: PAD for proposed North-South Electricity Interconnector Address: Lands within Armagh District Council and Dungannon Borough Council Decision: Decision Date: Ref ID: M/2014/0596/F Proposal: Substitution of single wind turbine approved under M/2012/0432/F with a single wind turbine measuring 40m to hub with 27m blade length, including associated electricity cabinets Address: 435m NE of 14 Culkeeran Road, Moy, Dungannon, Decision: Decision Date:	

Summary of Consultee Responses

UK Crown Bodies - D.I.O. LMS	No Objection
UK Crown Bodies - D.I.O. Safeguarding	No Objection
Ofcom Northern Ireland	BT radio network protection
National Air Traffic Services	No Objection
Belfast International Airport	No Objection
NIE - Windfarm Developments	Close to proposed interconnector but will not impact on it
NIEA	Refer to standing advice, considered impacts on bats and is content
Transport NI - Enniskillen Office	No objections subject to conditions
CAA - Directorate of Airspace Policy	Considered - No Comment Necessary
Environmental Health Mid Ulster Council	Recommend attach noise conditions

Drawing Numbers and Title

Drawing No. 01Rev 1
Type: Location map
Status: Submitted

Drawing No. 03 Rev 1
Type: Site layout
Status: Submitted

Drawing No. 04
Type: Elevations
Status: Submitted

Drawing No. 04
Type: Access
Status: Submitted

Drawing No. 06
Type:
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



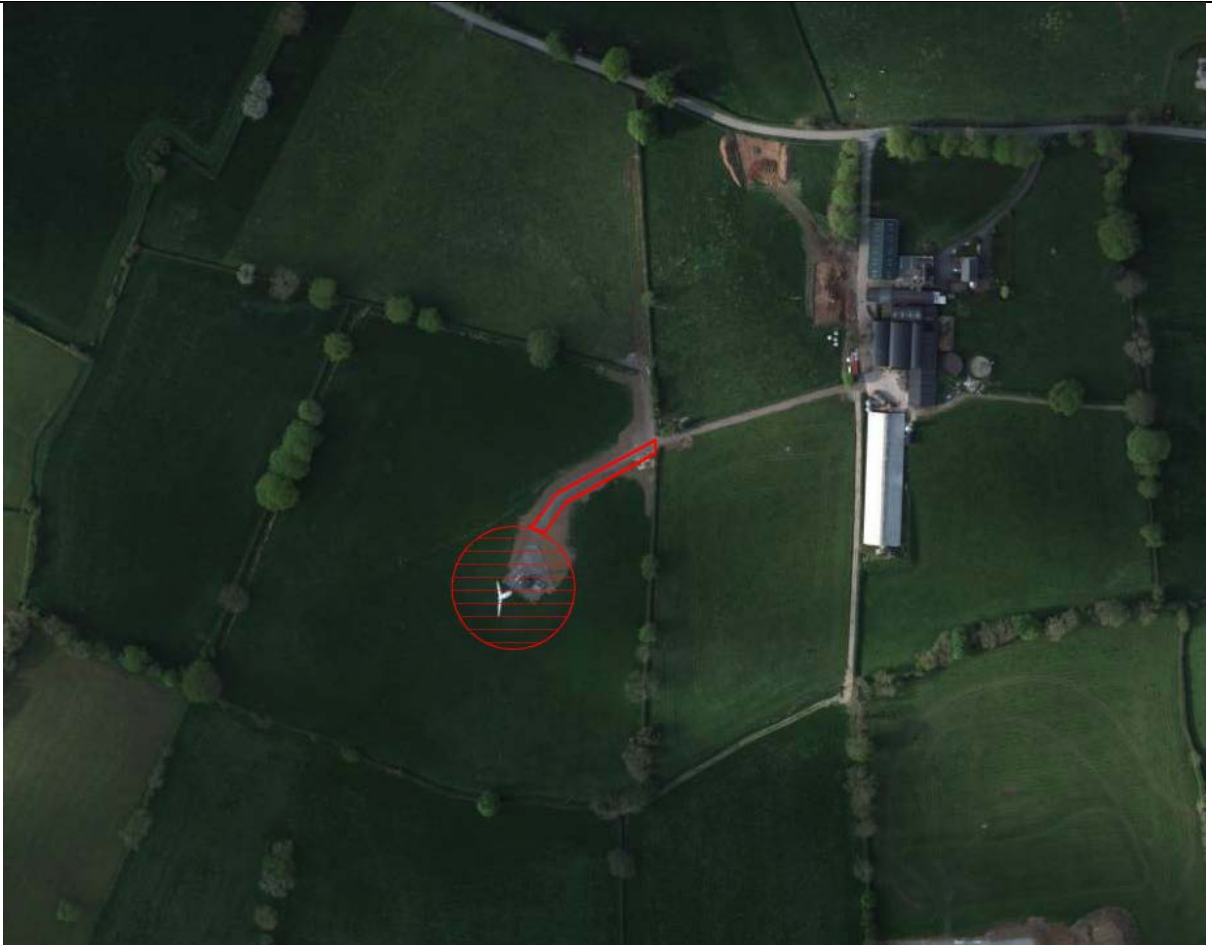
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7th February 2017	Item Number:
Application ID: M/2014/0599/F	Target Date:
Proposal: Wind Turbine	Location: 262m SW of 39 Culkeeran Road Moy
Referral Route: Objection received and recommended for refusal	
Recommendation:	Refusal
Applicant Name and Address: Mr Brian Mc Lean 39 Culkeeran Road Moy Co Tyrone BT71 7DZ	Agent Name and Address: Strategic Planning 4 Pavillions Office Park Kinnegar Drive Holywood BT18 9JQ
Executive Summary Turbine proposed that is significantly greater in size than approved turbine on the site. The increased size of the turbine will mean it is dominant and will have a detrimental impact on the residents of nearby properties.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	National Air Traffic Services	No Objection
Non Statutory	Belfast International Airport	No Objection
Non Statutory	Env Health Dungannon and South Tyrone Borough Council	Add Info Requested
Non Statutory	Ofcom Northern Ireland	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. LMS	No Objection
Non Statutory	UK Crown Bodies - D.I.O. Safeguarding	No Objection

Non Statutory	Industrial Pollution & Radio Chemical Inspectorate	Considered - No Comment Necessary
Statutory	NIE - Windfarm Developments	Content
Statutory	NIEA	Advice
Statutory	Transport NI - Enniskillen Office	Content
Non Statutory	CAA - Directorate of Aerospace Policy	Considered - No Comment Necessary

Representations:

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

Summary of Issues

Objections received from Dungannon Airfield relate to aircraft safety, the proposed turbine is excessive in size and scale.

Characteristics of the Site and Area

The application currently under consideration is for the erection of a EWT turbine which has 3 blades, a 54m blade diameter and a hub height of 40m, this has an overall tip height of 67m. The turbine is in place of the 2 blade turbine that is currently on the site, that turbine has a 32.3 m hub height and 30.0m blade dia giving a tip height of 47.3m. The turbine is located on the south side of Culkeeran Road which is to the west of the Moy/Dungannon Road and just to the north of Moy. The area has a number of single houses and farm groups some with poultry units attached to them. The Landscape Character Assessment identifies this as Loughgall Orchard Belt which has a high to medium sensitivity to wind development. The turbine is located in the middle of a field that is in grass, it is sited in a mid slope location and the boundaries of the field have low hedges with mature trees interspersed along them.

Planning Assessment of Policy and Other Material Considerations

This application falls to be considered against the provisions of the Dungannon & South Tyrone Area Plan 2010 (DSTAP 210), the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement (PPS) 2 Natural Heritage, PPS6 Planning, Archaeology and the Built Environment, PPS21 Sustainable Development in the Countryside and PPS18 Renewable Energy.

Members are advised there are no specific policies for this type of development contained within the DSTAP 2010 and PPS21, policy CTY 1 permits planning permission in the countryside

provide it meets with other policy considerations. The SPPS does not provide any clarification or policy direction in relation to single turbines but does require wider environmental, economic and social benefits to be given appropriate weight in determining such applications. No information has been submitted for consideration in relation to the economic or social benefits of the turbine. Therefore the main policy consideration for this proposal is contained within RE1 of PPS18.

Members should note a turbine with a 32.3m hub height and 30m blade diameter was considered acceptable on this site and is currently erected on the site. When this application was initially submitted the turbine had not been erected, however members are advised the previously approved turbine has been erected as approved and this proposal is in effect a swap for the approved turbine. I do not consider the cumulative impact of the proposed turbine, in terms of numbers, will be any greater than the approved turbine.

Members are advised this application is really to substitute the approved and erected turbine with a much larger machine. The tip height will be increased by approx. 20m and the blade length increase by 12m from 15m to 27m resulting in an approx. 30% increase in the overall height and approx. 80% increase in the total blade rotation area.

The issues for consideration relate to the visual impact of this revised turbine, the impact on residential amenity due to the increased tip height and increased shadow flicker, dominance and noise, nature conservation concerns and impact on the users of Dungannon Airfield. The Landscape Character Assessment (LCA) indicates the site is located within the south part of LCA 47 Loughgall Orchard Belt which has an overall sensitivity for wind energy development of high to medium. Members should note the Department accepted this site can accommodate a wind turbine with tip height of 47.3m so it had no concerns about the sensitivity of this site for a turbine. The turbine location is in the same position as the previous approval, which is on the side of the slope and again this has been accepted as suitable by the Department. The existing turbine is visible from the M1/A4 before the Moygashel turn off, it is also visible from the A29 on approach to Moy from Dungannon and on approach to Moy from Eglisli and Tamnamore. Closer up, on Culkeeran Road and Rhone Road there are intermittent views of the existing turbine and some of these are prolonged with little intervening buildings, structures, vegetation or landform to screen the turbine. Members are reminded the proposed turbine has a greater hub height and larger blades than the approved and erected turbine which will be visible from a wider area. In my opinion, due to these increases in the scale and size of the turbine, the proposed turbine will have a significantly greater visual impact than the approved and will be a dominant feature in the local landscape due to its closeness to public viewpoints and neighbouring properties. For these reasons I consider this turbine, if approved, will have an unacceptable visual impact on the locality.

A bat survey was submitted with the application, NIEA have considered this and do not have any concerns about the impact of this turbine on bats. No other ecology or habitat concerns have been raised by NIEA or 3rd parties.

Environmental Health Officers have considered the noise from the turbine and do not consider there will be any adverse impacts on residential amenity due to noise, provided a number of conditions are attached to control noise and amplitude modulation. I consider if permission is granted these conditions are necessary to ensure the turbine does not create an unacceptable noise impact on nearby residential properties issue during its lifetime.

A report and map have been provided which shows 3 dwellings, one which is financially involved, within 500m of the turbine. It also shows 3 properties, one which is financially involved

within 540m (10 times rotor dia.) of the turbine which is the area of potential impact from shadowflicker for this turbine. The report shows the proposed development will result in shadow flicker affecting 2 properties with the 30min threshold being exceeded at one property for 44days per year and at the other for 38days per year. The report explains this is the worst case scenario when the sun is not obscured, the turbine is turning and the turbine is facing towards the properties. Property 2 is a 2 storey dwelling with windows on the front and side elevation facing towards the turbine. There is mature vegetation between the turbine and the house, however it is shown that shadow flicker will impact on the dwelling in February and November when the trees have lost all foliage, therefore I do not consider the vegetation will significantly reduce the impact. The trees themselves will cast a shadow on the property and I consider this may well exacerbate the problem of shadow flicker as the turbine blades pass through these shadows. Property 3 is a 2 storey dwelling with a front projection that provides a courtyard that faces towards the turbine. There are a number of windows within the courtyard that will be affected by shadowflicker. There is mature vegetation between the turbine and the house, however it is shown that shadow flicker will impact on the dwelling in February and November when the trees have lost all foliage, therefore I do not consider the vegetation will significantly reduce the impact. The trees themselves will cast a shadow on the property and I consider this may well exacerbate the problem of shadow flicker as the turbine blades pass through these shadows. I consider the shadows from the turbines will have a significant detrimental impact on the residential amenity of these properties and there have been on proposal put forward to reduce this impact.

Dungannon Airfield is a private grass air strip located approx. 2600mts to the NE of the turbine, it is aligned on a NNW/SSE bearing which means aircraft approaching or taking off it may be at risk of collision or from wind shear due to turbulence. The University of Liverpool has carried out a study on turbulence from turbine blades <30 dia. The survey recognises that turbines over 30m dia are more difficult to model the impacts, however for <30m turbines, turbulence from those turbines is mostly dissipated at 5x rotor diameter (CAP 764 CAA Policy and Guidelines on Wind Turbines). In the case of this turbine that zone is approx 270m from this turbine and approx. 2400m from the end of the runway. Met Office figures indicate the prevailing wind for NI is from the SW, which means any turbulence from the turbine will mostly be orientated away from the airfield. The Civil Aviation Authority, MoD and Belfast International Airport were consulted about this turbine and offered no operational objections to the development. CAA have advised if any local airfields are located close to the site it is recommended it should be lit by an omni-directional light. If a permanently lit light is erected on this turbine, on the basis of the advice from CAA I do not consider there is a significant risk to light aircraft using Dungannon Airfield from this turbine.

The turbine is located outside any consultation zone for Northern Ireland Environment Agency and does not provide a direct hydrological link to any European Sites. As such the potential impacts of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995, as amended. The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

The turbine is located outside the fallover distance plus 10% of the road and SONI have advised this turbine will not impact on their proposed infrastructure, therefore I do not consider this turbine will adversely impact on public safety. It has also been confirmed the turbine will not impact on any radio links.

<p>Following consideration of the content of the objection letters and assessment against policy and associated guidance it is my recommendation the proposal should be refused for the reasons stated.</p>	
Neighbour Notification Checked	Yes
<p>Summary of Recommendation: Recommend refusal due to the scale and size of the turbine having an unacceptable impact on the locality.</p>	
<p>Refusal Reasons</p> <ol style="list-style-type: none">1. The proposal is contrary to Policy RE1 of Planning Policy Statement 18 Renewable Energy in that the development, if approved, would have an unacceptable visual impact on the locality by virtue of the overbearing scale and size of the proposed turbine.2. The proposal is contrary to Policy RE1 of Planning Policy Statement 18 Renewable Energy in that the development, if approved, would likely cause significant harm to the amenity of the residents of the properties referred to as property 2 and property 3 in the Shadow Flicker Report, arising from shadow flicker.	
<p>Signature(s)</p> <p>Date:</p>	

ANNEX	
Date Valid	22nd December 2014
Date First Advertised	14th January 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) Glenn Millar Dungannon Airfield, 1 Mullybrannon Road, Dungannon, Co. Tyrone, BT71 7ER	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: O/2008/0822/Q Proposal: PAD for proposed North-South Electricity Interconnector Address: Lands within Armagh District Council and Dungannon Borough Council Decision: Decision Date: Ref ID: M/2014/0599/F Proposal: Wind Turbine Address: 262m SW of 39 Culkeeran Road Moy, Decision: Decision Date:	
Summary of Consultee Responses	
National Air Traffic Services	No Objection
Belfast International Airport	No Objection
Env Health Dungannon and South Tyrone Borough Council	Noise will not be an issue, conditions to be attached

Ofcom Northern Ireland	Possible BT links
UK Crown Bodies - D.I.O. LMS	No Objection
UK Crown Bodies - D.I.O. Safeguarding	No Objection
Industrial Pollution & Radio Chemical Inspectorate	No regulatory role in relation to this development
NIE - Windfarm Developments	Consider impact on proposed interconnector
NIEA	No significant impacts
Transport NI - Enniskillen Office	No objection subject to conditions
CAA - Directorate of Airspace Policy	Considered - No Comment Necessary

Drawing Numbers and Title

Drawing No. 01
Type: Location Map
Status: Submitted

Drawing No. 02
Type: Shadow Flicker Map
Status: Submitted

Drawing No. 03
Type: Plan and elevation
Status: Submitted

Drawing No. 04
Type: Pan and elevation
Status: Submitted

Drawing No. 05
Type: access details
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/1092/F	Target Date:
Proposal: Single Dwelling	Location: Approx 30m West of Castledawson Open Farm 46 Leitrim Road Castledawson
Referral Route: This application is being presented to Committee as one letter of objection has been received.	
Recommendation:	APPROVAL
Applicant Name and Address: Mr Martin McMullen 48 Leitrim Road Castledawson BT45 8BQ	Agent Name and Address: CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
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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 letter of objection has been received in respect of this application. The objection relates to the fact that the objector claims that the applicant will require an easement over the objectors land for visibility splays, right of way, permission for water mains and associated rights for inspecting, renewing, repairing and maintaining these and that the objector is not consenting to grant this permission to the applicant.

The applicant has signed Certificate C stating that they have served notice on the objector thereby making the landowner aware of the planning application. Therefore, as the landowner is obviously aware of the planning application as they have objected to it, no prejudice has been caused. The issue of landownership is a civil matter and one which should be left to the individual parties to discuss. This issue is not a reason for refusal as planning permission does not confer title. It is the responsibility of the developer to ensure that they controls all the lands necessary to carry out the proposed development. Furthermore, if additional works are required in order to provide the necessary visibility splays, this can be negatively conditioned to ensure that these works are completed prior to any other works commencing on site.

Description of proposal

This is a full application which is for the renewal of extant approval. The extant approval was granted under an outline approval H/2006/0938 for a 'Private farm managers dwelling adjacent to open farm' with an associated reserved matters application being approved under H/2013/0043/RM. The proposal is for a dwelling which is set back off the public road and is accessed via an existing laneway. The existing laneway serves two dwellings and adjoining farm outbuildings and farmland.

Characteristics of the site and area

The application site is situated approximately 30 metres West of 46 Leitrim Road, Castledawson, within the open countryside as defined by the Magherafelt Area Plan 2015. The site has not significantly changed since outline planning permission was granted under H/2006/0938/O and the associated reserved matters application was approved under H/2014/0043/RM on 30.04.2013.

Planning Assessment of Policy and Other Material Considerations

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

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

CTY 10 – Dwellings on Farms

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- the farm business is active and has been established for at least 6 years
- no dwellings or development opportunities in the countryside have been sold off from the farm holding within 10 years of the date of the application. This only applies from 25th November 2008.
- the new building will be 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.

Whilst the applicant does not have a valid farm business ID number, they have provided details of the farm business, including their applicant reference number (131447) and farm maps which include fields and farm details similar to those on the previous farm map details used in connection with the previous approval. To this extent, nothing has changed. Additionally, a farm check has revealed no previous approvals for dwellings, other than the approval granted on this same site, have been granted on the farm holding or development opportunities have been disposed of since 25th November 2008.

CTY 13 – Integration and Design of Buildings in the Countryside

This is an application for a house type which has already been approved on this site under the RM application H/2013/0043/RM. Therefore the principle of integration has already been accepted and it is my opinion that in this instance a dwelling of the design and scale proposed could be satisfactorily integrated into the surrounding landscape.

CTY 14 – Rural Character

As discussed above, the proposal is for a dwelling on a site which has already been approved on this site under the RM application H/2013/0043/RM. Therefore the principle of a dwelling on this site has already been accepted in terms of rural character and it is my opinion that in this instance a dwelling positioned on the site, as indicated on the block plan, would not result in a change of character of the surrounding area. Furthermore, such a dwelling would be read with the existing farm dwelling and out-buildings, it is not considered to be unduly prominent, it does not result in a suburban style build-up of development, it would respect the traditional pattern of development in the area, it would not create a ribbon of development and the impact of ancillary works would not damage rural character.

PPS 3 - Access, Movement and Parking;

Transport NI advised that they have no objection to the proposed development subject to conditions.

Recommendation

On consideration of the above, it is my opinion that given that this a renewal of an extant planning approval, permission should be granted for the proposed development subject to the following conditions:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to conditions listed below:-

Conditions

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

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

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

Reason: In the interest of visual amenity.

3. All proposed planting as indicated on the stamped approved drawing no. 02 received 10th November 2015 shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

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

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

5. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no walls, gate pillars, fences or other means of enclosure shall be erected at the entrance to this site.

Reason: To preserve the amenity of the countryside.

6. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be in place, in accordance with Drawing No. 02 bearing the date stamp 10th November 2015, 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.

7. 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.

Signature(s)

Date:

ANNEX	
Date Valid	11th November 2015
Date First Advertised	23rd November 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 46 Leitrim Road Leitrim Castledawson The Owner/Occupier, 48 Leitrim Road,Leitrim,Castledawson,Londonderry,BT45 8BW, James Ballentine & Son Solicitors Bank Buildings,The Pentagon,Ballymena,BT43 5LL	
Date of Last Neighbour Notification	12th January 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/2013/0043/RM Proposal: Private farm managers dwelling adjacent to open farm Address: Approx. 30m West of Castledawson Open Farm, 46 Leitrim Road, Castledawson, Decision: PG Decision Date: 01.05.2013 Ref ID: H/2006/0938/O Proposal: Private farm managers dwelling adjacent to open farm (refer to attached documentation in relation to proposal) Address: Approx. 30m west of Castledawson Open farm, 46 Leitrim Road, Castledawson, Co.Derry BT45 8BW Decision: Decision Date: 15.11.2010 Ref ID: H/1991/0458 Proposal: SITE OF DWELLING Address: ADJ TO 46 LEITRIM ROAD CASTLEDAWSON Decision: Decision Date: Ref ID: H/1992/6055 Proposal: PROPOSED ANIMAL FARM/FARM MUSEUM 46 LEITRIM ROAD CASTLEDAWSON	

Address: 46 LEITRIM ROAD

Decision:

Decision Date:

Ref ID: H/1993/0267

Proposal: DWELLING

Address: ADJ TO 46 LEITRIM ROAD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1993/0002

Proposal: CHANGE OF USE OF FARM TO 'OPEN FARM'

Address: 46 LEITRIM RD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: LA09/2015/1092/F

Proposal: Single Dwelling

Address: Approx 30m West of Castledawson Open Farm, 46 Leitrim Road,
Castledawson,

Decision:

Decision Date:

Summary of Consultee Responses

No consultees raised any issues of concern

Drawing Numbers and Title

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Elevations and Floor Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



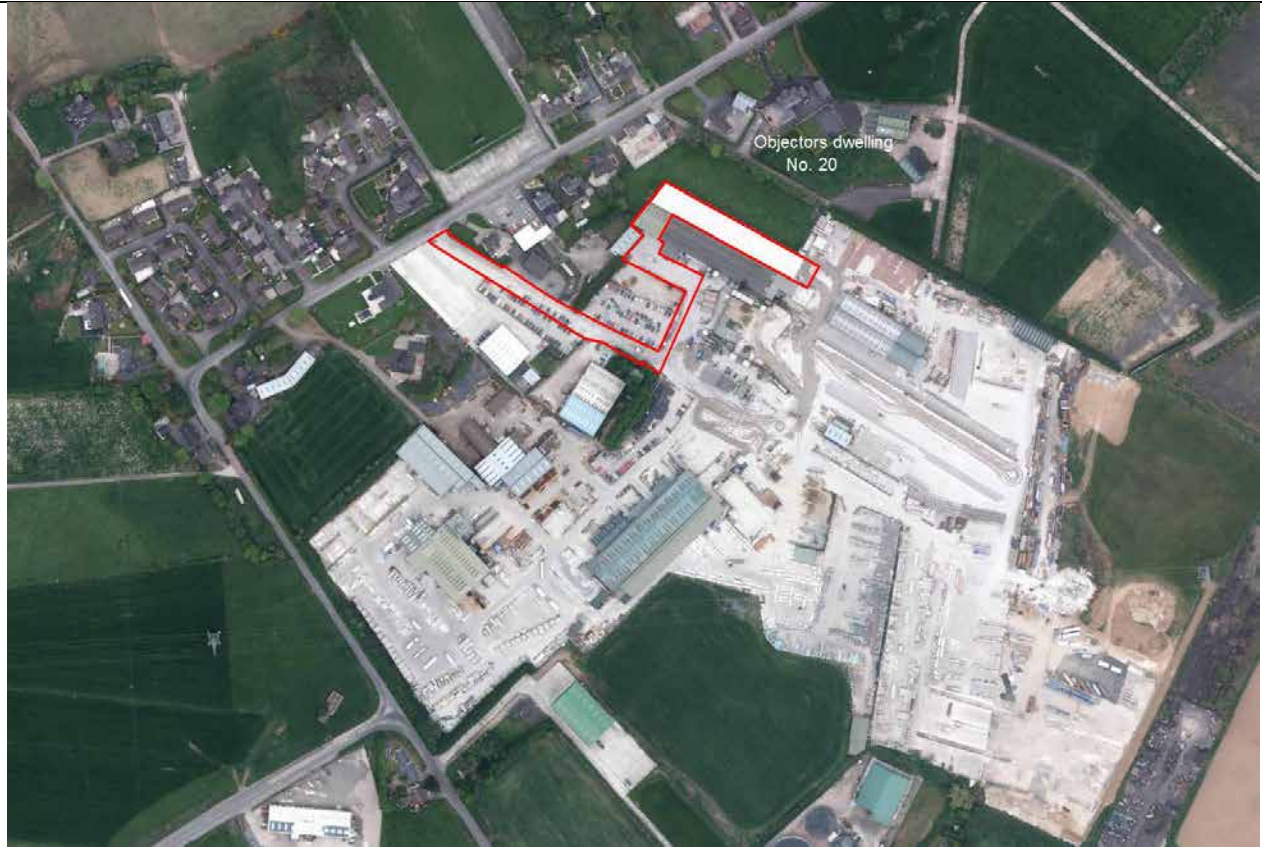
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2015/1239/F	Target Date:
Proposal: Variation of condition 6 of previous approval H/2007/0546/F to vary the hours of operation to Mon-Fri 5;00am - 10;00pm and Sat 5;00am - 3;00pm (Noise Report received 27.04.2016)	Location: Creagh Concrete Products Ltd Blackpark Road Toomebridge
Referral Route: This application is being presented to Committee as it is being recommended for refusal and there have been a number of objections received in respect of the proposal.	
Recommendation:	REFUSE
Applicant Name and Address: Creagh Concrete Products Ltd Blackpark Road Toomebridge BT42 3SL	Agent Name and Address: JPE Planning 1 Inverary Valley Larne BT40 3BJ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues including representations

A number of representations have been received in relation to this application including:-

(i) Airfield Enterprises of 24 Blackpark Road objecting to; the increase in noise at times when the majority of people are either asleep or are have finished work and are at home; a noise abatement order has already been served on the applicant by the Council; the building was previously designed and approved for storage purposes, thereby providing a buffer between the site and residents but this proposal now proposes manufacturing which is a change of use of the building.

The issue of noise is dealt with later in the case officer's report. Planning approval was granted for building TF1 under H/2007/0546/F as an extension to the original factory building which is clearly annotated as such on the approved drawing no's. 02/2, 07 & 09. Furthermore, there was no reference to the extension being used for storage nor was it conditioned for such a use.

(ii) 4 No. objections from Mr & Mrs Mulholland of 20 Blackpark Road including two objections from URPA on behalf of Mr & Mrs Mulholland relating to; H/2007/0546/F restricted the hours of use of the existing site to protect residential amenity. However Building No. 2 should only have been storage. The current application makes no justification for changing these hours. Mr & Mrs Mulholland complained in December 2015 about noise nuisance from the site. The noise report provided lacks details of addresses and times and the levels given confirm that theses continue to be exceeded due to the use of the building for manufacturing as opposed to the approved storage use; Mr & Mrs Mulholland have been and still are involved in High Court action against Creagh Concrete; any variation of the condition of hours of operation will cause further nuisance to the objectors; Past experience shows Creagh Concrete continually breach the hours of operation and will continue to do so; Discrepancies between noise reports for separate applications on the same site; MUDC cannot police the hours of operation being proposed; The issue relating to the hours of operation is discussed below in the case officer's report. The use of building TF1 for storage has already been discussed above. The covering letter details the operations to be undertaken during the proposed extended hours of operation. This advises that the 'proposal is intended to assist in the efficient operation of the approved TF1 factory to ensure quality control of the specialist precast products produced therein....' however no justification has been provided as to why it is essential that these operations must be undertaken during the proposed hours. The noise issue will have been considered during the consultation process with Environmental Health and is also considered later in the case officer's report as is the issue of enforcing the suggested conditions. The details of the previous High Court agreement between the objector and the applicant have not been provided and therefore only limited consideration can be given to this. However, it should be noted that Mr Mulholland has previously taken a High Court action against the applicant with another High Court action currently pending against the same applicant for breach of contract of the earlier Agreement and a continuing noise nuisance. This is primarily a legal issue between the parties concerned, albeit that issues relating to noise nuisance and noise abatement remain the responsibility of Council.

(iii) B Quinn of Ard Na Grann, Dungiven objected on the grounds that the applicant has included lands outlined in blue which is not within their ownership. This issue is a civil matter and was brought to the attention of the agent who advised that the objector has not claimed ownership, nor does the folio extract suggest this either.

Description of proposal

The proposal, is for the 'Variation of condition 6 of previous approval H/2007/0546/F to vary the hours of operation to Mon-Fri 5:00am – 10:00pm and Sat 5:00am – 3:00pm. The existing hours of operation as approved under H/2007/0546/F are from 07:30 to 19:00 Monday to Friday and 07:30 to 15:00 on Saturday.

In effect this means opening the site 2½ hours earlier Monday to Saturday and closing 3 hours later Monday to Friday.

Characteristics of the site and area

The building subject of this application (referred to as TF1) is located within the existing industrial complex operated by Creagh Concrete and is positioned along the northern boundary. The TF1 building was previously approved under H/2007/0546/F as an extension to the existing factory building and was to encompass the previous storage yard. The approved plans are annotated that TF1 was proposed as an extension to the existing factory building. To the south east of TF1 is a large area currently used as storage, brick/block production and product display areas. The Creagh Concrete site covers approximately 16.5 ha at present with additional adjoining lands being currently proposed for additional associated uses.

The site sits abuts the southern settlement development limit of Creagh with access off Blackpark Road. The area to the north is mainly residential but there are a number of non-residential uses in close proximity to the site ie, Steel stock holders, Credit Union offices, community hall and petrol filling station with the land uses to the other three sides being predominantly agricultural related. There are a number of other industrial uses close to the south/south west which include Macrete's which is also a precast concrete manufacturing plant.

The Existing Planning Condition and Situation

Condition 6 of the extant planning approval H/2006/0546/F is set out below :-

Plant and equipment (including block-making) shall not be operated within the development site:

- a. At any time on Sunday*
- b. Prior to 07.30 hours and after 19.00 hours Monday to Friday*
- c. Prior to 07.30 hours and after 15.00 hours on Saturday.*

Reason: To ensure resident's amenity is not adversely affected.

The extant planning permission is currently being breached and a Breach of Condition Notice has been served on Creagh Concrete. If this proposal is refused then legal action will be taken against Creagh Concrete by the Council.

Planning Assessment of Policy and Other Material Considerations

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The SPPS recognises that facilitating development in appropriate locations is considered necessary to ensure proposals are integrated appropriately within rural settlements or in the case of countryside locations, within the rural landscape. The guiding principles for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing the rural character and the environment.

PPS 21 advises that approval will be granted for industry and business proposals in the countryside in accordance with PPS 4. Therefore this proposal falls to be considered under Policy PED 9 – General Criteria for Economic Development. As the use and building are

existing, the key planning policy tests relate to the impact on the amenity of nearby neighbours particularly in terms of noise nuisance as detailed in Policy PED 9.

A consultation was forwarded to Council's Environmental Health Department who duly advised that following receipt of a revised noise report, that if the Planning Department are minded to permit the proposed development, then conditions which they suggested, would be appropriate.

Those conditions suggested that;

1. the building TF1 shall not be used outside of the times applied for;
2. the doors in TF1 shall remain closed and no vehicle movements in or out of TF1 shall take place; and
3. the vibrating plant in TF1 shall not be used nor no metal hammering shall take place outside the extended hours of operation.

However, in my opinion, while the suggested conditions would restrict the use of the vibrating plant and the metal hammering during those times, it does not restrict the use of other tools including power tools or equipment within the building nor does it place a noise limit on any activities which may be undertaken during those times. Given that Creagh Concrete continue to operate within the TF1 building whilst being in breach of their operating hours in addition to being in breach of the noise condition of H/2007/0546/F, it is my opinion that the suggested conditions are not sufficient to ensure that the business will not continue to create a nuisance and therefore have a detrimental impact on residential amenity. In fact to extend the operating hours will only serve to exacerbate the existing problem. It is also relevant to note that the TF1 building is approximately 80m from the objectors dwelling with other dwellings also being in close proximity to the building in question.

In consideration of the above, the SPPS advises that 'All applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development. However, whilst the planning system operates in the public interest of local communities and it has a role to play in minimising potential adverse impacts, such as noise pollution on sensitive receptors, it does not exist to protect the private interests of one person against the activities of another. However, the basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured.

While it is acknowledged that Creagh Concrete is a large employer in the Mid Ulster District Council area and there may be some argument as to why the extended hours of operation are necessary, although no justification has been provided as to why the work as outlined in the covering letter cannot be undertaken during existing approved hours of operation, when taking the above issues into consideration in conjunction with the site history and Creagh Concrete's continuing failure to comply with the conditions attached to the earlier planning approval as mentioned above, I am of the opinion, that the conditions suggested by Council's Environmental Health Department would be exceptionally difficult to enforce, as the Planning Department would not be able, nor available, to police the use of the TF1 building between the hours of 05:00 and 07:30. Furthermore the suggested conditions do not place a maximum sound level on any operations which would be carried out within the extended hours of operation. Furthermore, conditions limiting operations to the existing working day particularly when located near to residential properties, is in my view reasonable. Consequently, to approve the proposed extended hours of operation may exacerbate the existing problem in relation to the noise nuisance. It is my on-balance opinion therefore, that the proposal to extend the hours of operation should be refused for the reason stated below:-

Neighbour Notification Checked	Yes
Summary of Recommendation: The proposal is being recommended for refusal as it will cause noise nuisance and general disturbance and lead to a loss of residential amenity.	
Refusal Reason 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy PED 9 of Planning Policy Statement 4: Planning and Economic Development in that the proposal would if permitted unduly affect the amenity of existing adjacent and nearby residents to the site by reason of noise nuisance and general disturbance thereby causing a loss of amenity.	
Signature(s) Date:	

ANNEX	
Date Valid	10th December 2015
Date First Advertised	21st December 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) B Quinn 2 Ard-Na-Grann Dungiven Londonderry Patrick and Orla Mulholland 20 Blackpark Road The Creagh (Etre And Otre) Toomebridge Patrick and Orla Mulholland 20 Blackpark Road, Toome, Toomebridge, Londonderry, Northern Ireland, BT41 3SL The Owner/Occupier, 22 Blackpark Road The Creagh (Etre And Otre) Toomebridge The Owner/Occupier, 24 Blackpark Road The Creagh (Etre And Otre) Toomebridge The Owner/Occupier, 26 Blackpark Road The Creagh (Etre And Otre) Toomebridge John Casey MRTPI 26, Kingsmere Avenue, Belfast, Antrim, Northern Ireland, BT14 6ND The Owner/Occupier, 32 Blackpark Road The Creagh (Etre And Otre) Toomebridge The Owner/Occupier, 36C Blackpark Road The Creagh (Etre And Otre) Toomebridge The Owner/Occupier, 38 Blackpark Road The Creagh (Etre And Otre) Toomebridge The Owner/Occupier, 44 Blackpark Road, The Creagh (Etre And Otre), Toomebridge, Toome, Londonderry, BT41 3SL, John Casey 58, Howard Street, Belfast, Antrim, Northern Ireland, BT1 6PJ Airfield Enterprises (Director) Airfields Enterprises, 24 Blackpark Road, Toomebridge, BT41 3SL The Owner/Occupier, Sean O'Leary Newbridge GAC Hall, Blackpark Road, The Creagh (Etre And Otre), Toomebridge, Toome, Londonderry, BT41 3SL,	
Date of Last Neighbour Notification	11th January 2016
Date of EIA Determination	N/A
ES Requested	No

Planning History

Ref ID: H/2013/0296/F

Proposal: Reinstatement and extension of previously approved storage area, lorry and trailer park to facilitate reorganisation of precast products and increased variety of stock products, colour and size with no increase in existing site production area. Relocation of existing external block and brick production area (5200m²) to proposed new area (4320m²) with original being reused for product display, product finishing, product and plant storage, vehicle storage and recyclable material waste and storage. Retention of existing product display, product finishing, product and plant storage, vehicle storage and recyclable material waste storage. (Amended Noise report received: Document No 03)

Address: Creagh Concrete Products Ltd, Creagh Industrial Park, Blackpark Road, Toomebridge,

Decision: RL

Decision Date:

Ref ID: H/2014/0071/F

Proposal: Proposed extension to existing industrial premises for the storage of steel

Address: 44 Blackpark Road, Toomebridge,

Decision: PG

Decision Date: 01.07.2014

Ref ID: H/2006/0703/F

Proposal: Lean-to extension, along approx 1/2 length of existing building, for the curing of Concrete Products produced in the existing building

Address: Bradstone Factory Building, Creagh Concrete Products Ltd, 34 Blackpark Road, Toomebridge, Co. Antrim, BT41 3SL

Decision:

Decision Date: 26.05.2008

Ref ID: H/2007/0077/F

Proposal: Demolition of existing uninsulated staff canteen & garage building & construction of new staff canteen & offices building, with staff toilets, locker room & showers

Address: Creagh Concrete Products Ltd, 34 Blackpark Road, Toomebridge

Decision:

Decision Date: 11.05.2007

Ref ID: H/1999/0049

Proposal: PORTACABIN FOR USE AS PLAYGROUP

Address: NEWBRIDGE HALL BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2010/0072/F

Proposal: Proposed Alterations & Additions to Sports Hall to include Gym, Changing Facilities, Toilets, Storage, Function Room & Incorporation of Kitchen & Nursery Facilities

Address: Sean O'Leary GAC Sports Hall, Blackpark Road, Toomebridge

Decision:
Decision Date: 17.05.2010

Ref ID: H/1974/0132
Proposal: EXTENSION TO EXISTING HALL
Address: CREAGH, TOOMEBRIDGE
Decision:
Decision Date:

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

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

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

Ref ID: H/1975/0082
Proposal: FACTORY/WAREHOUSE BUILDING
Address: CREAGH, TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/1980/0330
Proposal: EXTENSION TO FACTORY
Address: 44 BLACKPARK ROAD, CREAGH, TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/2005/0739/F
Proposal: 1 No. Building for storage of items necessary for existing factory production. 1
No. Building for the tying and cutting of reinforcement bars used in factory products.
Address: Creagh Concrete Products, Blackpark Road, Toomebridge, Co.Antrim.
Decision:
Decision Date: 25.09.2006

Ref ID: H/1996/0227
Proposal: PRECAST CONCRETE CASTING FACTORY
Address: CREAGH CONCRETE PRODUCTS BLACKPARK ROAD TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/2003/0062/F

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

Address: Blackpark Road, Toomebridge.

Decision:

Decision Date: 19.03.2003

Ref ID: H/1998/0307

Proposal: MIXING PLANT AND WORKSHOP FOR THE PRODUCTION OF CONCRETE

PRODUCTS AND ASSOCIATED OFFICE AND CANTEEN

Address: ADJACENT TO CREAGH CONCRETE PRODUCTS 40 BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2006/0279/O

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

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

Decision:

Decision Date:

Ref ID: H/2007/0546/F

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

Address: Creagh Concrete, Blackpark Road, Toomebridge

Decision:

Decision Date: 13.05.2008

Ref ID: H/1975/0346

Proposal: CAR SHOWROOM

Address: THE CREAGH, TOOME

Decision:

Decision Date:

Ref ID: H/1990/0130

Proposal: EXTENSION TO HOUSE WITH DOUBLE GARAGE

Address: 36C BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/1978/0187
 Proposal: HOUSE
 Address: BLACKPARK ROAD, TOOMEBRIDGE
 Decision:
 Decision Date:

Ref ID: H/1982/0252
 Proposal: CONVERSION OF DWELLING INTO 2 FLATS
 Address: 34 BLACKPARK ROAD, CREAGH, TOOMEBRIDGE
 Decision:
 Decision Date:

Ref ID: LA09/2015/1239/F
 Proposal: Variation of condition 6 of previous approval H/2007/0546/F to vary the hours of operation to Mon-Fri 5;00am - 10;00pm and Sat 5;00am - 3;00pm
 Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge,
 Decision:
 Decision Date:

Summary of Consultee Responses

The sole consultee in this instance was Environmental Health who provided suggested conditions in relation to :-

1. the building TF1 shall not be used outside of the times applied for;
2. the doors in TF1 shall remain closed and no vehicle movements in or out of TF1 shall take place; and
3. the vibrating plant in TF1 shall not be used nor no metal hammering shall take place outside the extended hours of operation.

Drawing Numbers and Title

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

Drawing No. DOC 01
 Type: Further Particulars
 Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0420/F	Target Date:
Proposal: Proposed change of house type to supersede previously approved dwelling (ref: H/2006/0806/RM)	Location: Approx 40m East of no.16 Rocktown Lane Knockloughrim
Referral Route: 3 rd Party Objection	
Recommendation:	Approval
Applicant Name and Address: Miranda McManus 44 Beatrice Villas Bellaghy	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - 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: Neighbourhood amenity, control of all lands necessary to carry out the proposed development, design & integration and rural character.

Characteristics of the Site and Area

The site is located 1 miles northeast of Knockcloghrim in open countryside in accordance with the Magherafelt Area Plan. The site is located 40m east of No 16 Rocktown Lane and contains a small roadside partial of land. To the west of the site is an impressive brad stone cladded two storey dwelling and group of agricultural buildings. The boundaries are defined by a 2m hedge to the north, 4/6m hedge to the west and south and a post and wire fence to the west. The site lies below road level and the land falls away to the east of the site. CV's of the site are restricted by the existing vegetation, contours of the land the sharp bend in the road.

Planning Assessment of Policy and Other Material Considerations

Detail of the proposal:

The proposal is a full application for two storey dwelling and garage (change of house type from previous approval H/2006/0806/RM).

The proposed dwelling has a 13.7m frontage a 9.4m gable width and an 8.7m ridge height above finished floor level. A side projection is proposed on the western gable and a rear two storey return which steps down to single storey. The walls finish are smooth/roughcast render and natural stone to front porch and side projection and the roof finish is slates/non-profiled tiles colour - blue/black or dark grey.

The garage will be one and half storey measuring 8.5m x 6.7m with a 6.3m ridge height above ground level. Finishes will match the dwelling

Relevant Site Histories:

H/2003/1441/O - Site of dwelling and garage. Approved 17th October 2004.

H/2006/0806/RM - Dwelling. Approved 15th February 2007.

Representations:

1 neighbour's notification letters was sent to the occupier of No 16 Rocktown Lane, Knockcloghrim.

1 letter of representation has been received from Mr & Mrs Scullion who resides at No 16 Rocktown Lane, the property located immediately west of the site issues raised:

- The proposal is much wider and taller than originally approved and will block sunlight and view.
- An issue regarding a right of way on to land in relation to safety and easement.

With regards to the first issue, the proposal will block sunlight and view. It should be noted that the site itself sits at a slightly lower level than the objector's property and the separation distance between both properties will be 34m. Whist the objectors may suffer a small degree of overshadowing/blocked sunlight during early morning, I am satisfied that the proposal is adequately sited and designed to avoid a significant adverse impact on the objector's property.

The right to a view is not a material planning consideration.

The second issue regarding a right of way is a civil matter between the objectors and the applicant. However, legal notes will be attached to the permission advising the developer that he must control all the lands necessary to carry out the proposed development.

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.

Magherfelt Area Plan 2015: The site is located in open countryside. There is no other designation on the site.

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.

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

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

The site was initially approved in 2004 under H/2003/1441/O and a subsequent RM application approved in 2007. The site itself expired on the 17th October 2009. However, according to Building Control work commenced on 17th October 2009 on the day the site expired. Therefore I am satisfied a material start commenced before the site expired.

Under CTY13 a new building will be unacceptable where the design of the building is inappropriate for the site and its locality. The outline application was approved with a 5.7m ridge height condition. The dwelling approved at RM stage was for a modest one and half storey dwelling with a ridge height of 5.65m. Under this application it proposes a much more substantial two storey dwelling with a 9m ridge height, which is also similar in terms of size and scale to the two storey dwelling built on the site adjacent, No 16 (objector's property). Since the outline was approved the site appears to have matured considerably especially at the rear which consists of tall mature vegetation/trees which provides an excellent backcloth to absorb the proposed increase in ridge height.

In terms of design the proposed dwelling has become fairly standardised in rural areas and will mirror the two dwelling located at No 16, the objector's property. The finishes include blue/black slates or non-profiled tiles and smooth or roughcast rendered walls with elements of natural stones are generally acceptable and will not appear incongruous in the rural area. The orientation of the proposed dwelling fronts onto the public road and sit gable end onto No 16. A landscaping scheme has also been proposed which defines and enhances the site boundaries.

The character of the local area is characterised by a mix of dwellings, agricultural buildings and agricultural land. I am content that a two storey dwelling will not cause a detrimental change to the rural character of this area. The proposal respects the traditional pattern of settlement exhibited in the area and will not result in a suburban style build-up of development or create or add to a ribbon of development.

I am 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.

Neighbour Notification Checked Yes

Summary of Recommendation: That planning permission be approved subject to the following conditions.

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 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.

3. The existing natural screening along the northern, eastern and southern boundaries of the site shall be permanently retained at not less than 2 metres and trees allowed to grow on 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.

4. All planting comprised in the approved details of drawing No 02 Revision 1 which was received on 08th November 2016 shall be carried out during the first planting season following the commencement of the development and any tree, shrub or hedge, which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species.

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

5. The proposed stone work shall be locally quarried natural basalt stone only.

Reason: In the interest of visual amenity and to maintain the rural character of the area.

6. Notwithstanding the provisions of Article 3 and Schedule 1, Part 3 (A) of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no gates, walls, gate pillars, fences or other means of enclosure shall be erected or constructed at the access point onto the public road without the prior agreement in writing of the Council.

Reason: To preserve the amenity of the countryside.

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 (NI) 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/footway as a result of extraordinary traffic generated by the proposed development.

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

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

7. 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 Roads Service, Molesworth Street, Cookstown. A monetary deposit will be required to cover works on the public road.

8. 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 DRD Roads Service drainage system.

Signature(s) Sean Diamond

Date: 24/01/2017

ANNEX	
Date Valid	24th March 2016
Date First Advertised	7th April 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) Michael and Joanne Scullion 16 Rocktown Lane Rocktown Knockcloghrim	
Date of Last Neighbour Notification	18th April 2016
Date of EIA Determination	
ES Requested	Yes
Planning History Ref ID: LA09/2016/0420/F Proposal: Proposed change of house type to supersede previously approved dwelling (ref: H/2006/0806/RM) Address: Approx 40m East of no.16 Rocktown Lane, Knockloughrim, Decision: Decision Date: Ref ID: H/2006/0806/RM Proposal: Dwelling Address: Adj. to 16 Rocktown Lane, Gulladuff Decision: Decision Date: 20.02.2007 Ref ID: H/2003/1441/O Proposal: Site of dwelling and garage. Address: Adjacent to 16 Rocktown Lane, Bellaghy. Decision: Decision Date: 20.10.2004 Ref ID: H/2007/0073/F Proposal: Proposed amendment to existing approval to provide stonework to dwelling & addition of garage. Address: 16 Rocktown Lane, Knockloughrim Decision: Decision Date: 26.03.2007	

Ref ID: H/2003/0427/O

Proposal: Site of replacement dwelling.

Address: 16 Rocktown Lane, Rocktown, Knockcloghrim, Northern Ireland, BT45 8QF

Decision:

Decision Date: 24.07.2003

Ref ID: H/2006/0589/RM

Proposal: Site of proposed replacement dwelling

Address: 16 Rocktown Lane, Knockloughrim, BT45 8QF

Decision:

Decision Date: 23.11.2006

Summary of Consultee Responses

Drawing Numbers and Title

Status: Submitted

Drawing No. 02 Revision 1

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location 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:



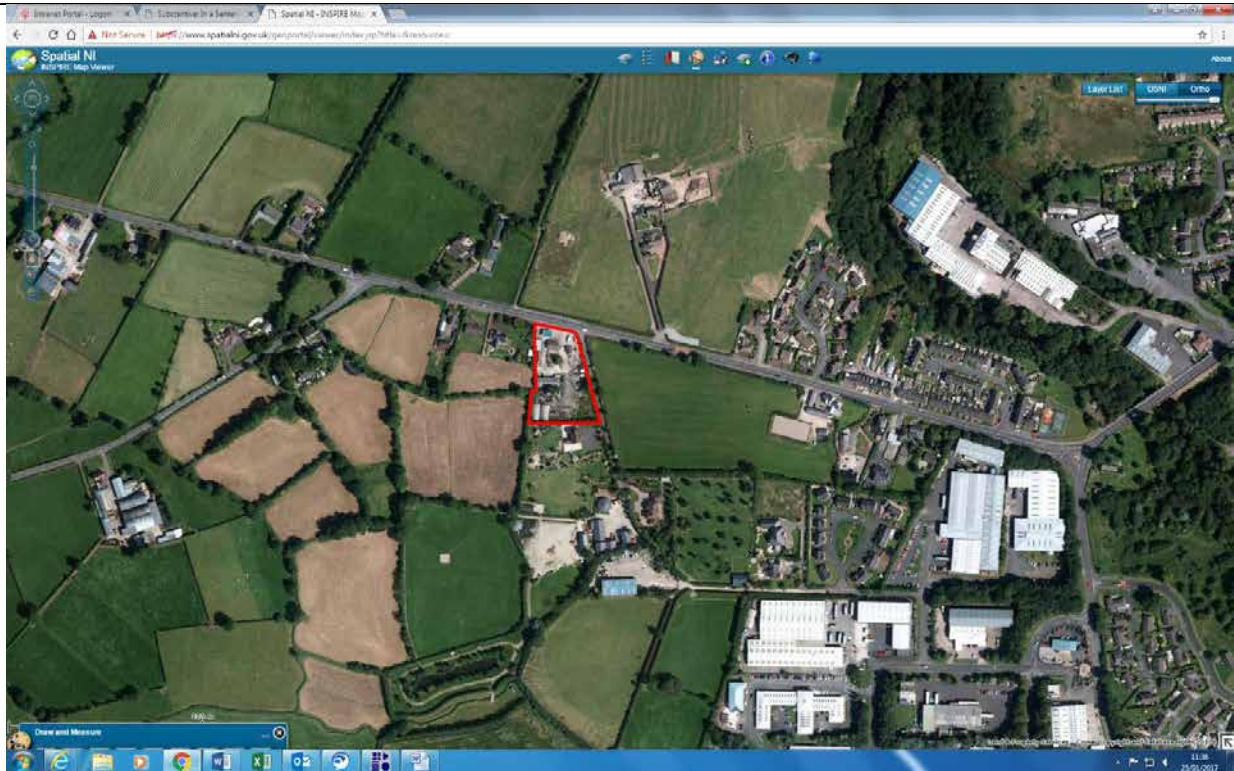
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

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

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	They have suggested controls through the use of conditions. However there are concerns that a condition relating to nuisance would not meet the legal tests of the said condition.

Representations:

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

Detail of the Proposal:

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

Characteristics of the Site and Area

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

Relevant Site Histories:

I/2000/0219/F

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

Approved: 30/1/2001.

Conditions attached:

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

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

Representations:

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

Planning Assessment of Policy and Other Material Considerations

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

Policy PED 2 Economic Development in the Countryside is relevant where policy allows for the redevelopment of an established economic use in compliance with PED 4. In my opinion the redevelopment of this economic development will harm the rural character or appearance of the local area even though there is no increase in the site area. The existing structures on site are single storey and residential in form, the new proposal entails significant structures of greater massing with significantly greater car parking and turning provision thus providing a negative visual impact. From the proposal submitted it is not evident that environmental benefits would result. The current layout does incorporate a small element of retail within the vacant shop. The scheme would if approved increase that provision significantly with the proposal for a main shop of some 375 sqm (4036 sqft). Policy PED 9 of PPS 4: provides general criteria for assessing all

applications relating to the location in siting and design: impact on residents and the environment, access and movement improvement. This proposal is generally compatible with the existing land use. However since this proposal is adjacent to residential property attention needs to be given to the neighbours amenities. It is my opinion that as the scale of the buildings and the increase in both vehicles and customers is greater than that existing there will be a significant adverse impact on neighbouring amenity by way of increased noise and nuisance as well as dominance and an overbearing impact on neighbouring property. There is no evidence of any negative natural or built heritage impact. The site is not in an area of flood risk and there is no evidence to suggest that any emission or effluent cannot be dealt with. There are issues relating to traffic movement and it has not been proved that there would be sufficient space for additional car parking and turning required for the development. In addition the access details cause concern in respect of traffic safety. Information to comply with the substantive Transportni requirements has not been requested as the principle of the development is at variance with policy. No provision has been allowed for significant site planting to aid integration of the proposal. It is noted that some of these issues could be dealt with by condition however the proposal in my opinion does not meet policy and in my opinion should be refused.

Other Policy and Material Considerations:

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

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

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

Class A1: Shops

Use for all or any of the following purposes—

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

Class A2: Financial, professional and other services

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

(a) financial services; or

(b) professional services.

Class B1: Business

Use—

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

(b) as a call centre; or

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

Class B2: Light Industrial

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

Class D2: Assembly and leisure

Use as a—

(a) bingo hall;

(b) cinema;

(c) concert hall;

(d) dance hall;

(e) theatre.

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

Neighbour Notification Checked

Yes

Recommendation:

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

Reasons for Refusal:

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

Signature(s)

Date:

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

Summary of Consultee Responses
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Concept Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: n/a Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 February 2017	Item Number:
Application ID: LA09/2016/0730/F	Target Date:
Proposal: Proposed residential development comprising of 120 no dwellings (30 detached and 90 semi-detached), associated road accesses including right turn lanes onto the Coolshinney Road and Moneymore Road, provision of amenity space and all associated site works.	Location: Development lands at 14 Moneymore Road situated adjacent and SW of Oakvale Manor adjacent and NE of Thornhill Avenue between Coolshinney Road and Moneymore Road Magherafelt
Referral Route: This is a major planning application	
Recommendation: Approve	
Applicant Name and Address: Johnston Family 10 Fergusons Way Kilbegs Road Antrim BT41 4LZ	Agent Name and Address: TSA Planning 29 Linenhall Street Belfast BT2 8AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Historic Environment Division (HED)	Content
Statutory	NIEA	Content
Statutory	Transport NI - Enniskillen Office	Advice

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 Flooding, Privacy, Access	
Characteristics of the Site and Area <p>The site sits between the Moneymore Road and the Coolshinney Road on the outskirts of Magherafelt town and is within the development limits. The area is predominantly residential in nature with a mix of detached and semi-detached single and two storey housing in Thornhill Avenue and Oakvale Manor on either side and some detached dwellings on individual sites also in the immediate vicinity. Spires Integrated Primary School is on the other side of the road. The site itself currently has 2 detached dwellings, farm land and some farm sheds which will all be demolished to accommodate the new residential development.</p> <p>Topographically the levels are relatively flat around the middle portion of the site. The levels fall gradually away towards the north-eastern and south-western boundaries. The Coolshinney Road sits slightly higher and is poorly vegetated. The Moneymore Road has a mix of low scrub hedges and some mature trees which will be removed to facilitate the development. Between Oakvale Manor and the proposed site a hedge approximately 2 metres in height runs along the rear of Nos 10 and 12 Oakvale Manor with the remainder of the boundary consisting of a hedge and tall trees. There are also a couple of mature trees to the rear of No 14 Moneymore Road and the site plan shows these to be retained and an area of tree root protection shown for these trees. This is also the case for a small number of trees along Thornhill Avenue and a larger number along Oakvale Manor.</p>	
Planning Assessment of Policy and Other Material Considerations <p>The relevant policies for consideration of this application are:</p> <p>Magherafelt Area Plan 2015</p> <p>Strategic Planning Policy Statement</p> <p>Planning Policy Statement 3 - Access, Movement and Parking.</p> <p>Planning Policy Statement 6 - Planning, Archaeology and The Built Environment</p> <p>Planning Policy Statement 7 - Quality Residential Environments.</p> <p>Planning Policy Statement 8 - Open Space, Sport and Outdoor Recreation.</p> <p>Planning Policy Statement 12 - Housing in Settlements</p> <p>Planning Policy Statement 13 - Transportation and Land Use</p> <p>Revised Planning Policy Statement 15 - Planning and Flood Risk</p> <p>Creating Places</p> <p>The lands in question are zoned as MT08 and MT09 in the Magherafelt Area Plan 2015.</p> <p>MT08 details 4 key site requirements, which are as follows:</p> <ul style="list-style-type: none"> - Housing development shall be a minimum gross density of 16 dwellings per hectare. - Access to the site shall be taken from Coolshinney Road - A right turn lane Coolshinney Road which must not compromise a right turn lane into site <p>MT15</p>	

- Residential layout to be designed to ensure that dwellings front onto Coolshinney Road and Moneymore Road.

MT09 details 5 key site requirements, which are as follows:

- Housing development to be a minimum gross density of 13 dwellings per hectare.
- A right turn lane on Moneymore Road which must not compromise a right turn lane into site MT14
- Residential layout to be designed to ensure that dwellings front onto Moneymore Road
- No dwellings are to back onto Coolshinney Road
- Existing trees and vegetation along the northern boundary to be retained.

A Pre-Application Notice was submitted to MUDC on 19 February 2016 and a Pre-Application Discussion was undertaken at the same time.

The application was initially seeking planning permission for 122 units but this has since been reduced to 120 units.

The surrounding context of the area is largely characterised by residential dwellings of both detached and semi-detached dwellings. Further along the Moneymore Road to the south east is the Spires Integrated Primary School. Both zoned parcels of land are bounded by housing and the Moneymore Road and Coolshinney Road.

The lands are being accessed off the Moneymore Road and the Coolshinney Road, with both accesses being served by a right hand turn lane. Within the red line itself there are 3 agricultural fields together with a farm dwelling and associated farm buildings. The lands are relatively flat around the middle portion of the site and they then gradually fall towards the north-eastern and south-western boundaries.

The south-western boundary of this site is adjacent to a watercourse and grille that are designated in accordance with the Drainage (NI) Order 1973 and is known as the Coolshinney Road Drain. The north-eastern boundary of this site is adjacent to a culverted watercourse that is designated in accordance with the Drainage (NI) Order 1973 and is known to Rivers Agency as the Killyfaddy Road Drain. The agent submitted an amended Drainage Assessment on 4 August 2016 and Rivers Agency have confirmed they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions.

The lands are in close proximity to the site of an enclosure which may represent the remains of a rath, a semi-defensive farmstead of the Early Medieval period (c. AD 450-1150) which is a monument of local importance and is protected by PPS 6, Policy BH2. Historic Environment Division: Historic Monuments has considered the impacts of the proposal and is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for the preservation in situ, as per Policy BH 4 of PPS 6.

The present use of the site is listed as being "Vacant agricultural lands zoned for housing under designation MT08 and MT09 including existing farm dwelling and outbuildings". As such the current use is agricultural. A consultation has been received from Environmental Health which quotes from PPS 23 "Planning and Pollution Control" in England. In that document it states that "on a precautionary basis, the possibility of contamination should be assumed when considering both development plans and individual planning applications in relation to all land subject to or adjacent to previous industrial use, and also where uses are being considered which are particularly sensitive to contamination - eg housing....". Consequently EHO have requested a

contamination report as they state that examples of potential contaminants on the site include fuel spillages, pesticide spillages, presence of asbestos etc. EHO recommends that planning permission is not granted for this development until the above information is provided demonstrating that the possibility of land contamination has been properly investigated and any risks arising from the former use of the land are properly understood and it is demonstrated and accepted that there is a viable remediation solution. Having considered this request from EHO it is my opinion that this is not necessary at this stage. Given that the farm outbuildings are contained within the middle of the site the vast majority of the site has been used for grazing land. It is my opinion that this area of concern can be covered by a condition which will address if any contamination risks are encountered work shall cease immediately and the risk fully investigated with subsequent remediation to be agreed prior to any further works being carried out on the lands.

The proposed development will be a mixture of detached and semi-detached dwellings. There will be 27 no 2 storey detached houses, 3 no single storey detached houses and 90 semi-detached dwellings. The Moneymore Road has a frontage of all detached houses that comprise a mixture of 5 different house types with a mix of smooth painted render to 9 houses and a red facing brick finish to 2 houses. Along the Coolshinney Road there are 4 detached houses and a pair of semi-detached houses that directly front onto the Coolshinney Road itself with a mix of 3 smooth render painted finish and 3 finished in red facing brick. Where there are pockets of identical house types throughout the development these are broken up with a mix of smooth painted render finish and red facing brick. There are a total of 27 sites that sit on corner plots and each of these sites are designed to be dual frontage.

Creating Places seeks to promote and achieve quality in residential developments. Para 5.19 states that on greenfield sites and in lower density developments all houses should have an area of private open space behind the building line. Creating Places also states that to promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater and for any individual house an area less than around 40 sq m will generally be unacceptable. The proposed layout provides a mix of garden sizes with all houses having more than 40 sq metres and though they range in size from the smallest sitting at 60 sq m on 2 sites to 465 sq m on one large plot on the Coolshinney Road. The average garden size has been calculated at 116 sq m which is well in excess of what is being sought under Creating Places and is therefore deemed acceptable.

Each of the rear gardens are shown to be defined by a 1.8m boundary fence with a proposed boundary hedgerow. Paragraph 7.15 states that on greenfield sites good practice indicates that a separation distance of around 20m or greater between the opposing rear first floor windows of new houses is generally acceptable. Having assessed the site layout plan I find this to be the case on the proposed layout. Paragraph 7.16 of Creating Places states that where the development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary. There are a number of existing properties at Thornhill Avenue and Oakvale Manor that are quite close to the common boundary but in each of these cases the proposed garden depth of the new houses is at least 10m in depth.

With regards to the road layout, both internal and external, Transport NI have made a number of comments on the various plans submitted and amendments have been made by the agent which have been considered by TNI. Based on the last amended plans which show a total of 120 houses TNI have no objections to the proposal subject to the listed conditions.

The Rivers Agency Strategic Flood Map identifies a portion of this site which is at risk from watercourse (fluvial) flooding. The river flood map identifies a designated watercourse which is

piped for a distance and known as the Coolshinney Road Drain U1911 along the western boundary of the site and there is c.1.25 acres along this boundary which is in the Q100 Flood Plain. The proposed site layout drawing has taken account of this area and kept it as open space on the proposed layout. The Q100 flood level is 80.50. Planning Policy Statement 15, Para 6.24 states "Where a proposal for residential development includes land adjacent to or partially within a floodplain, it will normally be acceptable to utilise the flood plain for public open space associated with the housing. This will only be acceptable where there is no infilling of the open space and suitable mitigation measures such as signage are in place to facilitate safe access and egress".

The Drainage Assessment states that a minimum 5m wide maintenance strip will be retained adjacent to the stream and to assist with on-going maintenance of this watercourse. This watercourse has an inlet structure at the downstream side of the site. There is a grill in place on this structure and as a result, the potential exists for the inlet structure to become blocked and cause an increase in flooding. This is a Rivers Agency structure and as such it is the responsibility of Rivers Agency to ensure that it is maintained properly. The applicant will install fencing at both ends of the open section of the watercourse and signage will be erected to deter dumping and also detail and display Rivers Agency emergency contact numbers in the event that the waters should begin to rise. This is included on the conceptual drainage plan, drawing number 28/1. The Drainage Assessment also states that this flood contact information will be provided in the Health and Safety section of the house buyers purchasing documentation.

The Rivers Agency Flood Maps also identify the same area of watercourse flooding to be affected by surface water (pluvial) flooding. Upon development of the site, this area will be green space, and the runoff from the site controlled with no properties at risk from flooding. There are no recorded instances of groundwater flooding and the risk of flooding on the site from groundwater is considered to be negligible.

The Drainage Assessment confirms that the site will be designed to drain to a strategic discharge point which has been agreed to by Rivers Agency and has received Consent to Discharge. There is no history of the site being affected by overland flooding from these areas. This site generally falls away to the four boundaries of the site and the Drainage Assessment confirms the drainage from the new development will be controlled and stored underground and released into an adjacent watercourse at a rate equivalent to that of "Greenfield Runoff". This will ensure that the risk of adjacent lands being flooded post-development is reduced.

In their consultation response Rivers Agency when considering the proposal against Policy FLD 1 Development in Fluvial (River) and Coast Flood plains confirm that the Drainage Assessment reflects the Strategic Flood Map for NI in that the site is affected by a floodplain and all development (including gardens and roads) outside a floodplain should have a recommended freeboard of 600mm applied to the 100 year flood levels.

In their consideration of the proposal against FLD 2 Protection of Flood Defence and Drainage Infrastructure Rivers Agency have stated that the DA satisfies 6.32 of PPS 15 as a 5m maintenance strip is shown along the Coolshinney Road Drain and access for maintenance to the Killyfaddy Road Drain is from the adjacent road.

With regards to FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains Rivers Agency accept the logic of the report and has no reasons to disagree with its conclusions. Consequently Rivers Agency cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. Rivers Agency have provided a number of informatives they wish to have included should the application be approved.

There are 2 objectors to the proposed housing development and both have submitted 2 letters of objection to the planning application. The concerns raised in the letter are as follows:

- Flooding - the objector refers to flooding of the application site that has occurred in the past and there have been incidents of lands abutting the stream collapsing a tree fell last year. They assert their lands have eroded and have invested heavily in constructing a rockery on their side of the stream to maintain the wall of the stream and assist in wildlife. They object to the assertion by the applicant there is no groundwater flooding and they do not accept the proposed method of dealing with the drainage of the site.
- Wildlife - the objector wishes to see the existing hedgerow along Thornhill Avenue stay as they assert they have put a lot of time and effort into ensuring a safe home for wildlife in the hedge.
- Privacy - The objectors had not seen the site layout prior to making a representation on this matter.
- Roads - The objectors have safety concerns with regards to access onto the Moneymore Road and Coolshinney Road as they assert cars travel at a fast speed onto those roads.
- The objector at 16 Oakvale Manor is concerned with the height of the hedge to the rear of their property that is in the ownership of the applicant which is now a safety concern.
- The new pair of semi-detached dwellings to the rear of No 16 Oakvale are too close to their rear boundary
- The objector is concerned with the green open space in the floodplain

With regards to the concerns of flooding Rivers Agency were consulted on this application. They find the Drainage Assessment acceptable and are content with the 5m maintenance strip along the Coolshinney Road Drain. Access for maintenance to the Killyfaddy Road Drain is from the adjacent road. It is noted by Rivers Agency that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisers.

The existing hedge to the rear of 16 Thornhill Avenue is shown to be retained on the site layout drawing. Furthermore if the hedge is in the ownership of the objectors it cannot be removed without their consent. With regards to the hedge behind 16 Oakvale Manor this is a private matter between landowners and is outside the remit of this application.

The objector is making assumptions about the layout without having seen the drawings. As I have addressed in some detail earlier in this report separation distances are not of concern in this site layout. The objector at Number 16 Thornhill Avenue has a back garden depth of 26m and with the retention of the existing hedge to the rear of their property, the orientation of the proposed dwellings to the rear and the location of the open space also to the rear I am satisfied there will not be a negative impact on the private amenity of this dwelling.

Transport NI have been consulted on this application and find the proposal acceptable subject to conditions.

In respect of the privacy to No 16 Oakvale Manor, this property is quite close to the common boundary itself with the sunroom being 5m and the main body of the house being 8m from the common boundary. The distance between the windows at ground floor level is 16.5m at the closest point and at first floor level 22m and I am satisfied that this is a reasonable distance. The proposed dwellings at site numbers 57 and 58 are 10m from the common boundary and this complies with the guidance provided in Creating Places.

So having considered all the relevant planning policies and material considerations, letters of objection and the consideration of the issues raised it is my recommendation to approve this planning application subject to the conditions listed below.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Objections have been considered along with all relevant planning policy and material considerations. Approval is recommended.

Conditions:

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

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

2. A detailed Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (NI) Order 1999, must be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of the works or phase of works.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

3. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

4. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

5. The vehicular access, including visibility splays of 4.5m x 160m on Moneymore Road and 4.5m x 120m on Coolshinney Road and any forward sight line shall be provided in accordance with Drawing No. 27/1 bearing the date stamp 2 December 2016, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

7. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 27/1 bearing the date stamp 2 December 2016

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

8. No other development hereby permitted shall be occupied until the road works indicated on Drawing No 27/1 bearing the date stamp 2 December 2016 have been fully completed in accordance with the approved plans.

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

9. The existing natural screenings of the site, as indicated in green, on approved drawing ref 05/1, date stamped received 2 December 2016 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.

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

11. No dwellings shall be occupied until a landscape management and maintenance plan has been submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

Reason: To ensure successful establishment and ongoing management and maintenance of the open space and amenity areas in the interests of visual and residential amenity.

12. If during the development works, contamination risks are encountered, work should cease and the Council shall be notified immediately. A no development area will be agreed and the contamination shall be fully investigated. In the event of unacceptable risk being identified, a remediation strategy shall be agreed and verified to its satisfaction.

Reason: In the interests of public safety.

Signature(s)

Date:

ANNEX	
Date Valid	20th May 2016
Date First Advertised	9th June 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Sherbourne Heights, Town Parks Of Magherafelt, Magherafelt, Londonderry, BT45 6JP, The Owner/Occupier, 1 Thornhill Avenue Coolshinnny Magherafelt The Owner/Occupier, 10 Oakvale Manor Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 10 Thornhill Avenue Coolshinnny Magherafelt The Owner/Occupier, 11 Oakvale Manor Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 12 Coolshinnny Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 12 Oakvale Manor Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 12 Thornhill Avenue Coolshinnny Magherafelt The Owner/Occupier, 13 Coolshinnny Road Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 14 Oakvale Manor Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 14 Thornhill Avenue Coolshinnny Magherafelt The Owner/Occupier, 15 Oakvale Manor Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 16 Oakvale Manor Town Parks Of Magherafelt Magherafelt Darren Fitzpatrick 16 Oakvale Manor, Magherafelt, Londonderry, Northern Ireland, BT45 6GD The Owner/Occupier, 16 Thornhill Avenue Coolshinnny Magherafelt Philip and Freda Gormley 16 Thornhill Avenue, Magherafelt, Londonderry, Northern Ireland, BT45 5JA Philip and Freda Gormley 16 Thornhill Avenue, Magherafelt, Londonderry, Northern Ireland, BT45 5JA The Owner/Occupier, 18 Thornhill Avenue Coolshinnny Magherafelt The Owner/Occupier, 2 Sherbourne Heights Town Parks Of Magherafelt Magherafelt The Owner/Occupier, 2 Thornhill Avenue Coolshinnny Magherafelt The Owner/Occupier, 20 Thornhill Avenue Coolshinnny Magherafelt	

The Owner/Occupier, 22 Thornhill Avenue Coolshinny Magherafelt The Owner/Occupier, 24 Thornhill Avenue Coolshinny Magherafelt The Owner/Occupier, 26 Thornhill Avenue Coolshinny Magherafelt The Owner/Occupier, 4 Thornhill Avenue Coolshinny Magherafelt The Owner/Occupier, 6 Thornhill Avenue Coolshinny Magherafelt The Owner/Occupier, 78 Moneymore Road Coolshinny Magherafelt The Owner/Occupier, 8 Thornhill Avenue Coolshinny Magherafelt The Owner/Occupier, 80 Moneymore Road Coolshinny Magherafelt The Owner/Occupier, 82 Moneymore Road, Magherafelt, Co Derry, BT45 6HH	
Date of Last Neighbour Notification	11th January 2017
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/0730/F Proposal: Residential development comprising of 122 no dwelling units (28 no detached and 94 no semi-detached), associated road accesses including right turn lanes onto the Coolshinney Road and Moneymore Road, provision of amenity space and all associated site works Address: Development lands at 14 Moneymore Road, situated adjacent and SW of Oakvale Manor, adjacent and NE of Thornhill Avenue, between Coolshinney Road and Moneymore Road, Magherafelt, Decision: Decision Date: Ref ID: LA09/2016/0222/PAD Proposal: Residential development comprising of circa 130 no dwelling units, associated road accesses onto both Coolshinney and Moneymore Road and all associated site works Address: Lands at No 14 Moneymore Road, between Moneymore and Coolshinney Road, Magherafelt, Decision: Decision Date: Ref ID: LA09/2016/0224/PAN Proposal: Residential development comprising of circa 130 no dwelling units, associated road accesses onto both Coolshinney and Moneymore Road and all associated site works Address: Lands at No 14 Moneymore Road, between Moneymore Road and Coolshinney Road, Magherafelt, Decision: Decision Date:	

Ref ID: H/2007/0535/F

Proposal: Proposed Bungalow with roofspace conversion and domestic garages with first floor attic space

Address: 60m West of 13 Coolshinney Road, Magherafelt

Decision:

Decision Date: 18.08.2008

Ref ID: H/1999/0916/F

Proposal: Housing development

Address: Land to east of Thornhill Avenue , Coolshinney Road, Magherafelt

Decision:

Decision Date: 23.07.2001

Ref ID: H/2009/0146/O

Proposal: Demolition of existing buildings and the construction of proposed housing development comprising of detached, semi-detached and townhouse units with detached garages, carports and associated works

Address: Lands opposite 2 - 26 Thornhill Avenue, 12 - 13 Coolshinney Road & 78 - 80 Moneymore Road, Magherafelt

Decision:

Decision Date: 16.10.2009

Ref ID: H/1995/6052

Proposal: SITE OF DWELLING MONEYMORE ROAD MAGHERAFELT

Address: MONEYMORE ROAD

Decision:

Decision Date:

Ref ID: H/2011/0103/O

Proposal: Proposed foodstore, car parking and petrol filling station

Address: Land between Thornhill Avenue and Oakvale Manor Magherafelt BT45 5JA,

Decision: PR

Decision Date: 23.05.2014

Ref ID: H/2005/0472/F

Proposal: Proposed 121 Dwellings With Detached Garages & Carports & Assoc. Siteworks, 7 amended P1 forms

Address: Lands Opposite 2 - 26 Thornhill Avenue, 12 & 13 Coolshinney Road & 78 & 80 Moneymore Road, Magherafelt.

Decision:

Decision Date: 22.10.2007

Ref ID: H/2002/0281/Q

Proposal: Proposed housing

Address: Moneymore Road, Magherafelt,

Decision:

Decision Date:

Ref ID: H/2000/0076/Q

Proposal: Medium Density Housing

Address: 8 Coolshinney Road, Town Parks Of M'Felt, Magherafelt, Northern Ireland, BT45 5JF

Decision:

Decision Date:

Ref ID: H/2002/1082/F
Proposal: +16 No. Dwellings.
Address: Moneymore Road, Magherafelt.
Decision:
Decision Date: 21.05.2004

Summary of Consultee Responses

Approval subject to the conditions outlined and detailed above.

Drawing Numbers and Title

Drawing No. 32
Type: Roads Details
Status: Submitted

Drawing No. 31
Type: Roads Details
Status: Submitted

Drawing No. 30
Type: Roads Details
Status: Submitted

Drawing No. 08
Type: Proposed Plans
Status: Submitted

Drawing No. 09
Type: Proposed Plans
Status: Submitted

Drawing No. 10
Type: Proposed Plans
Status: Submitted

Drawing No. 11
Type: Proposed Plans
Status: Submitted

Drawing No. 12
Type: Proposed Plans
Status: Submitted

Drawing No. 13
Type: Proposed Plans
Status: Submitted

Drawing No. 14
Type: Proposed Plans
Status: Submitted

Drawing No. 15
Type: Proposed Plans
Status: Submitted

Drawing No. 16
Type: Proposed Plans
Status: Submitted

Drawing No. 17
Type: Proposed Plans
Status: Submitted

Drawing No. 18
Type: Proposed Plans

Status: Submitted

Drawing No. 19
Type: Proposed Plans
Status: Submitted

Drawing No. 20
Type: Proposed Plans
Status: Submitted

Drawing No. 21
Type: Proposed Plans
Status: Submitted

Drawing No. 22
Type: Proposed Plans
Status: Submitted

Drawing No. 23
Type: Proposed Plans
Status: Submitted

Drawing No. 24
Type: Proposed Plans
Status: Submitted

Drawing No. 25
Type: Proposed Plans
Status: Submitted

Drawing No. 26
Type: Levels and Cross Sections
Status: Submitted

Drawing No. 27
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 28
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 29
Type: Roads Details
Status: Submitted

Drawing No. 02
Type: Existing Site Survey
Status: Submitted

Drawing No. 07
Type: Proposed Plans
Status: Submitted

Drawing No. 05

Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 04
Type: Site & Detailed Drawings
Status: Submitted

Drawing No. 03
Type: Site Appraisal or Analysis
Status: Submitted

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

Drawing No. 06
Type: Proposed Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0848/O	Target Date:
Proposal: Proposed Dwelling and Garage under CTY 2a	Location: 24M North of 93 Five Mile Straight Bracaghreilly Maghera
Referral Route: Refusal Recommended – Contrary to CTY 1, CTY 2a, CTY 8 of PPS 21	
Recommendation:	REFUSE
Applicant Name and Address: Colm Lynn 4 Orchard Way Portglenone	Agent Name and Address: CMI Planners Unit 5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

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

Summary of the issues raised in the objections are as follows:

- Main issue over the ownership of laneway, this was included apart of applicant's original red line. Nos 93 and 95 stated they owned the laneway and no permission had been sought nor would it be granted.
- An additional objection was received from one of the original objectors with regards to the amended location plan and stated issue over access to the site mainly the necessity of a long laneway down to the site and that this has not been shown.
- Reference was made of how the proposal was unable to comply under PPS 21, however a number of the concerns were misrepresented however since this proposal has been brought forward to the Council as a dwelling and garage under CTY 2a, the concerns over CTY 2a will be the only issues considered in this case.

- Continued to say that CTY 2a of PPS 21 allows for a dwelling that it is associated at an identified focal point such as a social/community building/facility or is located at crossroads. Stated that the identifying the Lisnamuck crossroads is incorrect, in that the existing dwellings are not built around the crossroads. They are located some distance from the crossroads which are separated by agricultural fields meaning this is not a cluster.
- Stated the cluster does not appear a visual entity in the landscape.
- As per CTY 2a the proposed development does not bound on at least 2 sides with other development within the cluster. Any development therefore would visually intrude on the landscape and will create a ribbon of development which is contrary to PPS 21 policies CTY 8 and 14.
- Issue raised that the proposed dwelling is located extremely close to the boundary of No 93 and from this has the potential to diminish the amenity of this property.
- Finally the proposed development will become a prominent feature in the landscape as it also lacks long established natural boundaries which means the inability of providing a suitable degree of enclosure to allow integration.

Reviewing the issues raised in the objections, the first issue has since been dealt via the submission of an amended red line reducing it to no longer include the laneway. The concern over the need for a long laneway to the site cannot be considered at this time, since this is an outline application the exact siting of the site has not been fully decided and subject to change. From this the details of the long laneway have not been submitted and would be dealt with via a reserved matters application.

This application has been assessed under CTY 2a therefore all issues raised in the objections with regards to PPS 21 will be dealt via this report.

Characteristics of the Site and Area

Description of Proposal

This is an outline application for a proposed dwelling and garage under CTY 2a at 24m North of 93 Five Mile Straight, Maghera.

Characteristics of the site and environs

The site is located approximately 2.5km south west of Glen, in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is identified as 24m North of 93 Five Mile Straight, the red line however has extended into two fields with a site marker identified above 93 Five Mile Straight. Both fields included in the red line are agricultural fields which are relatively flat and are bounded with post wire fencing with hedging and trees along the boundaries. An amended location plan was submitted prior to objection letters being received, stating that the previous plan was incorrect and the applicant did not have a right of way over the laneway. The amended plan therefore removed the laneway from the red line.

Representations

There were four neighbour notifications sent out, in which two objections were received.

Planning Assessment of Policy and Other Material Considerations

Development Plan and key policy considerations

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

Strategic Planning Policy Statement (SPPS)
 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. With regards to this application. 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.

The site is located outside a farm. Taking into to consideration the site marker as the intended site location, there are a number of dwellings in the surrounding area. Therefore I am satisfied that the proposal complies with the first criterion. As a result of the surrounding buildings an argument that it can be deemed as visual entity. Therefore the second criterion is fulfilled.

The identified focal point in this application is the crossroads between the Lisnamuck Road and Five Mile Straight. Concerns lay over the separation distance of the identified site and focal point, at present there is approximately 170m between the two. This coupled with the fact that there is no existing or proposed development within this 170m, just agricultural fields. From this it is clear that the proposed development is unable to cluster with focal point and fails the third criteria.

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. In the proposed location as per drawing L02 date stamped 14th June 2016, it is clear that the development is not bounded on two sides with other development in the cluster. It is bounded on one side with No 93 but there are substantial gap from the proposed site to the surrounding dwellings creating a visual break, failing this criteria.

The requirement of the site to be able to be absorbed into the existing cluster through rounding off and consolidation. Since it has already been demonstrated that the proposed site is not part of an existing cluster as it has no identified focal point therefore the development is not capable of being absorbed into the cluster. From this the proposed development has failed this criteria.

The final criteria requires the development to not have an adverse impact on residential amenity. The only dwelling likely to be impacted will be that of No. 93 who have an objection towards the application and made reference to the "extremely close to the boundary of No.93 with the potential to diminish the amenity of this property. Since this is an outline application and due to the size of the proposed site there is potential to move the location of the dwelling to remove any impact on residential amenity. Therefore I am satisfied this fulfils this criteria.

For the above reasons it is evident that the proposed development fails under policy CTY 2a and I would take the opinion of a refusal for this application.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. This application also fails under this policy as any development approved within the red line would be seen to add to the ribbon of development in that there are no available gap sites.

With regards to CTY 13 I am of the opinion that due to the land form and backdrop of trees of the site and screening along the road integration can be achieved in accordance with this policy.

Other policy and material considerations

Three consultations were sent out to Transport NI, NI Water and Environmental Health, all of which have replied with no objection subject to conditions.

Representations

There were four neighbour notifications sent out, in which two objections were received.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Conditions/Reasons for Refusal:

1. The proposal is contrary to the Single Planning Policy Statement and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposed development is considered contrary to CTY 2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
 - the identified site is not bounded on at least two sides with other development in the cluster;

3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in ribbon development along Five Mile Straight, and does not represent a gap site.

Signature(s)

Date:

ANNEX	
Date Valid	14th June 2016
Date First Advertised	30th June 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 88A Five Mile Straight, Bracaghreilly, MAGHERA, Co. Londonderry, BT46 5LH The Owner/Occupier, 90 Five Mile Straight, Bracaghreilly, Draperstown, Londonderry, BT46 5LH, The Owner/Occupier, 93 Five Mile Straight Bracaghreilly Draperstown Patrick McKeever 93, Five Mile Straight, Draperstown, Londonderry, Northern Ireland, BT46 5LH The Owner/Occupier, 95 Five Mile Straight, Bracaghreilly, Draperstown, Londonderry, BT46 5LH, Paul Warnock 95, Five Mile Straight, Draperstown, Londonderry, Northern Ireland, BT46 5LH	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/0848/O Proposal: Proposed Dwelling and Garage under CTY 2a Address: 24M North of 93 Five Mile Straight, Bracaghreilly, Maghera, Decision: Decision Date: Ref ID: H/2003/1265/O Proposal: Site of dwelling and garage. Address: 60m North of 93 Fivemile Straight, Maghera. Decision: Decision Date: 01.11.2005 Ref ID: H/2003/1500/O Proposal: Site of Dwelling and Garage. Address: Rear of 90A Fivemilestraight, Maghera. Decision:	

Decision Date: 11.11.2005

Ref ID: H/2001/0420/O

Proposal: Site of dwelling

Address: 80 Metres South West Of 90 Fivemilestraight, Maghera

Decision:

Decision Date: 13.08.2001

Ref ID: H/2000/0614/O

Proposal: Site of dwelling

Address: Adjacent to 90 Five Mile Straight, Maghera

Decision:

Decision Date: 21.02.2001

Ref ID: H/2002/0003/RM

Proposal: Dwelling And Garage

Address: Adjacent to No.90 Five Mile Straight, Maghera

Decision:

Decision Date: 28.03.2002

Ref ID: H/2001/0419/O

Proposal: Site of dwelling

Address: 90 Metres West Of 90 Fivemilestraight, Maghera

Decision:

Decision Date: 14.08.2001

Ref ID: H/1998/0218

Proposal: SITE OF DWELLING

Address: 100M SOUTH OF 90 FIVEMILE STRAIGHT MAGHERA

Decision:

Decision Date:

Ref ID: H/1998/0005

Proposal: SITE OF DWELLING

Address: 100M SOUTH OF 90 FIVEMILE STRAIGHT BRACKAGHREILLY MAGHERA

Decision:

Decision Date:

Ref ID: H/1998/0446

Proposal: SITE OF DWELLING

Address: 210M SOUTH OF 90 FIVEMILE STRAIGHT MAGHERA

Decision:

Decision Date:

Ref ID: H/1999/0237

Proposal: 2 NO. DWELLINGS AND GARAGES

Address: 200M SOUTH OF 90 FIVE MILE STRAIGHT MAGHERA

Decision:

Decision Date:

Ref ID: H/2000/0402/F

Proposal: Dwelling and Garage

Address: Adjacent to 93 Five Mile Straight, Maghera

Decision:

Decision Date: 20.07.2000

Ref ID: H/1999/0061

Proposal: SITE OF DWELLING

Address: 85M SOUTH OF 90 FIVE MILE STRAIGHT MAGHERA

Decision:

Decision Date: 18.12.1999

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0905/O	Target Date:
Proposal: Dwelling on a farm	Location: 28 Meenanea Road Cookstown
Referral Route: Contrary to planning policy CTY10 (c) of PPS21	
Recommendation:	Approve
Applicant Name and Address: Seamus Loughran 14 Meenanea Road Meenanea Cookstown BT80 9NY	Agent Name and Address: PDC Building Surveying 16 Gortreagh Road Gortreagh Cookstown BT80 9ET
Case Officer: Paul McClean	
Signature(s):	

Case Officer Report

Site Location Plan



Description of proposal

This is an outline planning application for a dwelling on a farm.

Characteristics of Site and Area

The site is located approx. 90m west of number 24 Meenanea Road, Dunnamore. This rectangular roadside plot incorporates the existing curtilage of where No. 28 Meenanea Road used to be located, which is identified now a pile of rubble and some fallen walls/brick/stone. The northern part of the site also incorporates part of a larger field and an over grown access to the public road along the eastern hedge lined boundary. There is some tree and hedge coverage within the site and along the old curtilage boundaries of the old dwelling. The roadside boundary is define by a hedge line and field access gate. The remaining boundaries ore not clearly defined and are arbitrarily drawing onto the map.

The site is located within an area outstanding natural beauty and is defined by dispersed farm holdings, single dwellings and land mostly used for agriculture. Further north is the Serrins AONB proper which becomes more remote, mountainous and expansive landscapes with little to no development.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Cookstown Area Plan 2010: The site is located within an AONB, the policy provisions of SPPS and PPS21 apply.

The site is located within an Area of Significant Archaeological Interest. Under previous planning application I/2007/0656 /O NIEA Historic Monuments Unit were consulted and had no objections to development on this site in terms of impacts on the historic archaeological environment. It has been decided that consultation with NIEA is not required in this instance given no concern previously raised.

The site is located within an area of constraint on mineral development. This proposal is for a single dwelling therefore is not material in this instance as mineral development is not being applied for.

Planning History

I/2007/0656/O- 1 no. dwelling house. This proposal was withdrawn as it was being recommended for refusal under;

CTY 10 of PPS21 in that there was inconsistencies between the farm maps provided and the farm business ID number

CTY13 in that a dwelling on the proposed site would not integrate into the landscape.

Consideration

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

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context.

Initially the applicant applied for a replacement dwelling. Under current planning policy it is clear that the remains of the building on site does not meet the policy requirements of CTY3 in that all 4 external walls are not substantially intact and the remaining structure does not have the appearance of a dwelling house. The applicant/agent provided a supporting statement to demonstrate that a dwelling used to be on site, but had been abandoned during the 1960's. While it might be demonstrated that an intact dwelling did exist on site, known locally as No. 28, there is no scope within planning policy to allow for this, that it is the contemporaneous state of the dwelling on site which is given most weight, in accordance with CTY3.

Through discussion with fellow colleagues and the applicant, and given the previous site history, it was decided to investigate if the applicant had a farm holding that was active and established.

DAERA responded to the applicants P1C form and confirm that the Business ID is both currently active and established for at least 6 years. There is no evidence to suggest that any other farm dwellings have been approved on this holding since the introduction of PPS21 or that any development opportunities were sold from the holding in this period.

The proposed site is however not visually linked or sited to cluster with an established group of buildings on the farm and is contrary to part (c) of CTY10 of PPS21. The applicant/agent has not demonstrated an exception to this policy but the following facts can be observed;

- it is clear from my site visit that the site contained some form of development in the past and a sense of enclosure exists from the remains of an established access and vegetated curtilage
- a statement of case that demonstrates that a dwelling used to be located at this position in the landscape in the past,
- evidence that the proposed dwelling will be located on active and established farm land of the applicant

It is my view that a dwelling on this site will not have a detrimental impact to the character of the rural area.

The 2007 proposal also recommended refusal for lack of integration, however the current proposal includes additional lands to the south which incorporate the curtilage of the original dwelling, No. 28. In my view, a 6.5m ridge dwelling within the existing curtilage boundaries of No. 28 would satisfactorily integrate into this landscape, subject to the existing access also being re-instated along the eastern boundary of the site. A detailed landscaping plan along with levels can be required at Reserved Matters stage, through condition.

Other considerations

The site is not subject to flooding. There will be no negative impacts on existing or proposed residential amenity. There are no land contamination or human health issues to consider and Environmental Health have no objections to this proposal subject to correct consent to discharge sewage effluent being obtained from NIEA. Transport NI require 2.4m by 70m sight splays in both directions and can be controlled by planning condition.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be granted subject to the following conditions.

Conditions

1. As required by Section 62 of the Planning Act (Northern-Ireland) 2011, application for approval of the reserved matters shall be made to 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: Time Limit

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

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

3. The dwelling hereby permitted shall have a ridge height not more than 6.5m from finished floor level. The under build of the proposed dwelling shall not exceed 0.45m at any point within its proposed footprint.

Reason: To assist with integration and in the interests of visual amenity.

4. The dwelling and garage and their curtilage, including access to the site from the public road, shall be restricted to the area indicated in green on the attached drawing No. 01 which was date stamp received 27th June 2016, unless otherwise agreed in writing by Mid Ulster Council.

Reason: So that the dwelling, ancillary buildings, garden area and access integrates into the surrounding countryside.

5. The existing natural screening for the site, as indicated in pink on drawing No 01 date received 27th January 2016, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

Reason: To ensure the development integrates into the countryside.

6. A landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location and height of existing trees and hedges to be retained and planted. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

Reason: In the interest of visual amenity and to assist with integration.

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

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

8. Notwithstanding the provisions The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no walls, gates, pillars, fences or other means of enclosure shall be erected at the access onto the public road, or adjacent to the public road, without prior written consent from Mid Ulster Council.

Reason: To preserve the amenity of the countryside.

9. A hawthorn hedge to be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays in both directions for their entire length, where existing hedgerows are removed.

Reason: In the interest of visual amenity and to safeguard bio-diversity.

10. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 and shall include sight splays of 2.4m by 70m in both directions onto the public road. 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. The vehicular access point to the site shall be from the point marked 'X' on drawing No 01 date received 27th June 2016, unless otherwise agreed in writing by Mid Ulster Council.

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

Signature(s)

Date:

ANNEX	
Date Valid	27th June 2016
Date First Advertised	14th July 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) None	
Date of Last Neighbour Notification	
Date of EIA Determination	NA



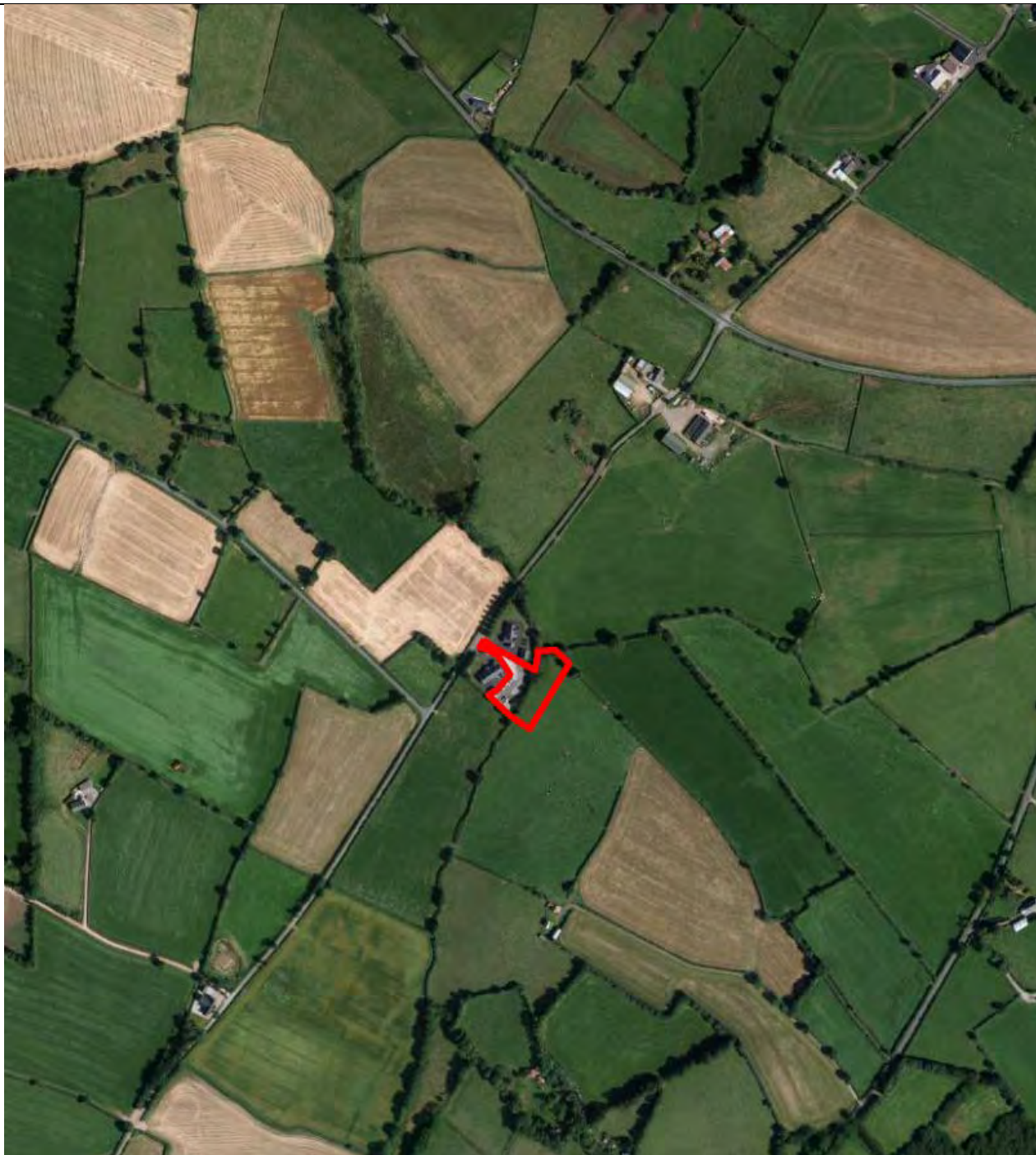
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/0997/F	Target Date:
Proposal: Proposed relocation of existing approved storage shed (LA09/2015/0115) and Extension of site curtilage for the storage of plant machinery & Building materials	Location: 50m East of no 47 Ballymoyle Road Coagh
Referral Route: Refusal recommended – Contrary to PPS4 & PPS21 – CTY 1, CTY 13 & CTY14	
Recommendation:Refusal	
Applicant Name and Address: Mr Martin Loughran 47 Ballymoyle Road Coagh	Agent Name and Address: CMI Planners Unit C5 80-82 Rainey Street Magherafelt BT45 5AJ
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

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

Non Statutory	Environmental Health Mid Ulster Council	
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
Refusal recommended – contrary to PPS4 & PPS21 – CTY 1, CTY 13, CTY 14		
Characteristics of the Site and Area		
<p>The proposal site is located approx. 2miles NE of Coagh, in the open countryside in accordance with the Cookstown Area Plan 2010. The site is located to the rear of Nos 47 & 49 Ballymoyle Road, Coagh. The site currently comprises an area of hardstanding used for the storage of building materials and machinery.</p> <p>The land to the rear of the proposal site is agricultural and undulating in nature. There is no existing boundary on the eastern side as shown in submitted drawing No 03 dated 15.07.16.</p>		
Planning Assessment of Policy and Other Material Considerations		
<p>The application proposes a storage shed for plant, machinery and materials. This shed measures 20m x 20m and ridge height of 7.5m. The materials used include green plastic coated insulated cladding on the roof and top half of the elevations with the bottom half finished in render. Three 4m x 5m sliding doors are proposed on the front elevation.</p>		
<p>Relevant Site History:</p> <p>I/2014/0377/LDE → Existing access laneway and hardcore yard for the storage of plant, machinery, vehicles and building materials - Approved 12 March 2015.</p> <p>LA09/2015/0115/F - Storage shed for plant, machinery and materials - Approved 5th October 2015.</p>		
<p>Representations:</p> <p>2neighbour notification letters were sent to the occupier of Nos 47 and 49 Ballymoyle Road, Coagh.</p> <p>No letter of representation have been received.</p>		
<p>In line with legislation this proposal was advertised in several local press publications during August 2016.</p>		
<p>Consultations - Transportni were asked to comment and responded on 29.11.2016 with no objections subject to conditions</p> <p>Environmental Health were asked to comment and responded 13.10.2016 with no objections to the proposal.</p>		
<p>I have assessed this proposal under the following:</p>		

SPSS

Magherafelt Area Plan 2015

PPS 21 - Sustainable development in the countryside

PPS4 - Planning and Economic development

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. There are no other designations on the site. Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 of PPS 21 allows for non-residential development in the countryside for industry and business uses in accordance with PPS 4 Planning and Economic Development.

The proposed development involves the relocation of a larger shed for storing plant, machinery and materials and an extension to the site curtilage.

A Lawful Development Certificate under reference No I/2014/0377/LDE established an economic use on the site by virtue of the development being in existence for more than 5 years and therefore immune from enforcement action. The established site curtilage is proposed to increase quite considerably in size by extending into the rear agricultural field and with the removal of the existing mature boundary on the eastern boundary (this has already been removed when site visited.).

In addition an approval was granted under LA09/2015/0115/F for Storage shed for plant, machinery and materials on 5th October 2015 however this revised proposal increases the site curtilage quite considerably and proposes a new siting for the shed and a much larger shed. The proposed shed has dimensions of 20metres x 20metres and a ridge height of approx. 7.5metres, there are 3 roller doors proposed for the front elevation with a height of approx 5metres.

Policy states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. In this circumstance the proposal is for a large site increase rather than a proportionate increase and a large increase to the proposed shed size. It has not been demonstrated as to why the business cannot be accommodated in the extant approved building or why an expansion outside of the curtilage. Nor has it been demonstrated as to the reasons why this development could not be sited within a nearby settlement either.

I would also have concerns that the previous approval under LA09/2015/0115/F could also still be developed.

The proposed expansion gives the site the appearance of a large scale economic use in the countryside and with the proposed design I would have concerns that the site and building not just be used for simple storage relating to a small scale personal building business.

In addition to the other policy requirements of PPS4 a proposal for economic development use will be required to be meet the following criteria:

a) it is compatible with surrounding land uses - it is my opinion that this larger building and increased site area are not compatible with the surrounding land use.

b) it does not harm the amenities of nearby residents - the separation distance is great enough between the proposed building and neighbouring properties however I feel should these properties be sold at a later date this use to the rear would not be desirable for people not connected with the business or family.

c) it does not adversely affect features of the natural or built heritage; - there is no potential harm to the natural or built heritage.

d) it is not located in an area at flood risk and will not cause or exacerbate flooding - this proposal is not sited within an area at risk of flooding.

e) it does not create a noise nuisance - this proposal should not create a noise nuisance with the use that has been proposed.

f) it is capable of dealing satisfactorily with any emission or effluent - there should be no exceptional type or level of emission from this proposal.

g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified - Transport NI were asked to comment and stated in their reply dated 29.11.2016 that they had no objections to the proposal.

h) adequate access arrangements, parking and manoeuvring areas are provided - the size of the site provides an ample level of parking and manoeuvring.

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 provides adequate and convenient access to public transport - this criteria has not been demonstrated given the increased size of the operation.

j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity - the building design is agricultural in finish although it is of a rather scale. On the submitted block plan, drawing No. 03 Existing trees along the boundary between the existing approved yard area and the rear agricultural field are shown to be retained however when I was on site it was clear that these have already been removed and result in the site being left very open and exposed in terms of integration.

k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view - See points above regarding removal of existing mature trees on boundary.

l) Is designed to deter crime and promote personal safety; and

m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape - submitted block plan indicates existing boundaries being retained however these boundaries have already been removed, thus the submitted plans are inaccurate and the site is left very open and exposed with little to no integration.

As the proposed building is sited in a corner of the field and trees are to be retained I am content that it wouldn't fail to integrate with the landscape.

The design although vast in scale is of an agricultural design and finish.

Recommendation: Refusal - contrary to PED 3 of PPS4, contrary to PPS21 - CTY 1

Neighbour Notification Checked	Yes
Summary of Recommendation: Refusal recommended – contrary to PPS4 & PPS21 – CTY 1	
Reasons for Refusal: <ol style="list-style-type: none"> 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 the Department's Planning Policy Statement 4, Industrial Development, in that it has not been demonstrated why this new building outside the curtilage of the established curtilage is required. 	
Signature(s) Date:	

ANNEX	
Date Valid	15th July 2016
Date First Advertised	3rd August 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 47 Ballymoyle Road, Coagh The Owner/Occupier, 49 Ballymoyle Road, Coagh	
Date of Last Neighbour Notification	10th August 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/0997/F Proposal: Proposed relocation of existing approved storage shed (LA09/2015/0115) and Extension of site curtilage for the storage of plant machinery & Building materials Address: 50m East of no 47 Ballymoyle Road, Coagh, Decision: Decision Date:	
Ref ID: I/2013/0259/F Proposal: Proposed domestic general purpose store for storage of vehicles, small plant and tools Address: To the rear of 47 Ballymoyle Road, Coagh, Decision: PR Decision Date: 21.03.2014	
Ref ID: I/2004/0799/F Proposal: Proposed dwelling and garage Address: 280metres south west of 50 Ballymoyle Road, Coagh Decision: Decision Date: 23.12.2004	
Ref ID: I/2002/0535/O Proposal: Proposed Dwelling & Garage Address: Site 320 M South West of 50 Ballymoyle Road, Coagh	

Decision:
Decision Date: 10.10.2002

Ref ID: I/2003/0592/F
Proposal: Proposed one and a half storey dwelling and garage
Address: 320m South West of 50 Ballymoyle Road Coagh
Decision:
Decision Date: 02.10.2003

Ref ID: I/2004/0687/F
Proposal: Proposed dwelling & garage
Address: 260 Metres South West of 50 Ballymoyle Road, Coagh
Decision:
Decision Date: 14.04.2005

Ref ID: I/2002/0383/O
Proposal: Renewal of outline permission - ref I/2000/0084 for a dwelling and garage..
Address: Site 260 Metres south west of 50 Ballymoyle Road, Coagh
Decision:
Decision Date: 19.09.2002

Ref ID: I/2004/1478/F
Proposal: Overhead Single Phase Line on Wood Poles
Address: 300 Metres SW of 50 Ballymoyle Road, Cookstown
Decision:
Decision Date: 14.03.2005

Ref ID: I/2000/0084/O
Proposal: Dwelling and domestic garage
Address: 260m SW of 50 Ballymoyle Road Coagh
Decision:
Decision Date: 20.03.2000

Ref ID: LA09/2015/0115/F
Proposal: Storage shed for plant, machinery and materials
Address: 15m South of 47 Ballymoyle Road, Coagh,
Decision: PG
Decision Date: 09.10.2015

Ref ID: I/2014/0377/LDE
Proposal: Existing access laneway and hardcore yard for the storage of plant, machinery, vehicles and building materials
Address: Rear of 47 Ballymoyle Road, Coagh BT80 0AW,
Decision: PG

Decision Date:
Summary of Consultee Responses
Drawing Numbers and Title
<p>Drawing No. 01 Type: Proposed Plans Status: Approved</p> <p>Drawing No. 02 Type: Site Location Plan Status: Approved</p> <p>Drawing No. 03 Type: Site Layout or Block Plan Status: Approved</p>
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7 th Feb 2017	Item Number:
Application ID: LA09/2016/1032/O	Target Date: 7/11/2016
Proposal: Proposed erection of dwelling and domestic garage on a farm	Location: Land approx. 80m East of 27 Ashfield Road Ballyscally Clogher
Referral Route: Refusal being recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Dermot McElroy 26 Ashfield Road Clogher BT76 0HL	Agent Name and Address: Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
Executive Summary: Proposal fails to comply with Policy CTY 10 of PPS 21 and is being recommended for refusal.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	NIEA	Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	DAERA - Omagh	Advice

Representations:

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

Summary of Issues. There have been no objections from any consultee or third party. Councillor Sean McGuigan has been in discussions with both the case officer and Senior Planner regarding this application.

Characteristics of the Site and Area

The application site is a 0.8 hectare plot of agricultural land located approx. 80m East of number 27 Ashfield Road, Clogher. It is outside the development limits of any settlement defined in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). The Northern, Western and Southern boundaries of the site are well defined by thick hedgerows and semi mature trees. The roadside boundary is defined by a grass verge and thick hedgerow. There is a line of semi mature trees running through the middle of the site and a small sheugh flowing along the Western boundary of the site. There are 2 small agricultural type structures located in the SW portion of the site and a third small structure, described as being an old railway carriage, located in the SE portion of the site.

This is an upland rural area with a low development pressure. The predominant form of development is either single dwellings or farms. This site is also located in an area of archaeological importance (TYR 064.013).

Planning Assessment of Policy and Other Material Considerations

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 10 of PPS 21 which deals with Dwellings on Farms. The site lies outside any settlement limit defined in the DSTAP and as such PPS 21 is a material planning consideration.

CTY 10 – Dwellings on Farms

CTY 10 states that planning permission will be granted for a dwelling on a farm where all of the following criteria can be met:

The farm business is currently active and established for at least 6 years.

DAERA have confirmed that the applicant has a Business ID that's been in existence for the required 6 year period. They have also confirmed that the applicant claims Single Farm Payment and as such I am satisfied that his farm business is currently active and established.

No dwellings/development opportunities have been sold off the holding within 10 years of the date of application.

I have carried out a planning history search of the applicants holding and I am satisfied that he has no development opportunities that have been sold off the holding since 28th November 2008.

The new building is visually linked or sited to cluster with an established group of buildings on the farm.

As identified on the P1C form, the address of the farm business is 26 Ashfield Road, Clogher. This is where the applicant's principal farm buildings are located. The subject site contains 2 small temporary agricultural structures which appear to be used for housing animals. They have 3 walls, a roof and are constructed with corrugated tin/metal. The definition of a building (Collins English

Dictionary) is “something built with a roof and walls”. For the purposes of this application it is my opinion that these structures can be considered as agricultural buildings based on this definition. There is also, what the applicant describes as being an old Clogher Valley railway carriage currently used for the purposes of agriculture, located within the site.

Whilst a dwelling on this site will cluster with these 3 buildings the applicant has not been able to demonstrate that the two buildings in the SW corner of the field are lawful. According to our own maps, the railway carriage does appear to have been in existence prior to 2003. The applicant has requested that as the railway carriage can be deemed lawful due to the length of time it's been on site, the other two buildings should be considered permitted development under the Agricultural Permitted Development Legislation. Whilst they are located less than 75m from the railway carriage, Agricultural Permitted Development Legislation does clearly indicate that this separation distance should be taken from the principle farm buildings. This is not the case in this application. A new dwelling on this site therefore cannot be considered to be visually linked or sited to cluster with an “established” group of buildings on the farm.

This policy does have provision for siting a dwelling elsewhere on the farm where there are demonstrable Health and Safety reasons or verifiable plans to expand the farm. The applicant has submitted a Health and Safety case, which does not present any situations which cannot be addressed by following good farming practices. No verifiable plans to expand the farm have been put forward. Other sites adjacent to the principal farm group are available.

Policy CTY 13 – Integration and Design

A single storey dwelling on this road side site will not be overly prominent. It will benefit from established boundary treatment which will aid integration, provide an acceptable degree of enclosure and provide a backdrop. Critical views of the site from the Ashfield road will only be short term. New landscaping won't be relied on as primary means of integration. Ancillary works and design are matters reserved.

Policy CTY 14 – Rural Character

A single storey dwelling, with a maximum ridge height of 5.5m will not be unduly prominent on this site, it will not create or add to ribbon development or build up and will be in keeping with the dispersed settlement pattern in the immediate area. As such, it will not have a negative impact on rural character.

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 direct access onto the Ashfield Road. Transport NI have been consulted and have raised no concerns at this stage.

Historical Environment Division have been consulted and are satisfied that the proposal is in compliance with both the SPPS and PPS 6. NIEA have also been consulted and noted that due to the amount of trees and hedgerows on the site a biodiversity checklist should be completed. This has been submitted and states that no important habitats or species will be impacted upon. Shared Environment Service were consulted due to the watercourse/sheugh along the Western boundary of the site. They have confirmed that there are no pathways from this site which will link to any European Site.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse – Proposal fails to comply with CTY 1 and CTY 10 of PPS 21

Conditions/Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:

- 1) The proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm
- 2) Health and safety reasons or verifiable plans exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm

Signature(s)

Date:

ANNEX	
Date Valid	25th July 2016
Date First Advertised	11th August 2016
Date Last Advertised	11 th August 2016
Details of Neighbour Notification (all addresses) The Owner/Occupier, 26 Ashfield Road, Ballyscally, Clogher, Tyrone, BT76 0HL,	
Date of Last Neighbour Notification	10th August 2016
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2016/1032/O Proposal: Proposed erection of dwelling and domestic garage on a farm Address: Land approx. 80m East of 27 Ashfield Road, Ballyscally, Clogher, Decision: Decision Date: Ref ID: M/1980/0602 Proposal: 11KV O/H LINE Address: IN THE TOWNLAND OF BALLYSCALLY, IN THE DISTRICT OF CLOGHER Decision: Decision Date:	
Summary of Consultee Responses Transport NI have been consulted and have raised no concerns at this stage. Historical Environment Division have been consulted and are satisfied that the proposal is in compliance with both the SPPS and PPS 6. NIEA have also been consulted and noted that due to the amount of trees and hedgerows on the site a biodiversity checklist should be completed. This has been submitted and states that no important habitats or species will be impacted upon. Shared Environment Service were consulted due to the watercourse/sheugh along the Western boundary of the site. They have confirmed that there are no pathways from this site which will link to any European Site. DAERA have confirmed the applicants farm details.	

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



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1034/F	Target Date:
Proposal: Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application)	Location: 75 Killyliss Road Dungannon
Referral Route: Refusal.	
Recommendation:	
Applicant Name and Address: Mr G McCann 54 Kilnacart Road Dungannon BT70 1PD	Agent Name and Address: Manor Architects Ltd Stable Buildings 30A High Street Moneymore BT45 7PD
Executive Summary: 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):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Error
Statutory	Transport NI - 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 letter of objection was received on 30th August 2016. This representation highlighted that prior to a planning application being considered at 75 Killyliss Road, Dungannon, development began on the site which included placing footings. The plans approved in M/4014/0295/F allowed for a single house to be erected. The objector states that contrary to this a semi-detached property was erected and the footings for a second property put in and that this is clearly a breach of the approval. In addition he request that this be examined and rectified.

What is of greater concern to him is that the second set of footings could results in another semi-detached property as this is the intention of the applicant. The objector requests that the Planning Manager ensures nothing else occurs with this until "we have the first illegal development resolved."

The agent submitted a letter in response, arguing that the motivation of the objections was due to an historic family dispute over the purchase of these lands and is therefore prejudiced. They highlight that an enforcement case was active and led to the submission of the planning application which is being dealt with by the planning authority. In additional they state that a material start had been made to secure planning permission prior to the purchase of the lands by the applicant.

Characteristics of the Site and Area

The application site is located at 75 Killyliss Road, Dungannon, approximately 1.65km north west of the village of Eglish. It is in an area which is largely characterised by agricultural land, farm holdings and dispersed settlement. The site that of 2 no two storey semi-detached dwellings. The building is set on a spacious plot of land which is accessible from the Killyliss Road via an existing laneway. The two dwellings occupy an L shaped plan, with one orientated to face northwards and the other fronting the road to the east. Private amenity space for the dwellings is shared. Site boundaries are marked to the south and east by existing hedgerows. To the west the site boundary is defined by a post and wire fence and to the north are trees broken by the existing access laneway.

History

LA09/2015/0136/CA: Creation of two separate planning units - 75 Killyliss Road, Derrygortrevy, Dungannon, Tyrone, BT70 1NX - RECEIPT OF PLANNING APPLICATION

M/2014/0295/F: Construction of two 2 storey dwellings with detached garages and associated siteworks - change of previously approved house types - 75 Killyliss Road, Dungannon. APPROVED

M/2009/0417/RM: Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage - 75 Killyliss Road, Dungannon. APPROVED

M/2009/0408/F: Proposed two storey dwelling and garage - 50m North West of 75 Killyliss Road Dungannon. APPROVED

Planning Assessment of Policy and Other Material Considerations

- Strategic and Planning Policy Statement
- Dungannon and South Tyrone Area Plan (2010)
- PPS3: Access, Movement and Parking
- PPS 21: Sustainable Development in the Countryside

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers and adjoining landowners were consulted by letter.

Project Description

The proposal seeks for permission for "Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application)" at 75 Killyliss Road.

This a retrospective application which seeks to remedy a breach in planning permission. An enforcement case - LA09/2015/0136/CA is open on the site for the creation of two separate planning units at 75 Killyliss Road, Dungannon. Planning permission was granted on the site in August 2009 for a two storey dwelling and garage under application M/2009/0408/F. A subsequent application, M/2014/0295/F was granted for the change of house types for 2 dwellings, that previously approved as well as another dwelling located immediately south and granted under M/2009/0417/RM.

The extant permission M/2014/0295/F allows the construction of one (of two) dwellings on the application site. The other dwelling granted is located on a site immediately south and the footings were in place at the time of site visit. This is a retrospective application for two dwellings

on the application site. Considering the site history, the proposal is effectively for an additional dwelling house on the application site. These dwellings follow the general footprint of the previously approved single dwelling house, however the design has been altered both externally and internally to provide two dwellings within the building constructed on-site. Both dwellings appear to be inhabited.

A comparative review of the previously approved dwelling and that constructed on-site was carried out. It is notable that drawings titled 'Comparative Floor Plans' (drawing 05 date stamped 26 July 2016) and Comparative Elevations (drawing no. 03 date stamped 26th July 2016) do not accurately reflect the previous approved dwelling on the application site. The drawings associated with permission M/2014/0295/F, including drawing 01, 02, 03, 04, 05 and site plan 10 were examined. The following alterations were identified:

Use

- Two dwellings are provided as opposed to one.

Front Elevation

- Alterations to size / proportions of 4 windows.
- Amendments to front door opening – semi-circular fan light and side panels provide.
- Alteration to spacing between first floor window head height and eaves height.
- Brickwork chimneys replaced with render.

East Elevation

- Alterations to window size / proportions of 4 windows.
- Omission of 1 window on first floor
- Additional window to ground floor
- Omission of external covered porch
- Amendments to door opening – semi-circular fan light and side panels provide.

South Elevation

- Additional window to first floor
- Alterations to size and proportions of ground floor window

West Elevation

- Additional window to first floor
- Alterations to window size / proportion of 6 windows.
- Double doors replaced with a window

Internal alterations have also been carried out to facilitate the provision of two dwellings as opposed to one.

Assessment

The Dungannon and South Tyrone Area Plan (2010) identifies the site within a rural area outside any settlement limits. The Strategic Planning Policy Statement published in September 2015 retains PPS 21 which is the main policy consideration for this application. CTY1 – Development in the Countryside in PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside.

The first consideration is to establish if one additional dwelling unit on this site is acceptable in principle. The proposal does not comply with the cluster, infill or replacement dwelling policies. It is not located within a dispersed rural community, is not for social housing or a residential mobile home nor is it associated with a non-agricultural business enterprise. There has been no farming or business case presented with this application. The proposal does however present some information relating to the housing market and the investment made by the applicant. An accompanying statement indicates that on the completion of construction of the dwelling, the

applicant attempted to market and sell the single residence which measured 4300 sqft. An associated garage of 1240sqft was not constructed. The agent notes that there was limited interest in this property due to its size and the applicant subsequently converted the residence into two dwellings. It is claimed that alterations included internal reconfigurations and 1 no. window however the full extent of alterations extend beyond this and are listed in the earlier section of this report.

The case presented outlines circumstances which relate only to the viability of the sale of the previously approved dwelling and the applicants attempts to gain a return on his investment. There are no compelling circumstances or any site specific need for a total of two dwellings, one additional dwelling house to that previously approved on the application site. I do not consider this economic case presented to warrant a departure from PPS21.

Policies CTY 13: Integration and Design of Buildings in the Countryside and CTY 14: Rural Character of PPS21 are considered. While the aforementioned alterations carried out to the previously approved dwelling are considered relatively minor in nature, amendments to elevations, particularly the window arrangements, size and proportions have in my view adversely impacted the visual aesthetic of the overall building. Despite this, the general size and scale and footprint of the building on site has been retained. I therefore do not consider the external alterations to be unacceptable.

In terms of other key planning considerations, I am satisfied that the site benefits from a satisfactory degree of enclosure and meets the integration tests of policy CTY 13. I am also content that the proposal would not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

The representation submitted has been given due consideration. Mid Ulster Council have addressed the unlawful development through enforcement action and the invitation of this particular planning application. The objector raises concerns in relation to a dwelling approved within the red line site on a parcel of land south of the two dwellings constructed. This assessment considers only the details presented and submitted within the application. It is notable however that any departure from policy has potential to establish a precedent.

Neighbour Notification Checked	Yes
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Summary of Recommendation:

In conclusion, which the external alterations to the building are considered to be acceptable, there are no overriding reasons why the proposal is essential in this location.

Reasons for Refusal:

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

Signature(s)

Date:

ANNEX	
Date Valid	26th July 2016
Date First Advertised	11th August 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) Joe Hughes 65 Killybracken Road, Dungannon, Tyrone, Northern Ireland, BT70 1NU The Owner/Occupier, 65 Killyliss Road Derrygortrevy Dungannon The Owner/Occupier, 81 Killyliss Road Derrygortrevy Dungannon	
Date of Last Neighbour Notification	15th August 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: M/2014/0295/F Proposal: Construction of two 2 storey dwellings with detached garages and associated siteworks-change of previously approved house types Address: 75 Killyliss Road, Dungannon, Decision: PG Decision Date: 29.07.2014 Ref ID: M/2009/0417/RM Proposal: Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage Address: 75 Killyliss Road, Dungannon Decision: Decision Date: 16.09.2009 Ref ID: M/2009/0408/F Proposal: Proposed two storey dwelling and garage Address: 50m North West of 75 Killyliss Road Dungannon Decision: Decision Date: 17.08.2009 Ref ID: M/2007/0119/F Proposal: Rear sittingroom, utility, bedroom and bathroom extension to dwelling Address: 81 Killyliss Road, Dungannon, Co. Tyrone Decision: Decision Date: 04.04.2007 Ref ID: M/2006/2062/O Proposal: Proposed replacement dwelling with new access to Killyliss Road Address: 75 Killyliss Road, Dungannon	

Decision:

Decision Date: 20.03.2007

Ref ID: M/2006/0855/O

Proposal: Proposed Site for New Dwelling & Garage

Address: Approximately 105 M North West of 75 Killyliss Road, Derrygortreavy, Dungannon

Decision:

Decision Date: 11.04.2007

Ref ID: M/2006/0581/O

Proposal: Proposed site for new dwelling & garage

Address: Adjacent to 75 Killyliss Road, Derrygortreavy, Dungannon

Decision:

Decision Date: 27.09.2006

Ref ID: M/2006/0182/O

Proposal: Proposed two storey dwelling and garage

Address: 50m North West of 75 Killyliss Road, Dungannon

Decision:

Decision Date: 03.05.2006

Ref ID: M/1994/4030

Proposal: Repairs to dwelling

Address: 75 KILLYLISS ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/0416

Proposal: Alterations to dwelling

Address: 75 KILLYLISS ROAD DERRYGORTREAVY DUNGANNON

Decision:

Decision Date:

Ref ID: M/1993/0297

Proposal: New Access

Address: 81 KILLYLISS ROAD DERRYGORTREAVY DUNGANNON

Decision:

Decision Date:

Ref ID: M/1993/0079

Proposal: Extension to Dwelling

Address: 81 KILLYLISS ROAD DERRYGORTREAVY DUNGANNON

Decision:

Decision Date:

Ref ID: LA09/2016/1034/F

Proposal: Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application)

Address: 75 Killyliss Road, Dungannon,

Decision:

Decision Date:

Summary of Consultee Responses Transport have no objections to the proposal.
Drawing Numbers and Title
Drawing No. 05 Type: Floor Plans Status: Submitted
Drawing No. 04 Type: Elevations and Floor Plans Status: Submitted
Drawing No. 03 Type: Existing Elevations Status: Submitted
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1097/O	Target Date:
Proposal: Proposed site of infill dwelling and domestic garage for residential purposes	Location: 30m East of 30 Leitrim Road Castledawson
Referral Route: Objection received	
Recommendation: Approval	
Applicant Name and Address: Cherith Rea 6 Church Lane Toomebridge	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary: Objection to proposed development. Recommendation to approve.	
Signature(s): <i>P. Henry</i>	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

The primary issue derived over the access and the intensification the development would cause, in that the existing laneway already serves 4 farmers, 3 dwellings and the approved replacement with the proposed infill. Laneway was commented to be not be wide enough for two cars to pass resulting in car having to reverse back onto the Leitrim road, which is an issue as the existing sight lines were said to be poor to the east.

The objector requested the opportunity to add further comment once Transport NI made comment, who stated that they had no objection subject to conditions, this opportunity was allowed and the comments were never received until this date. Therefore the application is to proceed on the basis of the response from Transport NI.

Comment was made to the infill proposal itself, objection referred to the criteria of CTY 8, stating that if this application was to be approved with the existing approval for replacement in place that it would result in a total of three which is contrary to policy. However with regards to this concern, the application is to be considered at the moment of the site visit. I am aware that there is an approval for a replacement dwelling however this has yet to be developed. From the site visit I seen one dwelling to the east which is No.28 and then two small outbuildings needing repair but still constituting buildings with the dwelling which has been approved for a replacement. From this I am convinced that there is enough buildings to constitute as a continuous built up frontage.

Characteristics of the Site and Area

Description of Proposal

An outline application for an infill dwelling and garage located on lands 30m East of 30 Leitrim Road, Castledawson.

Characteristics of the site and environs

The site is located approximately 170m back from the public road and is accessed via an existing concrete laneway with low cut thorn hedgerows, which serves a number of existing dwellings. The site is located between the existing dwelling to the east, No 28 and to the west is small single storey former dwelling which is badly dilapidated, with two small outhouses. The former dwelling and one of the outbuildings has been approved for a replacement dwelling (H/2015/0022/F). The site contains and is bounded by mature deciduous trees and hedgerows which allow little critical views of the site of the site from the public road. The locality is characterised by agricultural holdings and a number of residential dwellings

Relevant planning history

H/2015/0022/F – Proposed replacement dwelling and domestic detached garage at 30 Leitrim road, Castledawson – Approved on 21st May 2015.

Planning Assessment of Policy and Other Material Considerations

Development Plan and key policy 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

The application is for an infill dwelling. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. 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 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. Planning permission will be granted for the development of a gap site within an otherwise substantial and continual built up frontage in accordance with policy CTY 8. With the recently approved outline infill application this full application submission suggests that the applicant wishes this proposed development to be considered as an infill dwelling in line with CTY 8.

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. In relation to the proposed site the gap is only capable to accommodate a maximum one modest sized dwelling therefore it fulfils this criteria of the policy. In terms of the substantial and continuous built up frontage, policy states that this includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. With regards to the site an existing dwelling to the east of the site which constitutes the first building and to the west there is a small existing dwelling with two small outbuildings. The existing dwelling and the outbuilding furthest west have been approved for a replacement dwelling and garage. However during the site visit this approval has yet to have commenced development, therefore the application must be considered as what was on site during the site visit. From this it is evident that the dwelling to the east and the existing dwelling plus the two outbuildings to the west can constitute as a substantial and continuous built up frontage. The proposal in its current location is deemed acceptable with regards to policy CTY 8 but still must be considered under CTY 13 and 14.

With regards to CTY 13 the proposed development is still required to be able to visually integrate into the surrounding landscape and be of appropriate design. The proposed site benefits from existing mature vegetation on all boundaries and is set well back from the public road. Due to this application only being an outline the design, size and scale of the proposed dwelling has not been identified at this stage. This matter will be dealt with during the “reserved matters” application, a modest dwelling could easily be accommodated into the site. Due to the mix of house sizes and the fact that a two storey dwelling has been approved adjacent to the site I do not feel the need to restrict the dwelling size at this stage.

The proposed development will not be unduly prominent in the landscape in terms of the rural character of the area. The development will not result in a suburban style of build-up of development when viewed with the existing development as the development is located in a gap site. As a result, it is my opinion that the local landscape has the capacity to absorb further development in this location and the development in this location and the development respects the traditional pattern of settlement exhibited in the local area. The proposed development will however need to retain as much of the existing mature vegetation as possible to aid integration.

Transport NI responded stating they had no issues but set a number of conditions to ensure that a safe access is created onto the Leitrim Road and met the standards set out in PPS 3 and DCAN 15.

Consultations were also sent to NI Water and Environmental Health however both have returned with no objection subject to conditions and informatives.

<p>Representations</p> <p>There were four notification letters that were sent out with one objection being raised with regards to this application.</p> <p>The proposal accords with the policy requirements of PPS 21, therefore I recommend approval for this development.</p>	
Neighbour Notification Checked	Yes
<p>Summary of Recommendation:</p> <p>Approval</p>	
<p>Conditions:</p> <p>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:-</p> <ul style="list-style-type: none"> 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. <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p> <p>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.</p> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p> <p>3. The mature vegetation along the northern and eastern boundary shall be permanently retained and any tree removed, uprooted or destroyed or dies should be replaced unless otherwise agreed in writing with the Council.</p> <p>Reason: In the interests of integration and the visual amenity of the countryside.</p> <p>4. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p> <p>5. Except as hereby permitted, and NOT withstanding the provisions of Article 3 and Schedule 1, part 2, Class A of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (or legislation revoking that Order and re-enacting those provisions), no gates, fences, walls, or other means of enclosure shall be erected or constructed adjacent to the access point.</p> <p>Reason: To protect the character and visual amenity of this area of open countryside.</p>	

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. The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the Department for Regional Development 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.

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.

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

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 to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.

Signature(s)

Date:

ANNEX	
Date Valid	9th August 2016
Date First Advertised	25th August 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) T.J Fullerton 12 Rainey Court, Magherafelt, Londonderry, Northern Ireland, BT45 5BX The Owner/Occupier, 24 Leitrim Road,Leitrim,Castledawson,Londonderry,BT45 8BW, The Owner/Occupier, 26 Leitrim Road,Leitrim,Castledawson,Londonderry,BT45 8BW, The Owner/Occupier, 28 Leitrim Road Leitrim Castledawson The Owner/Occupier, 29 Leitrim Road,Leitrim,Castledawson,Londonderry,BT45 8BW, The Owner/Occupier, 32 Leitrim Road Leitrim Castledawson The Owner/Occupier, 34 Leitrim Road,Leitrim,Castledawson,Londonderry,BT45 8BW,	
Date of Last Neighbour Notification	16th August 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1097/O Proposal: Proposed site of infill dwelling and domestic garage for residential purposes Address: 30m East of 30 Leitrim Road, Castledawson, Decision: Decision Date: Ref ID: H/2015/0022/F Proposal: Replacement dwelling and domestic detached garage Address: 30 Leitrim Road, Castledawson, Decision: PG Decision Date: 27.05.2015 Ref ID: H/2004/1253/F Proposal: Dwelling & Garage	

Address: Adjacent To 26 Letrim Road, Castledawson
Decision:
Decision Date: 20.11.2006

Ref ID: H/1995/4007
Proposal: IMPROVEMENTS TO DWELLING
Address: 32 LEITRIM ROAD CASTLEDAWSON
Decision:
Decision Date:

Ref ID: H/2004/0435/O
Proposal: Site of dwelling and garage.
Address: Adjacent to 30 Leitrim Road, Castledawson.
Decision:
Decision Date: 01.11.2005

Ref ID: H/2000/0722/O
Proposal: Site of dwelling and garage
Address: 70m East of 30 Leitrim Road, Castledawson
Decision:
Decision Date: 12.03.2001

Ref ID: H/2002/1088/RM
Proposal: Dwelling and garage
Address: 70m East of 30 Leitrim Road, Castledawson.
Decision:
Decision Date: 25.02.2003

Ref ID: H/2003/0433/F
Proposal: Dwelling and garage.
Address: 120m North of, 30 Leitrim Road, Castledawson.
Decision:
Decision Date: 08.02.2005

Ref ID: H/2002/1164/O
Proposal: Site of dwelling and garage.
Address: 30m North East of 30 Leitrim Road, Castledawson.
Decision:
Decision Date: 23.03.2004

Ref ID: H/2000/0717/O
Proposal: Site of dwelling and garage
Address: 120m North of 30 Leitrim Road, Castledawson
Decision:

Decision Date: 12.03.2001

Ref ID: H/2004/0370/O

Proposal: Site of dwelling and garage.

Address: 90m North of 32 Leitrim Road, Castledawson.

Decision:

Decision Date: 25.11.2005

Ref ID: H/2000/0830/O

Proposal: Site of Dwelling and Garage

Address: Approx 170m NW of 32 Leitrim Road, Castledawson

Decision:

Decision Date: 18.02.2002

Ref ID: H/2004/1074/RM

Proposal: Dwelling and garage

Address: Approximately 170m North West of, 32 Leitrim Road, Castledawson

Decision:

Decision Date: 09.12.2004

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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

Drawing No. 02
Type: Site Appraisal or Analysis
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1187/F	Target Date:
Proposal: Proposed two storey rear extension to create ground floor kitchen and first floor bathroom	Location: 66 Main Street Castledawson
Referral Route: Conflict with planning policy and planning consultation	
Recommendation: APPROVAL	
Applicant Name and Address: Mr J McCullagh 81 Lismoyle Road Swatragh BT46 5QU	Agent Name and Address: Paul Moran Architect 18B Durmsamney Road Desertmartin Magherafelt BT45 5LA
Executive Summary: Planning application recommended for approval.	
Signature(s): <i>N. Hasson</i>	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Two representations received – both letters of support from neighbouring dwellings.

Characteristics of the Site and Area

The site is located within the settlement limit of Castledawson, as defined by the Magherafelt Area Plan 2015. The site is a two storey terraced dwelling. The dwelling is bounded on both sides by existing development and is currently unoccupied.

The site is located within an area of archaeological potential. An adjoining dwelling (No. 68) is a Grade B listed building. The surrounding area is defined by a mix of uses, including residential, retail and community buildings, such as a school and church.

Planning Assessment of Policy and Other Material Considerations

Proposal:

The proposal is for a two storey rear extension to create ground floor kitchen and first floor bathroom. The finishes schedule includes six over six Georgian windows and cast iron gutters and downpipes to front elevation.

It has been noted that part of the proposed extension appears to encroach onto third party lands. The agent clarified that he had inspected the land ownership documents and confirmed this land was in the applicant's ownership.

Site History:

There is no relevant site history.

Representations:

The agent has forwarded two letters in support of the application signed by the occupants of No. 64 and 68 Main Street, Castledawson.

Development Plan and Key Policy Considerations:

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

Addendum to PPS 7 – Residential extensions and alterations

PPS 6 Planning, Archaeology and the Built Heritage

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.

The proposal must comply with the criteria of Policy EXT 1 of PPS 7 Addendum relating to 'Residential Extensions and Alterations'.

The scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property. The proposal is not visible from any public viewpoints therefore it will not detract from the appearance and character of the surrounding area.

The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environment quality and sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

I have concerns that the proposal will unduly affect the amenity of neighbouring residents, specifically the occupier of No. 64 Main Street. The proposed two storey extension may cause dominance in relation to this neighbouring property. The neighbouring occupier at No. 64 could potentially experience a sense of being 'hemmed in' by the extension, on windows at both ground floor and first floor level.

Loss of light / overshadowing is usually a consequence of dominance. Para 34 of PPS 7 Addendum states that 'where an extension would be likely to reduce the amount of light entering the window of a room, to an unreasonable degree, planning permission is likely to be refused'. Para 35 goes on to state that 'an extension should be kept as far as possible from neighbouring windows and boundaries to minimise impact'. Figure 1 of PPS 7 Addendum provides a test for assessing potential loss of light to adjacent properties. As a general rule, a two storey extension should create an angle of not more than 45 degrees from the mid point of the closest neighbouring window to the end of the extension. The angle between the end of the proposed extension and the closest neighbouring window is 78 degrees. Using the Figure 1 assessment, the maximum two storey extension that would be acceptable in this location would measure 0.8 metres, as opposed to the proposed 3.7 metres.

It is acknowledged that the site is limited in terms of size, and therefore a solution is not obvious. Para 37 of PPS 7 Addendum also states that 'the guidance in Figure 1 is not a rigid standard which must be met in every case'. The policy states that other factors may be used to gauge the acceptability of a proposal, such as:

- Existing form and type of extension prevalent in the area
- Proposed design of the extension or alteration
- Characteristics of the site and its context
- Orientation and position of a neighbour's windows in relation to the proposed extension
- Potential size and form of an extension allowable under permitted development
- Provision of an extension to meet the needs of a person with a disability

The two neighbouring dwellings both have 2 storey rear extensions, however neither extension has the same impact on residential amenity as this proposal. Furthermore, there are examples within the immediate locality of two storey rear extensions, along Main Street and the nearby Boyne Row. The agent has amended the scheme to lessen the potential impact on the amenity of the occupants of No. 64 Main Street by reducing the length of the 1st floor extension to 3.7 metres from 7 metres. The agent has also provided letters from the occupants of No. 64 and 68 in support of the application. The support letters both note that the property has laid derelict for a number of years, and both signatories would like to see the property brought back to occupation.

The dwelling at No. 68 is a grade B listed building and the site is located within an area of archaeological potential and in proximity of an archaeological site or monument. Historic Environment Division were consulted on this application and were content with the proposal. Historic Buildings Division did however suggest the following conditions:

1. Front elevation windows to be six over six, single glazed, opaque painted, vertically sliding sash type.
2. Opaque painted timber windows to the rear elevation.

As the proposed development may affect the setting of the adjacent listed building, the proposal must comply with policy BH 11 of PPS 6. It is my opinion that the proposed design respects the listed building in terms of scale, height, massing and alignment and the nature of the proposed use respects the character of the setting of the listed building. BH 11 states that the proposed works make use of traditional or sympathetic building materials and techniques which respect those found on the building. As previously discussed, the proposed extension is located to the rear and there are no public views. Furthermore, the adjacent listed building has a similar two storey rear extension in situ. For these reasons, it is my opinion that it is unreasonable to request opaque painted timber windows to the rear elevation. Furthermore, the suggested condition in relation to the front elevation alterations is not necessary nor enforceable as the proposed alterations would not require planning permission, in accordance with the Planning (General Permitted Development) Order (Northern Ireland) 2015. It is my opinion that these suggested conditions are unreasonable and should not be placed on any potential approval.

Neighbour Notification Checked	Yes
Summary of Recommendation: I have weighed the conflict with policy EXT 1 and the material considerations in support of this application, such as the letters of support and the existing extensions in the area. On balance, I have given determining weight to the letters of support and I am minded to recommend approval of the proposed development.	
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. <u>Informatives</u> 1.This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands. 2.This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.	
Signature(s) <i>N. Hasson</i> Date: 26/01/17	

ANNEX	
Date Valid	25th August 2016
Date First Advertised	8th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 55B Main Street, Shanemullagh, Castledawson, Londonderry, BT45 8AB, The Owner/Occupier, 59 Main Street, Shanemullagh, Castledawson, Londonderry, BT45 8AB, The Owner/Occupier, 64 Main Street Shanemullagh Castledawson The Owner/Occupier, 68 Main Street Shanemullagh Castledawson The Owner/Occupier, 70 Main Street, Shanemullagh, Castledawson, Londonderry, BT45 8AB, The Owner/Occupier, 72 Main Street, Shanemullagh, Castledawson, Londonderry, BT45 8AB,	
Date of Last Neighbour Notification	13th September 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1187/F Proposal: Proposed two storey rear extension to create ground floor kitchen and first floor bathroom and bedroom Address: 66 Main Street, Castledawson, Decision: Decision Date: Ref ID: LA09/2016/1192/LBC Proposal: Proposed alterations and extension to form new two storey rear extension Address: 66 Main Street, Castledawson, Decision: Decision Date: Ref ID: H/1978/0383 Proposal: ALTERATIONS AND ADDITIONS TO DWELLING Address: 64 MAIN STREET, CASTLEDAWSON Decision: Decision Date:	

Ref ID: H/1979/0604
 Proposal: ALTERATIONS AND ADDITIONS TO HOUSE
 Address: 68 MAIN STREET, CASTLEDAWSON
 Decision:
 Decision Date:

Ref ID: H/1997/0327
 Proposal: EXTENSION TO DWELLING(LISTED BUILDING CONSENT)
 Address: 68 MAIN STREET CASTLEDAWSON
 Decision:
 Decision Date:

Ref ID: H/1997/0308
 Proposal: EXTENSION TO DWELLING
 Address: 68 MAIN STREET CASTLEDAWSON
 Decision:
 Decision Date:

Summary of Consultee Responses

Historic Environment Division were consulted on this application and were content with the proposal. Historic Buildings Division did however suggest the conditions, which I have deemed unnecessary (see main assessment).

Drawing Numbers and Title

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

Drawing No. 03
 Type: Proposed Elevations
 Status: Submitted

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

Drawing No. 04
 Type: Proposed Elevations
 Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1258/F	Target Date:
Proposal: Erection of a garage for storage vintage cars	Location: 11 Sandholes Road Cookstown
Referral Route:	Objection received
Recommendation:	Approval
Applicant Name and Address: Mr Raymond McElhone 11 Sandholes Road Cookstown	Agent Name and Address:
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	Transport NI - 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

The owners of the property next door to the site at number 9 Sandholes Road have objected to the proposal, their concerns include; the building taking place in close proximity to the boundary wall may destabilise it; Also concerned how the applicant will maintain the guttering etc.

Characteristics of the Site and Area

The site comprises a dwelling (number 11 Sandholes Road), attached commercial units and a gravel access and yard. The dwelling is single storey and finished in dash with a dark tiled roof. The existing commercial units are finished in a mix of grey dash and bare block. There is a decent size front yard used for parking and turning in addition to a rear yard which is also gravel and at the time of site visit being used to store a number of materials. The rear and side (west and south) boundaries of the site overlook the neighbouring business park/industrial area and are defined by a mixture of block walls and high palisade fences. The dwelling is semi-detached and bounds to number 9 Sandholes, there is an existing block wall running along the boundary to the rear separating their back yards.

The site lies within the settlement limit of Cookstown also within the area zoned for existing industry. The area does however contain a mix of residential and industrial. Directly to the rear of the site there are large dominant industrial buildings present as well as a number of houses located along the Sandholes Road.

The proposal seeks planning permission for a garage for storage of vintage cars.

Planning Assessment of Policy and Other Material Considerations

The application is seeking planning consent for the erection of a detached domestic garage for storage of vintage cars and as such the proposal must be assessed in accordance with the Addendum to Planning Policy Statement 7- Residential Extensions and Alterations.

It is considered that Policy EXT1 of this statement is relevant to this proposal. Policy permits development where the following criteria are met:

- The scale, massing, design and materials are sympathetic with the built form and area,
- The proposal does not unduly affect privacy or amenity,
- The proposal will not cause unacceptable loss or damage to the environment,
- Where sufficient space remains within the curtilage of the property for recreational purposes.

Representations

The owners of the property next door to the site have objected to the proposal, their concerns included the building taking place in close proximity to the boundary wall may destabilise it. Also concerned how the applicant will maintain the guttering etc.

In response to the objection the agent submitted a letter to confirm that the wall the objector was describing as the boundary wall is actually fully erected on the applicant's property and the boundary is actually the hedgerow, as shown in the photos, in addition with all of the proposed garage being located within the applicant's property they are able to maintain the guttering from the roof or existing wall, therefore there should be no concerns.

The proposal is for a garage for the storage of vintage cars to the rear of the property. As the garage is minimal in relation to the site and the surrounding buildings, whilst it is on the large side in terms of a domestic garage, it is considered to be subordinate to the existing dwelling and attached commercial unit. In addition to this the proposed extension would generally match the proportions and materials of the dwelling. It is also considered that there is little impact on the character or appearance of the surrounding area. It is considered that due to the size and location of the garage there would be no overlooking or infringement upon the privacy of the neighbouring dwelling. The nearest part of the proposed garage is over 20 metres from the back

wall of the dwelling at number 9 and there are a number of existing shed and stores located on the neighbouring property along this boundary line. Furthermore it is considered that there is sufficient amenity space remaining for the dwelling and shall thus not have a detrimental impact on the residential amenity of this or of neighbouring dwellings.

The application was advertised on 21st September 2016 and Neighbour Notifications were also issued on 22nd September 2016, however there were no representations received in respect to this application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal is therefore acceptable in terms of scale and design, should not cause overlooking or overshadowing or have adverse impact on the adjoining properties.

Conditions

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

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

Informatives

- 1.This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
- 2.This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
- 3.This 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.
- 4.It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

Signature(s)

Date:

ANNEX	
Date Valid	8th September 2016
Date First Advertised	22nd September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, .9 Sandholes Road, Ballyragh Derryloran, Cookstown The Owner/Occupier, 1 Ballyreagh Industrial Estate, Sandholes Road, Cookstown, Co Tyrone The Owner/Occupier, 10 Sandholes Road Glebe (Derryloran) Derryloran Industrial Estate The Owner/Occupier, 11 Sandholes Road,Ballyreagh,Derryloran Industrial Estate,Cookstown,Tyrone,BT80 9AR, The Owner/Occupier, 13 Sandholes Road Ballyreagh Derryloran Industrial Estate The Owner/Occupier, 15 Sandholes Road Ballyreagh Derryloran Industrial Estate The Owner/Occupier, 2 Ballyreagh Industrial Estate, Sandholes Road, Cookstown, Co Tyrone The Owner/Occupier, 7 Sandholes Road Glebe (Derryloran) Derryloran Industrial Estate The Owner/Occupier, 9 Sandholes Road,Ballyreagh,Derryloran Industrial Estate,Cookstown,Tyrone,BT80 9AR, The Owner/Occupier, Sandholes Road,Ballyreagh,Derryloran Industrial Estate,Cookstown,Tyrone,BT80 9AR, The Owner/Occupier, Sandholes Road,Ballyreagh,Derryloran Industrial Estate,Cookstown,Tyrone,BT80 9AR, The Owner/Occupier, Sandholes Road,Ballyreagh,Derryloran Industrial Estate,Cookstown,Tyrone,BT80 9AR,	
Date of Last Neighbour Notification	21st September 2016
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: I/1998/0181

Proposal: Workshop extension (amended proposal)

Address: COOKSTOWN BUSINESS PARK SANDHOLES ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2000/0552/F

Proposal: Extension to existing workshop to provide new reception area.

Address: Trade Mouldings Cookstown Business Park Ballyreagh Sandholes Cookstown

Decision:

Decision Date: 26.09.2000

Ref ID: I/1997/0246

Proposal: Extension to Factory

Address: COOKSTOWN BUSINESS PARK SANDHOLES ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2001/0832/F

Proposal: Proposed Wood Waste System for an Existing Industrial Unit

Address: Unit 1 Derryloran Industrial Estate, Sandholes Road, Cookstown

Decision:

Decision Date: 21.06.2002

Ref ID: I/1986/0007

Proposal: BUILDERS' SUPPLIES PREMISES

Address: BALLYREAGH, SANDHOLES ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1982/0378

Proposal: BUILDERS SUPPLIERS PREMISES

Address: BALLYREAGH, SANDHOLES ROAD, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/0226

Proposal: Extension to workshop

Address: COOKSTOWN BUSINESS PARK SANDHOLES ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2012/0350/F

Proposal: Extension to existing workshop for manufacture of kitchen and bedroom doors, moulding, fittings and accessories

Address: Cookstown Business Park, Sandholes Road, Cookstown,

Decision: PG

Decision Date: 04.12.2012

Ref ID: I/1987/0468

Proposal: 11 KV O/H EXTENSIONS

Address: GLEBE WEST, COOLKEEGHAN, COOKSTOWN

Decision:

Decision Date:

Ref ID: LA09/2016/1258/F

Proposal: Erection of a garage for storage of cars and vintage cars to the rear of dwelling

Address: 11 Sandholes Road, Cookstown,

Decision:

Decision Date:

Ref ID: I/2004/1170/F

Proposal: Proposed new workshop/storage area, which will incorporate lightweight wood cutting/moulding plant machinery

Address: Cookstown Business Park, Sandholes Road, Cookstown

Decision:

Decision Date: 31.03.2005

Ref ID: I/2008/0109/F

Proposal: Provision of additional storage accomodation in respect of ongoing manufacture of kitchen units

Address: Ballyreagh Business Park, Sandholes Road, Cookstown

Decision:

Decision Date: 18.06.2008

Ref ID: I/2002/0492/F

Proposal: Retention of Existing Workshop for the Manufacture and/or Storage of Timber Mouldings (Re-Advertisement)

Address: Trade Mouldings, Sandholes Road, Cookstown

Decision:

Decision Date: 10.10.2002

Ref ID: I/1997/0543

Proposal: Erection of Workshop and Office

Address: COOKSTOWN BUSINESS PARK BALLYREAGH SANDHOLES
COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1996/0206

Proposal: Extension to workshop

Address: OSCAR DOORS, COOKSTOWN BUSINESS PARK, BALLYREAGH,
SANDHOLES, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1979/0424

Proposal: BUILDERS' SUPPLIES PREMISES
Address: BALLYREAGH, SANDHOLES ROAD, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1979/0266
Proposal: 11 KV O/H LINE
Address: COOLKEEGHAN, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1993/0186
Proposal: Workshops for Manufacture of Kitchen Products
Address: BALLYREAGH SANDHOLES COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1986/0023
Proposal: CAR PARKING AND SECURITY FENCE
Address: 11 SANDHOLES ROAD, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1985/0370
Proposal: ELECTRICAL GOODS STORE
Address: 11 SANDHOLES ROAD, BALLYREAGH, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1984/0375
Proposal: PROPOSED ALTERATIONS AND EXTENSION TO ELECTRICAL GOODS SHOP
Address: 11 SANDHOLES ROAD, BALLYREAGH, COOKSTOWN
Decision:
Decision Date:

Ref ID: I/1994/0094
Proposal: Change of use from workshop to retail warehouse
Address: COOKSTOWN BUSINESS PARK
Decision:
Decision Date:

Ref ID: I/1994/0261
Proposal: Advertising Sign
Address: COOKSTOWN BUSINESS PARK BALLYREAGH SANDHOLES
COOKSTOWN
Decision:
Decision Date:

Ref ID: I/2003/1009/F
Proposal: Retention of existing radio communications mast.

Address: 11a Sandholes Road Cookstown
Decision Date: 28.01.2004

Ref ID: I/1986/0024

Proposal: CONVERSION OF ROOFSPACE TO LIVING ACCOMMODATION

Address: 11 SANDHOLES ROAD, COOKSTOWN

Decision Date:

Ref ID: I/1998/6025

Proposal: Workshop Unit 11 Sandholes Road Cookstown

Address: 11 Sandholes Road Cookstown

Decision Date:

Ref ID: I/2003/0633/F

Proposal: Car-wash facilities (manual type)

Address: No 11a Sandholes Road, Cookstown

Decision Date: 30.10.2003

Summary of Consultee Responses

Transport NI have responded with no objections subject to informatives.

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1266/F	Target Date:
Proposal: Redevelopment of existing maintenance yard to a public car park, extension to an existing footpath and the introduction of passing bays along the existing access/laneway	Location: Pomeroy Forest Tanderagee Road Pomeroy
Referral Route: Council Application	
Recommendation:	Approval
Applicant Name and Address: Mid Ulster District Council 76-78 Burn Road Cookstown BT80 8DR	Agent Name and Address: Teague and Sally Ltd 3A Killycolp Road Cookstown BT80 9AD
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Error
Statutory	Transport NI - 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

none

Characteristics of the Site and Area

The site comprises a small cleared yard and a number of vacant buildings located at Pomeroy Forest, Tandragee Road, Pomeroy. The site is accessed via a long winding lane off the Tandragee Road which cuts through the forrest to an opening approx 500 metres off the roadside. The site includes a stone building with a red tin barn style roof along the East boundary, there is a stone wall along the North Boundary with mature trees behind, the western boundary is defined by forrest and the southern boundary is defined by another block wall. There is an agricultural gate blocking entrance to the yard at the time of site visit.

The site lies outside of the settlement limit of Pomeroy a short distance to the East. The site is located within the middle of the extensive Pomeroy forrest and surrounding the site there is a number of vacant buildings, one of which was previously a training college.

The proposal seeks planning permission for a redevelopment of existing maintenance yard to a public car park, extension to an existing footpath and the introduction of passing bays along the existing access/laneway.

Planning Assessment of Policy and Other Material Considerations

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

The application is for the redevelopment of existing maintenance yard to a public car park, extension to an existing footpath and the introduction of passing bays along the existing access/laneway. The site is located in the open countryside as defined by the Cookstown Area Plan 2010. There are a range of types of development which in principle are considered to be acceptable in the countryside. 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 6.73 of the SPPS relates to development that is acceptable in the countryside. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Planning Policy Statement 3 - Access, Movement and Parking.

Policy AMP 10 Provision of Public and Private Car Parks advises that approval will be granted to such proposals provided :-

-they do not significantly contribute to increased congestion;
the proposal will provide additional car parking and passing bays for Pomeroy forest for the Mid Ulster District Council which has limited parking at present. This will help to reduce inappropriate parking along the Main entrance road and will help to reduce congestion;
-are not detrimental to environmental quality;
the proposal is not seen as causing any detriment to environmental quality and will provide appropriate parking in an organised fashion;
-they meet an identified need;
Pomeroy Forest can attract many visitors on a daily basis. However, at present there is very limited parking available. This proposal will provide much needed additional spaces for the Council.
-Within areas of defined parking restraint, the spaces are appropriately managed to deter long stay commuter parking;
The site is not within an area of where there is a defined parking restraint. However, these spaces can be defined and managed so as to deter long stay commuter parking.
-They are compatible with adjacent land uses;
The car park is fully compatible with the existing land uses.

Relevant Planning History
No relevant history.

Consideration

The proposal is designed to provide additional car parking for the Pomeroy Forest..

Transport NI have been consulted and subject to conditions have no objections. After consultation with Transport NI, I am content that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

On consideration of the above, It is my opinion that the proposal complies with the policy provisions of the Area Plan, the SPPS and PPS 21 and I recommend that planning permission should be granted for the proposed development subject to the necessary conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

On consideration of the above, It is my opinion that the proposal complies with the policy provisions of the Area Plan, the SPPS and PPS 21 and I recommend that planning permission should be granted for the proposed development subject to the necessary conditions.

Conditions

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

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

2. The vehicular access, including visibility splays of 4.5 x 90m in both directions, and Forward Sight Distance of 60m shall be provided in accordance with Drg No 03A dated 06/12/16 , prior to the commencement of any other works or other development hereby permitted.

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

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

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

4. The access gradient(s) shall not exceed 8% (1 in 12.5) over the first 5 m 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.

Informatives

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

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

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

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 Transport NI Section Engineer whose address is Molesworth Plaza, Molesworth Street, Cookstown A monetary deposit will be required to cover works on the public road.

Signature(s)

Date:

ANNEX	
Date Valid	9th September 2016
Date First Advertised	29th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 52 Tanderagee Road Pomeroy Tyrone The Owner/Occupier, 54 Tanderagee Road, Pomeroy, BT70 3DS The Owner/Occupier, 56 Tanderagee Road Pomeroy Tyrone The Owner/Occupier, 56 Tanderagee Road,Pomeroy,Tyrone,BT70 3HS, The Owner/Occupier, 56 Tanderagee Road,Pomeroy,Tyrone,BT70 3HS, The Owner/Occupier, 58 Tanderagee Road Pomeroy Tyrone The Owner/Occupier, Archada 50 Tanderagee Road Pomeroy	
Date of Last Neighbour Notification	23rd September 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1266/F Proposal: Redevelopment of existing maintenance yard to a public car park, extension to an existing footpath and the introduction of passing bays along the existing access/laneway Address: Pomeroy Forest, Tanderagee Road, Pomeroy, Decision: Decision Date: Ref ID: LA09/2015/1084/PAD Proposal: Change of use. Proposal to redevelop existing maintenance yard to public car park facility. Creation of additional car park spaces to reduce congestion and improve traffic management on site. Environmental impact, likelihood of increased traffic volumes to forest location, visitor development proposals. Address: Pomeroy Forest, Tanderagee Road, Pomeroy,	

Decision:
Decision Date:

Ref ID: I/2006/1153/Q
Proposal: Future Development of Site
Address: Pomeroy Forestry School
Decision:
Decision Date:

Ref ID: I/1979/0182
Proposal: EXTENSIONS AND ALTERATIONS TO FORESTRY SCHOOL
Address: POMEROY
Decision:
Decision Date:

Summary of Consultee Responses

Transport NI responded with No objections subject to conditions

Drawing Numbers and Title

Drawing No. 03A
Type: Road Access Plan
Status: Submitted

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

Drawing No. 02
Type: Block/Site Survey Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1271/O	Target Date:
Proposal: Proposed site for new dwelling on farm	Location: Approx 60m South West of no.7 Ballymoughan Lane Magherafelt
Referral Route: One objection received.	
Recommendation: Approval	
Applicant Name and Address: Mr Robert Alexander Brown 11a Ballymulligan Road Magherafelt BT45 6ES	Agent Name and Address: Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:	
Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues Objection received	
Characteristics of the Site and Area The proposal site is located within a large agricultural field to the rear of an existing farm complex. The access is currently used to access the farm complex and two dwellings. The site is flanked on three sides by agricultural land and the farm buildings and one dwelling are shown to be within the applicants ownership. The site has mature vegetation to all boundaries however the land levels are higher than that of the neighbouring properties and careful siting conditions may need to be applied should an approval be granted.	
Planning Assessment of Policy and Other Material Considerations I have assessed this proposal under the following: SPSS Magherafelt Area Plan 2015 Planning Policy Statement 1 - General Principles Planning Policy Statement 21 - Sustainable development in the countryside Consultees: - Environmental Health were asked to comment and responded on 12th October 2016 with no objections. NI Water were asked to comment and responded on 28.09.2016 with no objections. DARD were asked to comment and responded on 23.09.2016 stating that the business Id given in the submitted P1C form (655283) has not been in existence for more than 6 years however single farm payments etc have been collected under this number for more than 6 years. Transportni were asked to comment and repsonded on 03.01.2017 with no objections subject to conditions. In line with legislation this proposal was advertised in several local press publications during September 2016. Neighbours notified: - No 7 Ballymoughan Lane, No 7A Ballymoughan Lane _ No 9 Ballymoughan Lane were notified of this proposal on 23.09.2016. One objection was received from Owner/Occupier of No 7 Ballymoghlan Lane on 05.10.2016, the main points raised are: - the proposal would cause an increase in traffic levels which would result in safety issues for the objectors family members. I do not consider the approval of one dwelling would increase the traffic volume to an unacceptable level and as any traffic passing the objectors property would be travelling at low speed.	

- the existing concrete land would not withstand heavy machinery required to access the proposal site during construction - I do not consider this a planning related issue and this should not influence the decision making on this proposal.
- an approval would result in the loss of privacy and potentially overlooking issues for the residents of No 7 Ballymoghane Lane - I feel due to the separation distance that this would not be to an unacceptable level and the design and siting and orientation of a dwelling can be considered with the uses of conditions and at reserved matters stage to lessen any negative impact that the neighbouring properties may face.

According to CTY 10 of PPS 21 planning permission will be granted for a dwelling house on a farm where the farm business is currently active and has been established for at least 6 years. With this application the applicant Mr Robert Alexander Brown submitted a P1C form within which he stated that the farm business had been in existence for generations and identified the farm business number as 655283. This is the information that DARD were consulted with, however they responded on 23.09.2016 commenting that the farm business in question had not been in existence for over 6 years but that the farm had been receiving SFP for more than 6 years. This point was queried with the applicant and he submitted additional information clearly demonstrating that the farm business was previously in his father's ownership under business id number 636046 and Mr Robert J Brown's name however was then left to the son and a new business id number of 655283 was given. The farm maps for these two business numbers are identical and a letter from DARD was also submitted dated 03.02.2015 with the new business id number stated that confirms that a countryside management scheme on the land commenced 04.07.2006 which all would demonstrate that the farm has been in existence for more than 6 years and as such complies with this section of the policy.

According to CTY 10 of PPS21 planning permission will be granted for a dwelling house on a farm where 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 only applies from 25 November 2008 though. Following a GIS database search of all the farm land under the farm business I was able to confirm that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of this application.

According to CTY 10 of PPS21 planning permission will be granted for a dwelling house on a farm where the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. This proposal is sited in a large flat agricultural field adjacent to No 7 Ballymoghane Lane, Magherafelt and associated farm buildings and as such adheres to this portion of the policy as is located adjacent to farm buildings of the farm business although the applicant does not reside at the dwelling adjacent to these buildings.

In addition to the policy above it is necessary for any new dwelling in the countryside to adhere to CTY 13 of PPS21, 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. However a new building will be unacceptable where:

- a) it is a prominent feature in the landscape - there would be little public interest in the proposal site due to its locality and the surrounding land form.
- b) the site lacks long established natural boundaries or is unable to provide a suitable degree or enclosure for the building to integrate into the landscape - the site is adjacent to existing farm buildings associated with the farm land and as such a suitable degree of integration would be achieved.
- c) it relies primarily on the use of new landscaping for integration - the site has established boundaries and additional landscaping could be conditioned.
- d) ancillary works do not integrate with their surroundings - the site has an existing access and adjacent dwellings thus services would not be overly complicated to bring to the site.

- e) the design of the building is inappropriate for the site and its locality - this is an outline application and so the design can be considered at reserved matters stage.
- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop - the site would be read against the existing farm buildings.
- g) in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm - this proposal is sited adjacent to buildings on the farm.

Finally in order for a proposed dwelling located in the countryside to be considered acceptable it must not cause a detrimental change to or further erode the rural character of an area - in this particular case the rural character would not be affected by this proposal nor would its approval cause a detrimental change and I consider it to be acceptable.

Recommendation: Approval

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 6.5 metres above finished floor level.

Reason: To ensure that the development is not prominent in and is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

4. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same

species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

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

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

6. 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.

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

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

Informatives

1. A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999. Any new or existing septic tank unit being a minimum of 15 metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.

A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.

The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.

Planning Service receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available, the applicant/agent is strongly advised to contact this department before any detailed plans are prepared. (The District Council cannot approve plans for housing development unless a satisfactory water supply is available).

2. All services within the development should be laid underground. None of the dwellings hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans.

None of the dwellings 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.

3. 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.

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

Signature(s)

Date:

ANNEX	
Date Valid	14th September 2016
Date First Advertised	29th September 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 7 Ballymoghane Lane Ballymoghane More Magherafelt The Owner/Occupier, 7, Ballymoghane Lane, Magherafelt, Londonderry, Northern Ireland, BT45 6HW The Owner/Occupier, 7A Ballymoghane Lane Ballymoghane More Magherafelt The Owner/Occupier, 9 Ballymoghane Lane Ballymoghane More Magherafelt	
Date of Last Neighbour Notification	23rd September 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1271/O Proposal: Proposed site for new dwelling on farm Address: Approx 60m South West of no.7 Ballymoghane Lane, Magherafelt, Decision: Decision Date: Ref ID: H/1994/0456 Proposal: SITE OF BUNGALOW Address: BALLYMOUGHAN LANE MAGHERAFELT Decision: Decision Date: Ref ID: H/2003/1246/O Proposal: Site of dwelling and garage. Address: 280m West of 11 Ballymoghane Lane, Magherafelt. Decision: Decision Date: 13.01.2005 Ref ID: H/1997/0198 Proposal: BUNGALOW & GARAGE	

Address: BALLYMOUGHAN LANE MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2008/0599/F

Proposal: Restrospective application for retention of existing Race Track for Off Road Buggies on land approximately 250m West of 7a Ballymoughan Lane, Magherafelt

Address: Lands Approx 250m West of 7A Ballymoughan Lane, Magherafelt,

Decision:

Decision Date: 20.06.2011

Ref ID: H/2005/0164/O

Proposal: Site of dwelling and garage

Address: Site 280m south west of 7 Ballymoghnan Lane, Magherafelt

Decision:

Decision Date: 05.07.2005

Ref ID: H/2010/0206/F

Proposal: Dwelling and Garage

Address: Site 280m SW of 7 Ballymoghnan Lane, Magherafelt.

Decision:

Decision Date: 17.09.2010

Ref ID: H/2006/0017/O

Proposal: Site of dwelling & garage

Address: 160m East of 7 Ballymoghnan Lane, Magherafelt

Decision:

Decision Date:

Ref ID: H/2009/0446/F

Proposal: Proposed new dwelling and detached garage/domestic store

Address: 160m East of 7 Ballymoughan Lane, Magherafelt

Decision:

Decision Date: 29.12.2009

Ref ID: H/2011/0491/F

Proposal: Proposed amended access to new dwelling approximately 160m West of 7 Ballymoughan Lane, Magherafelt from that approved under H/2009/0446/F.

Address: 160m W of no. 7 Ballymoughan Lane, Magherafelt,

Decision:

Decision Date: 12.03.2012

Ref ID: H/1975/0192

Proposal: BUNGALOW

Address: BALLYMOUGHAN LANE, MAGHERAFELT

Decision:

Decision Date:

Ref ID: LA09/2015/0579/F

Proposal: Dwelling and Garage

Address: Site 280m SW of 7 Ballymoghane Lane, Magherafelt,

Decision: PR

Decision Date: 27.01.2016

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1375/O	Target Date:
Proposal: Site for Farm Dwelling and Domestic Double Garage	Location: 35m (approx.) NE of 23B Carrydarragh Road Moneymore
Referral Route: Contrary to Policy	
Recommendation:	Refusal
Applicant Name and Address: Darren & Gail Wylie 62 Annaghone Road Cookstown BT80 8SW	Agent Name and Address:
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues - The proposal is contrary CTY1 and CTY10 – in that a development opportunity has been sold off.	
Characteristics of the Site and Area <p>The site is located 2 miles north west of the Moneymore in open countryside in accordance with the Cookstown Area Plan 2010. The site is located 35m north east 23b Carrydarragh Road, adjacent to a single storey dwelling and access is via a shared concrete laneway. The proposed site is a cut portion of a large agricultural field, identified as field No 10 on the submitted farm map. The site occupies a slightly elevated location, with the farm grouping located to the rear of the site which sits at a higher position. The south eastern and south western boundaries are defined by 2m high evergreen hedge and the remaining boundaries are undefined.</p>	
Planning Assessment of Policy and Other Material Considerations <p>Detail of the proposal: The application seeks outline planning permission for a detached dwelling and garage on the farm</p> <p>Relevant Site History: H/2010/0196/F - Proposed replacement dwelling and detached garage for domestic purposes. Approved 22nd July 2010 (replacement opportunity on the farm)</p> <p>Representations: 4 neighbour notification letters were sent to the occupiers of No 23, 23A, 23B & 23C Carrydarragh Road, Moneymore. No letter of representation have been received</p> <p>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.</p> <p><u>Cookstown Area Plan 2010:</u> The site itself is located in the open countryside, however part of the existing access is within an Area of Special Scientific Interest and Ancient Woodland.</p> <p><u>SPPS – Strategic Planning Policy Statement for Northern Ireland:</u> sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.</p> <p>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.</p> <p><u>PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006):</u> sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.</p> <p><u>PPS21: Sustainable Development in the Countryside:</u> sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.</p>	

Policy CTY 1 of PPS 21 allows for a single dwelling on a farm subject to the policy tests laid down in policy CTY 10 and states that planning permission will be granted for a dwelling on a farm where three criteria are met.

Criterion (a) requires the farm business to be currently active and established for at least 6 years. The applicant has submitted a farm business ID number which DARD has confirmed is currently active and has been established more than 6 years and that the farm business has claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years.

Under criterion (b) which requires no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. A planning history search reveals a full application was approved under H/2010/0196/F on 22nd July 2010 for a replacement dwelling and detached garage. The 2010 application was submitted by a third party with notice served on the land owner, Mr Nigel Jordan who is also joint owner of the active farm business mentioned in the PIC Form. A land register check also collaborates this assertion.

Paragraph 5.40 of the Justification and Amplification makes it clear that planning permission will not be granted for a dwelling under this policy where a rural business has recently sold off a development opportunity from the farm such as a replacement dwelling. Paragraph 5.40 goes on to say for the purposes of this policy, 'sold-off' will mean any development opportunity disposed of from the farm holding to any other person including a member of the family. As the 2010 application was approved under PPS 21, and was subsequently 'sold off', this application fails to comply with criterion (b) of policy CTY 10.

Under criterion (c) of the policy which requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The established grouping is located 75m west of the site and consists of a number of agricultural buildings and farm dwelling with two single storey dwellings, Nos 23B & 23C, located immediately south of that established grouping. The proposal site is a cut out portion of a large agricultural field identified on the farm map as field No 10 and abuts No 23C along its north eastern boundary. I am satisfied the proposal complies with criterion (c) and criterion (g) of CTY13.

Other Material Consideration.

I am satisfied a dwelling with a ridge of 5.5m can visually integrated into the surrounding landscape without offending any of the criteria listed under policy CTY 13 Integration. With regard to CTY 14 Rural Character, a new dwelling will not have a detrimental impact on rural character and will respect the traditional pattern of settlement exhibited in the area.

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

Neighbour Notification Checked

Yes

Summary of Recommendation: I recommend refusal on the bases that a development opportunity has been sold off.

Refusal Reasons

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

Signature(s) Sean Diamond

Date: 24/01/2017

ANNEX	
Date Valid	29th September 2016
Date First Advertised	13th October 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 23 Carrydarragh Road Knockadoo Moneymore The Owner/Occupier, 23A Carrydarragh Road Knockadoo Moneymore The Owner/Occupier, 23B Carrydarragh Road Knockadoo Moneymore The Owner/Occupier, 23C Carrydarragh Road Knockadoo Moneymore	
Date of Last Neighbour Notification	31st October 2016
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1375/O Proposal: Site for Farm Dwelling and Domestic Double Garage Address: 35m (approx.) NE of 23B Carrydarragh Road, Moneymore, Decision: Decision Date: Ref ID: I/1977/0042 Proposal: 11 KV O/H LINE Address: KNOCKADOO, COOKSTOWN Decision: Decision Date: Ref ID: I/1981/0209 Proposal: NEW BUNGALOW Address: CARRYDARRAGH ROAD, MONEYMORE Decision: Decision Date: Ref ID: I/1984/0154 Proposal: NEW BUNGALOW	

<p>Address: 23 CARRYDARRAGH ROAD, MONEYMORE</p> <p>Decision:</p> <p>Decision Date:</p>
<p>Summary of Consultee Responses</p>
<p>Drawing Numbers and Title</p>
<p>Drawing No. 01</p> <p>Type: Site Location Plan</p> <p>Status: Approved</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department:</p> <p>Response of Department:</p>



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7th February 2017	Item Number:
Application ID: LA09/2016/1480/F	Target Date: 31/01/2017
Proposal: Change of use from shop to fast food outlet	Location: 40 Irish Street Dungannon
Referral Route: Objection received.	
Recommendation:	APPROVE
Applicant Name and Address: Observers Newspapers NI Ltd 74 Ann Street Dungannon BT70 1ET	Agent Name and Address: J.Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary: Application to be judged in relation to prevailing policy on town centre developments. Issues of vitality/viability in such centres and amenity concerns the key considerations to weigh up.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues

Application to be judged in relation to prevailing policy on town centre developments. Issues of vitality/viability in such centres and amenity concerns the key considerations to weigh up.

Characteristics of the Site and Area

The application site is located within the town centre of Dungannon, on Irish Street, and is occupied by a three storey terrace building with yard area to the rear. The site is outside of Dungannon's Primary Retail Core and the local Conservation Area. It is however within an Area of Townscape Character. (ATC). The immediate area contains a mix of typical town centre uses.

Planning Assessment of Policy and Other Material Considerations

Description of Proposal

Consent is sought to change the use of the ground floor unit from its lawful A1 use to a use as a fast food outlet (Hot Food Takeaway). The unit would be laid out with a waiting area to the front and a kitchen/cooking area to the rear.

Summary of Issues

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert was placed in local newspapers and adjoining land owners were consulted by letter. One objections was received as follows;

39 Irish Street, Dungannon – We operate a licensed premises across the road and our concern is the opening hours. We close around 1:00am and our concern is to get people off the street and safely home. The last thing we need is for a hot food takeaway to open across the street for people to congregate around. We feel this could potentially cause a lot of problems. We also operate a number of residential properties and would be concerned about the welfare of residents.

The proposal is for a change of use and in such instances the policy framework for decision making is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS) which was adopted in 2015 and replaced policy guidance in PPS5 (Retailing and Town Centres). The Dungannon and South Tyrone Area Plan is another material consideration although no policies are of particularly relevance in relation to this application. Policy RSO2 does aim to promote A1 uses within the Primary Retail Core. Useful guidance is also provided by the Development Control Advice Note 5 (DCAN5) “Restaurants, Cafes and Fast Food Outlets” which provides Supplementary Planning Guidance on the issues pertinent to this application.

Policy

It has generally in the past been adopted policy to encourage the provision of restaurants, cafes and hot food bars within existing town centres such as Dungannon. Furthermore as the amount of non-retail floorspace within the Primary Retail Core is generally controlled, it could be argued that the policy directs such uses towards the area of the town which is outside the Primary Retail Core. Such applications are judged on their merits. The main considerations are addressed below.

Vitality and Viability

Policy recognises the role that restaurants, cafes and fast food bars can play in promoting the vitality and viability of a town centre. This is the measure of how busy a town is and its ability to attract ongoing investment. Such uses can attract footfall to a town centre and enrich a shopping experience encouraging return visits. However a proliferation or clustering of these uses can also have a detrimental impact. In this case the site is outside the Primary Retail Core, the area which is retained to encourage retail units, so there would be no erosion of this policy aim. Furthermore Irish Street is not an area particularly served by fast food takeaways. Whilst some daytime cafes are evident, including the adjacent property, these would generally be closed in the evening when a hot food takeaway would be witnessing its busiest times. There are hot food takeaways within the wider area, including the nearby William, George and Scotch Streets, and a number of licenced premises on Irish Street, but it is not considered there is a particularly concentration or proliferation. As the use has vitality and viability benefits, maintains the existing level of retail units within the Primary Retail Core and would not result in a concentration of such uses the general principle at this location can be justified. Furthermore at 6.5m wide this is not a unit

which would dominate the frontage at this location and its occupation would bring a currently vacant unit back into beneficial use and remove what is currently dead frontage.

Amenity

The potential impact of a fast food takeaway on the general character and amenity of an area is an important consideration when determining such applications. The impact on the amenity of residents has been cited as a concern in the objection letter received. Concerns about general amenity can be broken into categories of noise disturbance, smells and fumes, refuse/litter and traffic considerations. These can be considered in turn.

Noise and Disturbance

Whilst noise and disturbance is likely to be more of an issue in residential areas, this can also be an issue in town centres where there may be residential accommodation adjacent or above the site. In this case there are some residential properties on Irish Street and the upper floors of this property which are being refurbished could arguably at some stage be in residential use. However a degree of noise and disturbance must be accepted as being part and parcel of town centre living. It is not considered that the approval of this scheme would seriously compromise the amenity of nearby residents, given that there are already existing premises which will open late into the evening, and any further impact in terms of noise or disturbance would not result in a level of excessive impact.

The objection letter raises concerns about patrons of their licensing premises congregating around any future hot food takeaway after closing time. This is to some degree a private interest concern, and the planning system does not exist to protect the private interests of one individual over another. Furthermore there must be sound planning grounds to restrict the hours of opening on this unit in the interests of amenity. The objection letter states that the public house closes at 01:00am. This is arguably the time when the hot food takeaway will want to benefit from this potential trade. It is a test of planning conditions that they are not so restrictive as to seriously limit the benefit of the permission. Arguably a condition limiting hours of operation would do so in this case. It is not considered necessary to limit the hours of operation on this scheme. However Committee Members may feel that a condition limiting the hours of operation early morning, say until 02:00am, may be reasonable and necessary.

Smells and Fumes

Nuisance from smells and fumes can have unpleasant effects on the amenity enjoyed by existing residents. This is however something that can potentially be controlled by conditions and there is ample space to the rear of the site for the installation of a system. The Environmental Health section of the Council has been consulted on this element of the scheme and provided a response. This suggests that as there are no residential properties in close proximity to the site potential impact should be kept to a minimum by the imposition of appropriate conditions. It is considered the following condition is deemed reasonable and necessary to render this development acceptable in planning terms.

1. Details of a suitable ventilation and filtration equipment system to be installed to suppress and disperse odours created from operations on the premises shall be provided prior to the commencement of the use hereby approved. The outlet from any extract ventilation ducting shall be located to the rear of the building and shall terminate at a height not less than 1 metre above the ridge eaves height and it should be directed away from sensitive properties. The development should proceed in accordance with the agreed details.

There is adequate space to the rear of the unit which should ensure any extraction system is relatively inconspicuous within the existing streetscene and a good quality system would significantly limit potential annoyance from smells and fumes.

Refuse and Litter

Adequate space is demonstrated for the safe and tidy storage of litter. Separate legislation exists for councils to take action against premises who do not abide by existing litter controls.

Traffic Considerations and Car Parking

In relation to highway safety and parking, the site is located on a busy shopping street within Dungannon town. However there is 1 hour parking available on Irish Street and no restrictions in the evening when any takeaway is likely to be most busy. There is also free parking in the nearby Market Square and a number of car parks within a short walk from the unit. The lawful use would have the potential to create as much in the way of parking. Any serious concern with parking or road safety issues is not envisaged with this use.

Conclusion

The general principle of what is proposed is considered acceptable. There would be no serious impact on the vitality and viability of the town centre and indeed potential benefits, including the bringing back into use of a current vacant unit. Potential areas of concern with regards to amenity and general disturbance are not considered to warrant refusal and can to some degree be controlled by conditions. It is therefore recommended that consent is granted subject to conditions.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Grant consent subject to conditions.

Conditions/Reasons for Refusal:

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 decision.

Reason: Time Limit.

2. Details of a suitable ventilation and filtration equipment system to be installed to suppress and disperse odours created from operations on the premises shall be provided prior to the commencement of the use hereby approved. The outlet from any extract ventilation ducting shall be located to the rear of the building and shall terminate at a height not less

than 1 metre above the ridge eaves height and it should be directed away from sensitive properties. The development should proceed in accordance with the agreed details.

Reason: In the interests of the amenity of the area.

Informatives

1. This application relates to the submitted drawings numbered 01 and 02.

Signature(s)

Date:

ANNEX	
Date Valid	18th October 2016
Date First Advertised	3rd November 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 19-25 St Patricks Roman Catholic Church Shamble Lane Drumcoo The Owner/Occupier, 33 Irish Street, Drumcoo, Dungannon, Tyrone, BT70 1DB, The Owner/Occupier, 35 Irish Street, Drumcoo, Dungannon, Tyrone, BT70 1DB, The Owner/Occupier, 37 Irish Street Drumcoo Dungannon The Owner/Occupier, 37A Irish Street Drumcoo Dungannon The Owner/Occupier, 38 Irish Street Drumcoo Dungannon The Owner/Occupier, 39 Irish Street Drumcoo Dungannon The Owner/Occupier, 39A Irish Street Drumcoo Dungannon The Owner/Occupier, 42 Irish Street Drumcoo Dungannon The Owner/Occupier, 42A Irish Street, Drumcoo, Dungannon, Tyrone, BT70 1DB, The Owner/Occupier, 44 Irish Street Drumcoo Dungannon	
Date of Last Neighbour Notification	27th October 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1480/F Proposal: Change of use from shop to fast food outlet Address: 40 Irish Street, Dungannon, Decision: Decision Date: Ref ID: M/1976/0244	

Proposal: ALTERATIONS TO SHOP AND STORE
Address: IRISH STREET, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1976/0123
Proposal: ALTERATIONS TO SHOP
Address: IRISH STREET, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1986/0461
Proposal: SHOPFRONT
Address: THE OBSERVER NEWSPAPER OFFICES, 42/44 IRISH STREET,
DUNGANNON
Decision:
Decision Date:

Ref ID: M/2009/0025/A
Proposal: Shop Sign
Address: 42-44 Irish Street Dungannon
Decision:
Decision Date: 12.03.2009

Ref ID: M/2009/0026/F
Proposal: Material change of use from retail unit to bookmaking office
Address: 42-44 Irish Street Dungannon
Decision:
Decision Date: 11.03.2009

Ref ID: M/2006/1289/F
Proposal: Demolition of existing office unit at 42-44 Irish Street and the construction of 2 no shop units; demolition of existing store/shed at shamble lane and the construction of 6 no shop units.
Address: 42 - 44 Irish Street Dungannon and land adjacent to 19 Shamble lane
Decision:
Decision Date: 13.03.2007

Ref ID: M/2007/0613/Q
Proposal: Dungannon Town Centre Health Check Planning Search
Address: Dungannon Town Centre
Decision:
Decision Date:

Ref ID: M/2013/0433/F
 Proposal: Proposed hot food restaurant
 Address: Unit 42 Irish Street, Dungannon,
 Decision: PG
 Decision Date: 03.04.2014

Ref ID: M/2014/0301/F
 Proposal: Proposed change of use from ex retail to a gaming arcade.
 Address: 40 Irish Street Dungannon,
 Decision: PG
 Decision Date: 14.10.2014

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
 Type:
 Status: Submitted

Drawing No.
 Type:
 Status: Submitted

Drawing No.
 Type:
 Status: Submitted

Drawing No.
 Type:
 Status: Submitted

Drawing No. 02
 Type: Proposed Plans
 Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:
 Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1502/F	Target Date:
Proposal: Proposed change of use from construction offices and warehouse to day nursery (amended Visibility splays)	Location: 1 School Lane Gulladuff Magherafelt
Referral Route: Objection received	
Recommendation: Approval	
Applicant Name and Address: Moyagall Nursery 20 Falgortrevy Road Maghera BT46 5JW	Agent Name and Address: Healy Architecture The Studio 6 Gortnamoyagh Road Garvagh Coleraine BT51 5HA
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Transport NI - 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	
<p>Characteristics of the Site and Area</p> <p>The proposal site is situated within the small settlement of Gulladuff. The building is vacant at present however its last use was as an office for a business. The site is surrounded by pallisade fencing, parking is to the side and is securely gated. The site is accessed from School Lane, this access also serves two dwellings.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Site visit carried out 14.12.2016</p> <p>I have assessed this proposal under the following:</p> <p>SPSS Magherafelt Area Plan 2015 Planning Policy Statement 1 - General Principles Planning Policy Statement 3 - Access, Movement and Parking DCAN 3 - Creches, Day Nurseries and Pre-School playgroups.</p> <p>This proposal is for the change of use of a building with a current use as an office under B1: Business to a use as a day nursery which falls within Part D D1 (b) Community and Cultural uses of the Planning (Use Classes) Order (Northern Ireland) 2015.</p> <p>This proposal site is located within the settlement development limits of Gulladuff as defined by Magherafelt Area Plan 2015. Adjacent to the proposal site a large housing development has been approved but not implemented at present.</p> <p>Neighbours - Owners/Occupiers of neighbouring properties at No 14A Mayogall Road, No 16 Mayogall Road, No 1 Lavey Park, No 2 Lavey Park and No 8 School Lane were all notified of this proposal on 08.11.2016 and no representations have been received from these neighbours.</p> <p>In line with legislation this proposal was advertised in several local press publications during November.</p> <p>One objection has been received from Mr Henry McMullan whose address has been given as 'The Cairn' Dungannon. This objections main points are:</p> <ul style="list-style-type: none"> - The original application was submitted with a site location plan that did not include the access outlined joining the main road and as such the application should not have been accepted as valid - the applicant was asked to submit an amended site location plan with the access clearly indicated, this was accepted by Transport NI who had no points of concern regarding the proposal or visibility splays etc. - the internal layout of the nursery does not comply with regulations - NHSCOT were asked to comment on the proposal and this included the internal layout of the proposal. They had no objections to the plans as submitted provided the minimum standards are adhered to. 	

The applicant submitted information dated 03.01.2017 to counter the objectors points and claiming the objection was false, following this the council felt it was necessary to contact the objector again for clarification of his original objection and further correspondence was received from Mr McMullan confirming that his objection still stands and querying land ownership and access issues. As previously mentioned Transportni have no objections to this proposal. In addition the applicant has served notice on the land owners affected by this proposal and confirmed on 12.01.2016 that no 3rd party lands are required for sight splays.

Consultations - Environmental Health were asked to comment and responded on 21.12.2016 stating that they accept the conclusions of the submitted noise report dated 19.12.2016.

NHSCT early years team were asked to comment and stated in an email response on 23.11.2016 that they agree in principle to the application provided the minimum standards are adhered to.

Transportni were asked to comment and responded on 10.01.2017 with no objections subject to conditions and informatives. 15 parking spaces have been indicated with one of which being designated disabled parking.

NI Water were asked to comment and responded on 8.11.2016 with no objections subject to advice.

The proposal included information relating to the number and age range of children, number of staff, opening times, an indication of internal floorspace and external playspace arrangements and a block layout plan, as required. The submission indicates that a maximum of 44 children will attend the premises. It is acknowledged that this is a large amount of children, however I am content that the scale of the operation is appropriate to the specific site and the surrounding neighbourhood. Although it is recognised that nursery schools located adjacent to residential areas can give rise to excessive noise as a result of increase in traffic, mainly at drop off and collection times and as a result of use of external play and recreation areas for the children. One external play area is proposed and I am content that this has not been located in proximity to habitable rooms and will have not have a detrimental effect on the residential amenity of nearby dwellings.

It has been indicated that this project is dependent upon funding from the Department of Agriculture _ Rural Development under the Rural Business Investment scheme.

In conclusion it is my consideration that this proposal is an acceptable change of use for the proposed location, that the proposed use would have no detrimental impact on the surrounding landscape, neighbouring properties or for road safety. The proposal does include a small extension to the existing building however this is in keeping with the design and scale of the current building and would not cause overshadowing or overlooking issues for any neighbouring properties.

Having considered all of these points I feel this proposal is acceptable.

Recommendation: Approval

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval

Conditions:

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

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

2. The vehicular access, including visibility splays of 2.4m x 46m West and 2.4m x 55m East and any forward sight distance, shall be provided in accordance with Drawing No. 03 bearing the date stamp 20.12.2016, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

Informatives

1. Under the terms of the Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Roads Service's Street Lighting Consultancy, County Hall, Ballymena. The applicant is advised to contact Roads Service Street Lighting Section at an early. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

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 Regional Development for which separate permissions and arrangements are required.

3. 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.

4. Notwithstanding the terms and conditions of the Department of Environment'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 Regional Development'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 Molesworth Street, Cookstown.

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

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

6. 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 roadside drainage is preserved and does not allow water from the road to enter the site.

7. 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.

8. 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.

9. 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 08457 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

The developer should be notified that all services within the development should be laid underground.

The development hereby permitted should not 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 should not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

Signature(s)

Date:

ANNEX	
Date Valid	21st October 2016
Date First Advertised	10th November 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Lavey Park Moyagall Gulladuff The Owner/Occupier, 14A Mayogall Road Moyagall Gulladuff The Owner/Occupier, 16 Mayogall Road Moyagall Gulladuff The Owner/Occupier, 2 Lavey Park Moyagall Gulladuff The Owner/Occupier, 8 School Lane Moyagall Gulladuff Henry McMullan McMullanhenry@gmail.com Henry McMullan The Cairn,Dungannon	
Date of Last Neighbour Notification	23rd December 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1502/F Proposal: Proposed change of use from construction offices and warehouse to day nursery Address: 1 School Lane, Gulladuff, Magherafelt, Decision: Decision Date: Ref ID: H/2007/0020/RM Proposal: 38 Unit Housing scheme as approved under outline H/2003/0361/O Address: South and adjoining 37 Mayogall Road, Gulladuff, Magherafelt Decision: Decision Date: 11.09.2008 Ref ID: H/2003/0361/O	

Proposal: Site of housing development.
Address: Behind 7 - 39 Mayogall Road, Magherafelt.
Decision:
Decision Date:

Ref ID: H/1990/0121
Proposal: CHANGE OF USE FROM VACANT SCHOOL TO WORKSHOP FOR
MANUFACTURE OF GRANITE WORKTOPS
Address: MOYAGALL ROAD GULLADUFF
Decision:
Decision Date:

Ref ID: H/1988/0348
Proposal: HOUSING DEVELOPMENT(4 SEMI-DETACHED DWELLINGS)
Address: ADJACENT TO SCHOOL LANE CLADY ROAD GULLADUFF
Decision:
Decision Date:

Ref ID: H/1990/0140
Proposal: NEW ACCESS
Address: MOYAGALL ROAD, GULLADUFF.
Decision:
Decision Date:

Ref ID: H/1996/0089
Proposal: ALTS AND ADDS TO WORKSHOP TO PROVIDE STORAGE AND OFFICE
FACILITIES
Address: SCHOOL LANE GULLADUFF
Decision:
Decision Date:

Ref ID: H/1991/0571
Proposal: 2 NO DWELLINGS
Address: MOYAGALL ROAD/SCHOOL LANE GULLADUFF
Decision:
Decision Date:

Ref ID: H/2009/0646/F
Proposal: Proposed change of layout to existing approved housing development
H/2007/0958/F to provide additional 4no dwelling units
Address: Lands to the rear of no.2 School Lane, Gulladuff
Decision:
Decision Date: 25.01.2010

Ref ID: H/2003/0680/F

Proposal: Housing development comprising of 14 dwellings

Address: Land at rear of 2 School Lane, Gulladuff.

Decision:

Decision Date: 01.06.2007

Ref ID: H/2015/0014/F

Proposal: Proposed renewal of approved housing development H/2009/0646/F

Address: Off School Lane to the rear of No. 7 Mayogall Road, Gulladuff,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site & Detailed Drawings

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1583/O	Target Date:
Proposal: New dwelling under CTY 2A	Location: Approx 20m East of 50 Oaklea Road Ballyronan Magherafelt
Referral Route: Contrary to Policy	
Recommendation:	Refusal
Applicant Name and Address: Pat Young 50 Oaklea Road Magherafelt BT45 6HX	Agent Name and Address: CMI Planners Ltd Unit C5 The Rainey Centre 80 - 82 Rainey Street Magherafelt BT45 5AG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

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

Summary of Issues: The proposal is contrary to the 1st criterion of CTY 2a

Characteristics of the Site and Area

The site is located 1 mile north east of Ballyronan in open countryside in accordance with the Cookstown Area Plan 2010. The site is located 20m east of No 50 Oaklea Road. The proposal site comprises of a roadside triangular plot of land adjacent to the Oaklea and Ballynagarve crossroads located immediately east of the site. The site is bounds by a Gospel Hall along the northern boundary and single storey dwelling (No 50) along the western boundary.

Planning Assessment of Policy and Other Material Considerations

The Detail of the proposal:

The application seeks outline planning permission for a new dwelling under CTY 2A.

Relevant Site History:

No relevant history.

Representations:

3 neighbour's notification letter were sent to Nos 50 & 50A Oaklea Road, Ballyronan & Drumenagh Gospel Hall, No 22 Ballynagarve Road, Magherafelt. 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.

Magherfelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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.

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

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

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 agent has opted for the proposal to be considered under Policy CTY 2a - New Dwellings in Existing Clusters. CTY 2a sets out 6 criteria which all dwelling in existing clusters are expected to meet. The Council's has concerns relating to the 1st criterion which requires the cluster of development to lie 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 proposal site comprises of a roadside triangular plot of land adjacent to the Oaklea and Ballynagarve crossroads located immediately east of the site. The existing cluster of

development consists of five buildings made up of two dwellings, Nos 50 & 50A, a domestic garage to the rear of No 50, a shed to the rear of No 50a and Drumenagh Gospel Hall. Under CTY 2a the garage and shed cannot be counted as buildings because they are considered ancillary to their respective properties. The cluster also falls short of the required three dwellings set out in the 1st criterion of CTY 2a. CTY 2a states that all criteria must be met, therefore the proposal is contrary to the 1st criterion of CTY 2a.

With regards to the five remaining criteria of CTY 2a, I have no concerns insofar the proposal is policy compliance in relation to:

1. the cluster appearing as a visual entity in the local landscape.
2. the cluster is associated with a focal point i.e. the crossroad and the hall.
3. the site provides a suitable degree of enclosure and is bounded by development on two sides.
4. the site can be absorbed into the existing cluster through rounding off and there will be no change in rural character.
5. the development will not have an adverse impact on residential amenity.

Other Material Consideration.

I am satisfied a dwelling with a ridge of 5.5m can visually integrate into the surrounding landscape without offending any of the criteria listed under policy CTY 13 Integration. With regard to CTY 14 Rural Character, I am satisfied that a dwelling enclosed by existing development immediately north and west of the site can be absorbed into the existing cluster through rounding off, without significantly altering the character of the area.

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.

Neighbour Notification Checked: Yes

Summary of Recommendation: I recommend refusal primarily on the basis of non-compliance with the 1st criterion of CTY 2A

Reasons for Refusal:

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwellings.

Signature(s) Sean Diamond

Date: 24/01/2017

ANNEX	
Date Valid	9th November 2016
Date First Advertised	24th November 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 22 Ballynagarve Road,Drumenagh,Magherafelt,Londonderry,BT45 6NB, The Owner/Occupier, 50 Oaklea Road Ballyronan More Magherafelt The Owner/Occupier, 50A Oaklea Road Ballyronan More Magherafelt	
Date of Last Neighbour Notification	29th November 2016
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1583/O Proposal: New dwelling under CTY 2A Address: Approx 20m East of 50 Oaklea Road, Ballyronan, Mgaherafelt, Decision: Decision Date: Ref ID: I/2001/0777/CD Proposal: Construction of a small prefabricated waste water Treatment Plant located below ground level & construction of foul sewer pipeline Address: Oaklea Road Treatment Works, Ballyronan Decision: Decision Date: 23.04.2002 Ref ID: I/1983/0029 Proposal: ERECTION OF BUNGALOW Address: BALLYRONAN MORE, BALLYRONAN Decision: Decision Date: Ref ID: I/2006/1149/F Proposal: Extensions to dwelling, Roof conversion, replacement garage, change access point. Left and right side single storey extension, back extension. Bay window to front. Address: 50 Oaklea Rd, Ballyronan, Magherafelt, BT45 6HX Decision:	

Decision Date: 18.06.2007
Summary of Consultee Responses
Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 7th February 2017	Item Number:
Application ID: LA09/2016/1599/O	Target Date:
Proposal: Proposed dwelling and garage under policy CTY 2A	Location: Approx 20m SW of 21 Drumconnor Road Drumconnor Dungannon
Referral Route: Recommendation to refuse	
Recommendation:	Refuse
Applicant Name and Address: Oliver Donaghy 24 Lisnagleer Road Dungannon BT70 3LN	Agent Name and Address: CMI Planners Ltd Unit C5 The Rainey Centre 80 - 82 Rainey Street Magherafelt BT45 5AG
Case Officer: Paul McClean	
Signature(s):	

Case Officer Report

Site Location Plan



Description of proposal

This is an outline planning application for a dwelling and garage in the open countryside. The applicant has indicated for the proposal to be assessed under policy CTY2 of PPS21- New Dwellings in Existing Clusters.

Characteristics of Site and Area

The site is located between a newly approved shed under construction (LA09/2015/0817/F which was approved by Committee Members on Tue 3rd May 2016 against Officer recommendation to refuse) and No. 21 Drumconnor Road which is a 1 1/2 storey dwelling with associated garage and lawn area. The site is located approx. 6.5km south of Cookstown, just off the main Cookstown to Dungannon Road, and south of the crossroads linking Stewartstown to Pomeroy. The northern boundary of the site is shared with No. 21 and is defined by a maintained evergreen hedge of approx. 2-3m high. The roadside boundary is defined by a verge, behind which is a post and wire fence with some new tree planting. The southern boundary is not defined and runs parallel to the access lane to the new portal frame building being built, with the field boundary further south (approx 10m) being defined by mature tree cover. The eastern boundary is defined by mature tree cover.

The area is open countryside, defined mostly by agricultural land and dispersed single dwellings. Adjacent and west and east of the site are existing agricultural fields. Approx. 600m north of the site is a garden centre, which is not readily visible from the site. Further to the east and south of

the site is some more housing and agricultural units and holdings, the closest being 70 metres away.

Planning Assessment of Policy and Other Material Considerations

Area plan

Cookstown Area Plan 2010- the site is located in the open countryside with access onto a minor county road. The policy provisions of SPPS and PPS21 apply.

Relevant Planning History

LA09/2016/0817/F- detached single storey stable and store block. The Planning Officer presented this proposal to committee in May 2016 with a recommendation to refuse as it; -did not meet policy CTY12 of PPS21 as the building was sited away from the existing holding and that it was not demonstrated that any buildings on the holding could not be used to facilitate the proposal.

The Planning Committee overturned this recommendation and permission was granted.

Key Policy Consideration:

Strategic Planning Policy Statement- SPPS advises that the policy provisions of PPS21 Sustainable Development in the Countryside are retained.

PPS21- sustainable development in the countryside

The overarching policy for development in the countryside is PPS21. There are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 Development in the Countryside. The applicant has provided a case that the site represents an opportunity for a new dwelling in an existing cluster in line with policy CTY2a of PPS21.

The applicant/agent has provided a drawing No. 02 dated 11th November 2016, where 2 areas are circled, the garden centre to the north and a 'cluster of development' to the south. I am not convinced that the 'cluster development' identified to the south is such that it meets the spirit of policy CTY2a of PPS21 in that the red line encompasses a large area of land, which while driving through, especially along Drumconnor Road, does not read as a visual entity in the local landscape.

A field to the east separates the site from development on Cookstown Road and the Garden Centre to the north. While the development is bounded on two sides by development, the cluster is not compact enough for the site to read part of a cluster of 4 or more buildings of at which at least 3 are dwellings.

As it is my opinion that the site is not located at a cluster, the remaining policy points of CTY2a become irrelevant.

The site is not located a crossroads, nor will it be associated with a focal point. The development of a dwelling on this site will not represent a rounding off and consolidation of development.

While a dwelling of up to a 6.5m ridge, with retention of all existing landscaping may integrate onto this site and not have a detrimental impact on rural character of this area, it is my view that it is contrary to CTY1 and CTY2a of PPS21 and cannot be granted permission.

In terms of CTY8, there is scope 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 and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is my opinion that this site does not represent a gap site as it does not fall within a substantially built up frontage as it falls between only 2 buildings along a frontage. No. 21 has a detached garage located adjacent to the western gable and is read to the front of the dwelling when travelling along Drumconnor Road and not read as part of a built up frontage.

Therefore in my view this proposal does not represent a gap within a line of 3 or more buildings along a road frontage and is contrary to policy CTY8 of PPS21.

Other consideration

The site is not subject to flooding, nor are there any natural or built heritage constraints to consider. The land is not contaminated, and Environmental Health have no concern subject to proper sewage effluent disposal being obtained from NIEA. Should permission be granted Transport NI require 2m by 45m to the NE, and, 2m by 60m to the SW.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission be refused for the following reasons.

Refusal Reasons

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

-the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwelling;

-the cluster does not appear as a visual entity in the local landscape;

-the cluster is not associated with a focal point and is not located at a cross-roads.

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 creation of ribbon development along Drumconnor Road.

Signature(s)

Date:

ANNEX	
Date Valid	11th November 2016
Date First Advertised	1st December 2016
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 21 Drumconnor Road Drumconor Dungannon	
Date of Last Neighbour Notification	23rd November 2016
Date of EIA Determination	NA
ES Requested	No



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 07/02/2017	Item Number:
Application ID: LA09/2016/1719/A	Target Date: 21/03/2017
Proposal: 1no Vertical Free Standing Sign, 2no Flat Panel Signs fixed to face or wall and 2no Flag Poles	Location: 26 Charlemont Street Moy Dungannon
Referral Route: Recommended for refusal	
Recommendation:	REFUSAL
Applicant Name and Address: Moy Autos 26 Charlemont Street Moy Dungannon	Agent Name and Address: A P Mackle 127 Benburb Road Moy Dungannon BT71 7QA
Executive Summary: Proposal contrary to PPS 17 and PPS 6.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Non Statutory	Historic Environment Division (HED)	Substantive Response Received
Advice & Guidance	Conservation Officer – Mid Ulster District Council	Substantive Response Received

Representations:

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

Summary of Issues

Proposal is contrary to PPS 17 and PPS 6, therefore refusal is recommended.

Characteristics of the Site and Area

The application site is located in the Village of Moy, Co. Tyrone. The site is within the settlement development limits of Moy and located just outside of the Moy Conservation Area as designated in the Dungannon and South Tyrone Area Plan 2010.

The application site is currently used as a car sales premises consisting of yard area and associated workshop/sales unit. The front of the application site is made up of an approx. 3m high wall to the west of the site entrance and a smaller approx. 0.5m high wall with metal frame fence

above, to the eastern side of the entrance. The higher wall makes up the gable wall of a small unit which is ancillary to the main use of the site.

The access/entrance to the site is obtained via Charlemont Street and consists of an approx. 3m high metal framed gate.

The site is located immediately adjacent to 22 Charlemont Street, Moy, which is a listed building of special architectural and historic interest, protected under Section 80 of the Planning (Northern Ireland) Act 2011 - this is a material consideration.

Planning Assessment of Policy and Other Material Considerations

Description of Proposal

The application seeks consent to display an advertisement. The proposal relates to the placement of a free standing vertical sign with LED display, 2 no. wall mounted flat panel signs and 2 no. flagpoles, the dimensions of which are annotated on drawing no. 01.

It is noted that the signage is already in situ and is situated at the front of the site immediately adjacent to Charlemont Street, on either side of the existing site access. There is an ongoing enforcement case on the site with regard to unauthorised signage and this proposal relates to the regularisation of this signage.

Assessment

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

1. Strategic Planning Policy Statement (SPPS).
2. Dungannon and South Tyrone Area Plan 2010.
3. Planning Policy Statement (PPS) 17 – Control of Outdoor Advertisements.
4. Planning Policy Statement (PPS) 6 – Planning, Archaeology and the Built Heritage.

Representations

No third party objections have been received. Transport NI have been consulted on this application and responded on 25/11/2016 highlighting that they had no objection to the proposal, subject to condition. HED were consulted on the application and responded on 29/12/2016 outlining that they had concerns with the proposal relative to the impact on the setting of a nearby listed building.

The Council's Conservation Officer was also consulted on this application and responded on the 17/01/2017 outlining that they had concerns about the impact that the proposal had on the Moy Conservation Area.

Planning History

It is noted that there is an ongoing enforcement case on this site under planning reference LA09/2016/0084/CA. The case relates to the erection of unauthorised advertisements.

It is also noted that an application for consent to advertise (LA09/2015/0807/A) was made at a location 90m south east of the application site. That application was refused consent by the Council on 11/01/2016 and an appeal application (2015/A0218) on the site was dismissed on 13/06/2016. Although the application relates to a different area of the village, it is an important consideration.

Assessment

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 17 and PPS 6 has been retained under transitional arrangements.

Policy AD 1 of PPS 17 is the prevailing policy consideration in the consideration of this application. Policy AD 1 identifies that consent will be given for the display of an advertisement where:

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

The proposed advertisement presents a distinct and prominent feature to this protected streetscape. The size and location of the proposed signage means that it is clearly visible on approach to the site from both directions. The number and variation of signage associated with this advertisement also creates a visual clutter at this site and it is considered that this proliferation of signage gives rise to a negative effect on the appearance of the listed building and the immediate streetscape where it is displayed.

HED Comments refer to the competitive focus of the signage relative to the listed building. I agree with HED that the proposal, in its current form, is unduly prominent and not appropriate to the special character of the setting of the listed building. HED, in their response, have also requested the Council's Conservation Officer be consulted. The Conservation Officer was duly consulted on 09/01/2017 and the response received has highlighted their concern with the proposal relative to the character and appearance of the Conservation Area. The response received by the Conservation Officer highlights that the proposal is detrimental to the integrity of the Conservation Area and its wider setting. The conservation Officer has recommended that the application is refused consent.

The size, appearance, proliferation and unsympathetic style of the proposed advertisement is detrimental to the character of the listed building and the wider setting of the Conservation area. The proposed advertisement therefore fails to meet the first part of the policy criteria of Policy AD 1 of PPS 17.

Part ii) of Policy AD 1 refers to public safety. It is noted that advertisements by their very nature are designed to attract the attention of passers-by and therefore they have the potential to impact upon public safety. Transport NI were also consulted on this application and they responded highlighting that they had no objection to the proposal, subject to a condition which restricts the advertisements from comprising sequential displays, moving parts/features or intermittent lighting designed to give the appearance of movement. I agree with TNI that the advertisement in its current form will not have a detrimental impact on public safety interests.

PPS 6 – Policy BH 11 specifically relates to development affecting the setting of a listed building. Policy BH 11 outlines that development proposals of this nature will generally only be considered appropriate where all (emphasis) of the following criteria are met;

- a) The detailed design respects the listed building in terms of scale, height, massing and alignment;
- b) The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- c) The nature of the use proposed respects the character of the setting of the building.

In addition, Policy BH 13 of PPS 6 highlights that consent will normally not be granted for the display of advertisements in or close to a conservation area which would adversely affect the character, appearance or setting of the area or which would be detrimental to public safety.

As asserted above, the proliferation of signage proposed under this application is unsympathetic to the character of the nearby listed building and its associated setting. The proposed size, style and proliferation of the signage is insensitive to the character and appearance of the listed building and the setting of the Moy Conservation Area.

Members are reminded of a recent Planning Appeals Commission (PAC) decision under reference 2015/A0218. This appeal related to the refusal of consent to display an advertisement at lands adjacent to 45 Charlemont Street, Moy. The appeal proposal comprised of a double sided

illuminated sign with dimensions of 3.20m x 0.8m and was erected on top of a wall adjacent to a listed building (a former grain store). The Council refused this application on the basis of its negative impact on the general character of the area, public safety interests and its negative impact on the setting of the adjacent listed building. Each of these reasons were upheld in the PAC decision where it was noted that the proposal would create an unacceptable proliferation of signage in this location and that the sign is detrimental to the amenity of the general area within which it is located. The PAC commissioner also noted that in the context of the listed building the sign appeared as a prominent, obtrusive and unwelcome feature. The Council's grounds for refusal in relation to public safety were also upheld. The PAC decision underlines the importance of the preservation and protection of built heritage interests in this area.

Conclusion

The proposal is at odds with the policy requirements of PPS 17 Policy AD 1 and PPS 6 Policies BH 11 and BH 13.

Neighbour Notification Checked

Yes

Summary of Recommendation:

I consider that the proposal does not comply with part i) of Policy AD 1 of PPS 17, Policy BH 11 of PPS 6 OR Policy BH 13 of PPS 6. The proposed advertisement is a prominent and obtrusive feature and this has a negative impact on amenity of the listed building located at 22 Charlemont Street and the integrity of the adjacent Conservation Area.

I therefore recommend that consent to display the advertisement is refused.

Conditions/Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement and to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that the proliferation of signage does not respect amenity, when assessed in the context of the general characteristics of the locality.
2. The proposal is contrary to Planning Policy Statement 6, Planning, Archaeology and the Built Heritage, Policy BH 11, in that it adversely affects the setting of a listed building.
3. The proposal is contrary to Planning Policy Statement 6, Planning, Archaeology and the Built Heritage, Policy BH 13, in that it adversely effects the setting of a Conservation Area.

Signature(s)

Date:

ANNEX	
Date Valid	6th December 2016
Date First Advertised	N/A
Date Last Advertised	
Details of Neighbour Notification (all addresses) N/A	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1719/A Proposal: 1no Vertical Free Standing Sign, 2no Flat Panel Signs fixed to face or wall and 2no Flag Poles Address: 26 Charlemont Street, Moy, Dungannon, Decision: Decision Date: Ref ID: M/2006/1563/F Proposal: Construction of 2 No. 1 1/2 Storey Dwellings, 4 No. Apartments & Associated Siteworks Address: Site to the Rear of 22-24 Charlemont Street, Moy, Extending Behind 26 Charlemont Street Decision: Decision Date: 22.06.2007 Ref ID: M/1999/0226 Proposal: Proposed Provision of New Storage Facilities Address: LANDS TO THE REAR OF CHARLEMONT STREET MOY Decision: Decision Date: Ref ID: M/1982/0450 Proposal: AGRICULTURAL WORKSHOP	

Address: CHARLEMONT STREET, MOY

Decision:

Decision Date:

Ref ID: M/1988/0193

Proposal: TRACTOR SHOWROOM EXTENSION TO WORKSHOP

Address: 26 CHARLEMONT STREET, MOY, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1985/0488

Proposal: TWO PROPOSED RETAIL SHOP UNITS

Address: NO 26 CHARLEMONT STREET, MOY

Decision:

Decision Date:

Ref ID: M/1978/0140

Proposal: CHANGE OF USE OF EXISTING PREMISES TO SALE AND
MAINTENANCE OF TRACTORS

Address: CHARLEMONT STREET, MOY

Decision:

Decision Date:

Ref ID: M/1975/0600

Proposal: RECONSTRUCTION OF BOMB DAMAGED PREMISES INTO 3 SHOPS,
AND ALTERATION

Address: 30-34 CHARLEMONT STREET, MOY

Decision:

Decision Date:

Ref ID: M/2005/2167/F

Proposal: Store for shop for storage of electrical goods

Address: 36-38 Charlemont Street, Moy, Dungannon

Decision:

Decision Date: 14.02.2006

Summary of Consultee Responses

Transport NI (TNI) and Historic Environment Division (HED) were consulted and responded on this application. TNI have no objection to the proposal, subject to condition. HED have highlighted concerns with the proposal and its impact on the setting of a nearby listed building.

Drawing Numbers and Title

Drawing No. 01
Type: Proposed Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1739/A	Target Date:
Proposal: 2nr shop signs relocated from existing positions to proposed to accommodate new by pass road layout. Position agreed with Transport NI	Location: Lands 40m West and 145m East of 55 Aughrim Road Magherafelt
Referral Route: Contrary to policy	
Recommendation:	Refusal
Applicant Name and Address: Bradley Furniture 60 Aughrim Road Magherafelt	Agent Name and Address: CMI Planners Ltd 80 - 82 Rainey Street Magherafelt BT45 5AG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - 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: Visual amenity and public safety

Characteristics of the Site and Area

The site is located 1 mile west of Magherafelt within countryside in accordance to the Magherafelt Area Plan 2015. The site comprises of a cut out portion of two agricultural field and also includes part of the curtilage of No 55 Aughrim Road. The site along the eastern boundary abuts the newly opened Magherafelt Bypass and newly constructed Aughrim Roundabout. The

applicant's furniture business is located opposite the site which is setback 100m from the Aughrim Road.

The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

Planning Assessment of Policy and Other Material Considerations

Detail of the proposal:

The proposal is for 2 signs, both signs will be used to provide direction and advertisement space for the applicant furniture business located at No 60 Aughrim Road.

Sign 1(Proposed Sign) measures 2.4m x 2.4m attached on top of wooden posts 2m off the ground, giving an overall height of 4.4m above ground level. The sign is located approximately 50m west of No 55 Aughrim Road in an agricultural field and will be set back 4m from the edge of the public road behind a 1.5m high hedgerow.

Sign 2 (Retrospective Sign) measures 2m x 2m attached on top of wooden posts 2m off the ground, giving an overall height of 4m above ground level. The sign is located 40m from the newly opened Aughrim Roundabout in an agricultural field and is set back 8m from the edge of the public road behind a post and wire fence.

Relevant Planning History

LA09/2016/0184/CA – An enforcement case for unauthorised signage is ongoing. Further action will depend on the outcome of subject planning application LA09/2016/1739/A.

Representations:

No neighbours notified under an advertisement consent application

No letter of representation have been received

Development Plan, Legislation and Key Policy Consideration

Magherfelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

Legislation:

Section 130 of The Planning Act (Northern Ireland) 2011 refers to the Planning (Control of Outdoor Advertisements) Regulations (Northern Ireland) 2015

Policy:

The primary policy context is provided by Policy AD 1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality and it does not prejudice public safety. Paragraph 4.8 of the Justification and Amplification of Policy AD1 indicates that the amenity of the countryside is particularly important and there is need to protect it from negative effects of advertising. Paragraph 4.8 goes to say the only acceptable advertisements in the countryside are those on site which relate to existing or approved commercial enterprises and should be small in scale. Both signs fall into the category for large Poster Panel Display/Hoarding. Guidance for outdoor advertisements is provided in Annex A of PPS 17 which indicates that poster play displays are considered out of place in the countryside and will generally be unacceptable.

Amenity

The signs will be located within open countryside opposite the applicant's furniture business in two agricultural fields. Both signs are located approximately 125m-150m away from the applicant's business and have the appearance of not having any relationship with that business.

The size, scale and location of the signs are not appropriate for the site or locality and in my view will have a detrimental impact on the visual amenity of this area of countryside.

Public Safety

I have no concerns in regards to public safety. Transport NI have been consulted with regards to public safety and have raised no issues.

Neighbour Notification Checked

N/A

Summary of Recommendation: I recommend refusal on the bases that if consent is granted for these type signs in the countryside would lead to a proliferation of signs in the rural area

Conditions/Reasons for Refusal:

Refusal Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement and to Planning Policy Statement 17, Control of Outdoor Advertisements, Policy AD1, in that it will, if consented, have a detrimental impact upon the visual amenity of the locality.

Signature(s) Sean Diamond

Date: 24/01/2017

ANNEX	
Date Valid	9th December 2016
Date First Advertised	
Date Last Advertised	
Details of Neighbour Notification (all addresses) The wner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2016/1739/A Proposal: 2nr shop signs relocated from existing positions to proposed to accommodate new by pass road layout. Position agreed with Transport NI Address: Lands 40m West and 145m East of 55 Aughrim Road, Magherafelt, Decision: Decision Date: Ref ID: H/1991/0515 Proposal: DETACHED GARAGE Address: 53 AUGHRIM ROAD MAGHERAFELT Decision: Decision Date: Ref ID: H/1988/0582 Proposal: REPLACEMENT BUNGALOW Address: 53 AUGHRIM ROAD TULLYLINKISEY MAGHERAFELT Decision: Decision Date: Ref ID: H/1988/0029 Proposal: SITE OF REPLACEMENT BUNGALOW Address: 53 AUGHRIM ROAD TULLYLINKISEY MAGHERAFELT Decision: Decision Date: Ref ID: H/2005/0481/F	

Proposal: Development of existing agricultural building & yard area to facilitate an agricultural supplies business

Address: Farmyard 50m West of 69 Aughrim Road, Magherafelt

Decision:

Decision Date: 29.11.2005

Ref ID: H/2009/0584/O

Proposal: Site of farm dwelling and garage (2-storey)

Address: 120m approx south west of 69 Aughrim Road, Magherafelt

Decision:

Decision Date: 17.12.2009

Ref ID: H/2010/0086/RM

Proposal: Proposed two storey farm dwelling and garage

Address: 120m approx south west of 69 Aughrim Road, Magherafelt

Decision:

Decision Date: 14.04.2010

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Proposed Sign Elevations

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:

C



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2015/1170/F	Target Date: 08 March 2016
Proposal: Agricultural shed for storage of farm machinery(revised access)	Location: 180m SSE of no 1 Tullybrae Manor Aughnacloy
Applicant Name and Address: Samuel Patterson 1 Tullybrae Manor Caledon Road Aughnacloy BT69 6HP	Agent name and Address: Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
Summary of Issues: Access to the development and the need for the buildings in this location.	
Summary of Consultee Responses: TNI – approve with conditions EHO – no objection provided animals are not housed in the building DARD – active and established farm business NIWater – standard response	
Characteristics of the Site and Area: Characteristics of Site/Area The application site is located on the outskirts of Aughnacloy, with the North West corner of the field just touching the development limits of the village. The site is accessed from the main A28 protected route through a part completed development of houses which includes finished and occupied dwellings and closer to the site the foundations for other properties. The submitted site is a flat agricultural field of approximately 0.4 hectares and is demarcated by post and rail fencing with an entrance gate towards the centre. There are two residential dwellings in the immediate vicinity of the site.	

Deferred Consideration:

Members are advised this application was before the Committee on 3rd May 21016 as it was recommend for refusal. The application was deferred to allow the Planning Manager to meet with the applicant. Following a meeting on 12 May 2016, a revised access off the existing public road instead of through the approved housing development was submitted for consideration. Roads engineers from TNI have assessed this access and have advised the access is acceptable subject to conditions requiring its improvement.

At the meeting the applicant advised the farm at Coleraine has been sold and the machinery from it needs to be stored, this building is need to store that machinery. I have visited Mr Patterson's home (shown in blue on fig 1) and can confirm there is a significant amount of farm machinery at the premises, Mr Patterson advised he has had to sell some equipment as he could not store it and he would not store equipment in the open. I accept there is a need for a building to provide additional storage for Mr Patterson's machinery. However, members should note, Mr Patterson has other buildings, identified in yellow on Fig 1.

Fig 1 – Map showing Mr Pattersons House, proposed site and other buildings



Those buildings do not have any record of having planning permission and appear to have been steadily added to since September 2010. Mr Patterson has advised these buildings are his but are not on the farm that he has submitted claims for and are used for housing cattle and keeping fodder. It has been stated that these buildings are close to a number of dwellings currently under construction and it would not be appropriate to site any new buildings for the storage of machinery beside these. It is further stated there are clear health and safety, operational and security reasons for having new buildings away from these, though these are not elaborated on in any way. The dwellings under construction are in the ownership of Mr Patterson and he is entitled to place whatever restrictions on the sale as he sees necessary. Anyone moving to any of these houses will be aware of the buildings and could consider this in whether or not they wish to live here. Usually it is the housing of farm animals that causes issues of concern with 3rd parties, not the storage of machinery. Animals housed beside machinery would increase security for the machinery as the animals would generally react when people are in the vicinity of them, this in turn would alert the farmer or nearby residents. I do not consider there has been sufficient information provided to justify siting a new building away from existing buildings on the farm. In my view, Mr Patterson should obtain planning permission for the retention of the unauthorised buildings and if he feels it is necessary to have this new buildings, then he should site it beside those existing buildings.

I am not persuaded the siting of the proposed buildings is an exception to CTY12 as there are other opportunities beside existing buildings on the farm that have not been satisfactorily discounted. It is my recommendation to the committee that this application is refused.

Conditions/Reasons for Refusal:

Refusal Reasons

1. The applicant has failed to demonstrate that the proposed development is an exception to Policy CTY12 of PPS21, Sustainable Development in the Countryside, as there are other opportunities to site this building beside existing buildings on the farm and these have not been satisfactorily discounted.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2016/0999/O	Target Date:
Proposal: Dwelling on a farm	Location: Approximately 80m SW of 39 Mountjoy Road Dungannon
Applicant Name and Address: Martha Dunlop 39 Mounjoy Road Killeen Dungannon	Agent name and Address: Jeffrey Marrow 15 Finglush Road Caledon BT68 4XW
Summary of Consultee Responses: No objections	
<u>Characteristics of the Site and Area:</u> <p>The site is located adjacent to the SW limit of development for the settlement limit of Killeen as defined in the Dungannon Area Plan 2010. Access is gained from Mountjoy Road which defined the northern site boundary. The eastern boundary is a block wall which defines the curtilage of a farm group including a 2 storey dwelling. To the south is strong fencing and mature trees. The western boundary is defined by mature hedging and a laneway existing beyond this boundary. The northern, roadside boundary, is defined by a low mature hedge. The ground level is similar to that of Mountjoy Road, dipping slightly to the west.</p> <p>On the opposite side of the road, to the north are a number of residential properties and a Sign Business. Further west, on the same side of the road to the site, is an open field then a detached dwelling. To the south of the site is a detached dwelling and beyond that is agricultural land.</p>	

Deferred Consideration:

This application was originally submitted as a dwelling on a farm and was presented to Committee in November 2016 as a refusal for the following reasons;

1. The proposal is contrary to CTY1 & 10 of PPS21 and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business has been established for at least 6 years and is currently active.
2. The proposed development would if permitted prejudice the safety and convenience of road users since it would not be possible within the application site to provide adequate sight lines where the proposed access joins the Mount Joy Road.

At the Committee meeting the application was deferred by members to allow further assessment of the proposal and to allow the agent to resolve any Transport NI issues.

In relation to TNI concerns, the agent submitted an amended plan and TNI were re-consulted and replied with no objection subject to condition of 2.4m x 80m visibility splays. This would overcome refusal reason 2.

This application is for a single dwelling on a farm in the countryside. The policy tests are set out in CTY1 and CTY10 of PPS21. The applicant owns a farm but has only been running it for 3 years. However prior to this the farm was in the ownership of her parents, and records show this was a long established family farm, with single farm payments made since 2005. It is therefore my view that as the applicant, Martha Dunlop, has inherited the farm and no other sites on the farm have been disposed of, the application meets this policy test.

In relation to the siting I am satisfied that it is located next to farm buildings, and although it extends the build-up outside the settlement limit, this will read as a cluster and will have no impact on the rural character of the area.

The site has two well defined boundaries providing a good level of integration and is bounded on 3 sides by development, albeit one on the opposite side of Mountjoy Road, keeping in line with CTY13. A dwelling on the site will not significantly alter its existing character, or visually intrude into the open countryside. Development would not adversely impact on residential amenity.

The site would result in a rounding off of development and would not result in a change to the rural character of the area in line with CTY14.

Approval is recommended with the condition that existing vegetation should be retained.

Conditions

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

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

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

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

3. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

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

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

5. 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 amenity.

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

Reason: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

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

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

Signature(s):

Date

D

Report to	Mid Ulster Planning Committee
Subject	Department for Infrastructure Consultation on Review of PD rights for Mineral Exploration
Date	7th February 2017
Reporting Officer	Chris Boomer Planning Manager
Contact Officer	Sinead McEvoy

1	Purpose of Report
1.1	To provide members with a response to the Department for Infrastructure consultation regarding proposed amendments to Part 16 of the Schedule to the Planning (General Permitted Development) Order (Northern Ireland) 2015 which deals with the Permitted Development rights associated with mineral exploration.

2	Background
2.1	In March 2016, the Minister of the Environment, Mark H Durkan issued a Call for Evidence which sought to gather views on what would be the best way to review the permitted development rights for mineral exploration. Mid Ulster Council replied to this Call for Evidence in a response which was approved by the committee. In total, there were 141 responses.
2.2	These responses were considered and the consultation document which is the subject of this report was produced as a result. Apart from restrictions on blasting, all of the recommendations made by MUDC in response to the Call for Evidence are now being proposed in the current DFI consultation.

3	Key Issues
3.1	The Department of Infrastructure has asked a number of key questions in order to gauge opinion on their proposals for reviewing Mineral Exploration Permitted Development rights. These questions seek to establish views on the removal of PD rights relating to Petroleum Exploration; whether there should be a complete removal or whether there should still be some PD rights for preparatory work in relation to petroleum exploration.
3.2	Questions are also asked specifically regarding other more minor amendments to the PD regulations; namely, should we introduce height restriction criteria in relation to PD for mineral exploratory works; should we introduce a “relevant period” into the legislation as in England and Wales, and also if we should increase the time period whereby the Council can make a declaration removing PD rights under Article 7 from 21 days to 28 days.

3.3	This response, takes the same view as our earlier response to the call for evidence in that we agree that all PD rights for petroleum exploration should be removed and that a relevant period should be introduced as well as the extension of the time period from 21 days to 28 days for allowing the Council to make a declaration under Article 7 of the GPDO.
3.4	We also agree that a height restriction criteria should be introduced in relation to all PD for mineral exploration

4	Resources
4.1	<u>Financial</u> N/A
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	Members are requested to note the contents of the paper and agree that a response is issued to the Department for Infrastructure in line with the contents of this paper.

7	List of Documents Attached
7.1	Mid Ulster District Council response to Department of Infrastructure Consultation – Permitted Development Rights for Mineral Exploration - December 2016



**Response to Department of Infrastructure – The Planning (EIA) Regulations
(2015) - EIA Amendment Directive - Public Consultation**

February 2017

Department for Infrastructure Public Consultation on The Planning (EIA) Regulations (NI) 2017.

Purpose: In response to a Consultation document from the Department for Infrastructure, this paper will provide members with comments relating to the proposals for the implementation of an amendment to the European Directive known as the Environmental Impact Assessment or EIA Directive. If agreed, these comments will be forwarded to the Department for Infrastructure to inform their implementation of the new Directive The Planning (EIA) Regulations (NI) 2017.

Content: The paper provides:

- (i) Explanation of the current requirements of the EIA Regulations and the key amendments necessary as a result of the new Directive and the potential implications;
- (ii) Answers to specific questions posed by the Department of Infrastructure in relation to transposition of the new EIA Directive.

Recommendation: That members note the contents of the paper and agree that a response be forwarded to the DfI public consultation along the lines set out in the paper.

1.0 Introduction

1.1 The purpose of this paper is to provide members with a response to a recent consultation document on the proposed transposition of the new EIA Directive (2014/52/EU), which is an amendment to an earlier Directive, on the assessment of the effects of certain public and private projects on the environment. The consultation document sets out how the Department proposes to revoke the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 and enact the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. The consultation document sets out how the Department intends to transpose the amended EIA Directive. The consultation document, including the 2014 EIA Regulations, is included at Appendix A of this paper.

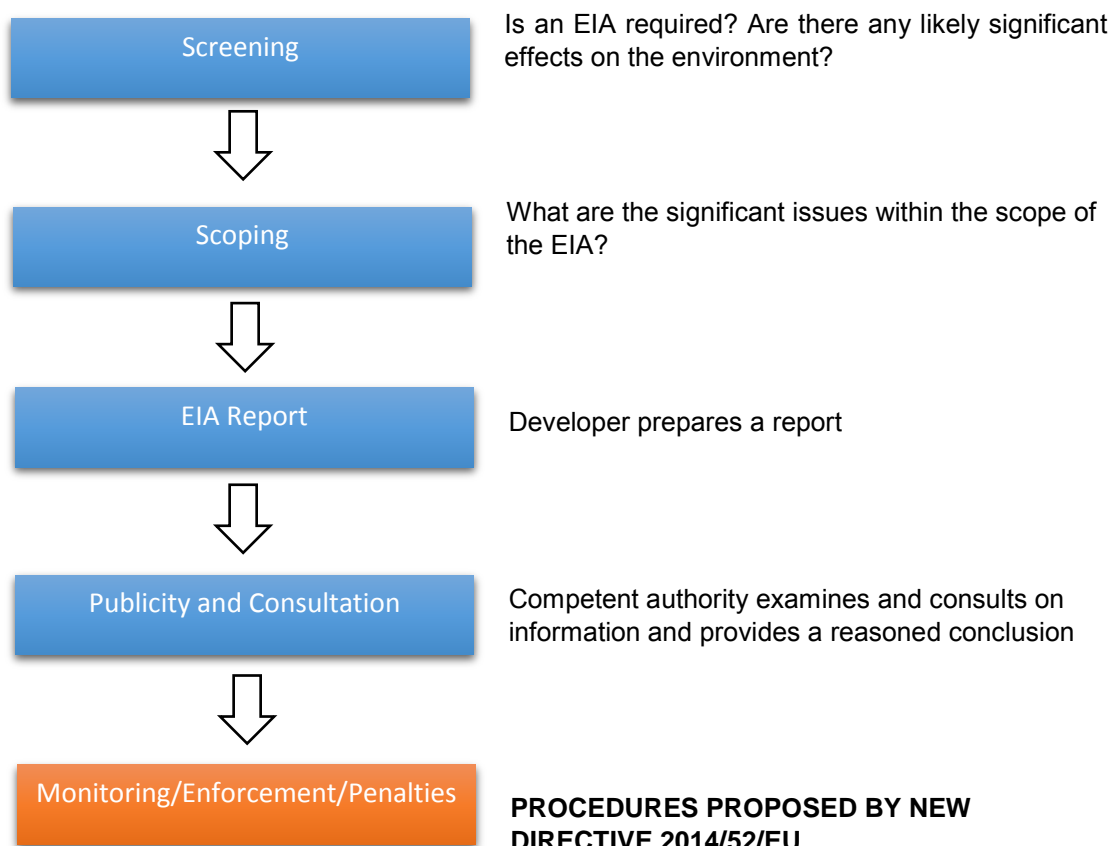
1.2 Following the launch of DfI's draft 2017 EIA Regulations Public Consultation document in December 2016, Mid Ulster Council have been invited to comment on their implementation of the new European Directive. The deadline for Mid Ulster to respond to this consultation document is imminent and responses must be submitted no later than **9th February 2017**.

2.0 Existing EIA Legislation and Procedures

2.1 The current EIA legislation, the 2015 EIA Regulations, were transposed from the previous EIA Directive 2011/92/EU. The EIA is essentially an environmental management tool. The Directive is aimed at ensuring a high level of protection of the environment and human health through the establishment of common minimum requirements for the assessment of the effects of certain projects on the environment during the consenting process.

2.2 The purpose of the EIA is to identify and evaluate possible alternatives to the scheme, identify and quantify the potential impacts which the proposed scheme might have on the environment, identify and assess potential mitigation measures, and establish a system for post scheme implementation monitoring. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given 'development consent'.

2.3 The EIA process is made up of several stages which are set out below.



3.0 Departmental Proposals

- 3.1 The European Commission website¹ states that the purpose of the new Directive is to simplify the rules of EIA and to lighten the administrative burden, reinforce the quality of decision making, improve current levels of environmental protection and introduce a more harmonised legislative framework.
- 3.2 The European Commission enacted the revised EIA Directive 2014/52/EU on 16th April 2014 with a view to improving the already high level of environmental protection provided by the existing 2015 EIA Regulations. A European Directive forms part of European law and is binding upon each Member State, however, it leaves open to the national authority the approach to be taken. This consultation document seeks to gauge opinion from local authorities as to whether the draft EIA Regulations appropriately implements these mandatory requirements.
- 3.2 Therefore the EIA Directive's requirements are for the most part procedurally based and **must** be followed by Member States for certain types of projects before planning permission can be granted. Whilst a significant number of the EIA Directive's requirements are mandatory, the method or process for doing so is at the discretion of the Member State.
- 3.2 The new EIA Directive will have direct implications for the planning system in Northern Ireland and indeed resource implications for this Council. The DfI consultation document summarises the proposed changes to be transposed within the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 as follows:
- Administrative burdens will be reduced through the co-ordination of Habitats/Wild Birds Directive alongside EIA's, wherever possible.
 - Environmental factors to be assessed have refined and broadened to include resource efficiency, climate change, biodiversity and disaster prevention.
 - EIA 'Screening' procedure has been strengthened through new information requirements and a revised selection criteria.
 - The information to be contained within an EIA Report has been revised and clarified to improve their quality and content.
 - EIA Reports are to be compiled by 'competent experts' and planning authorities are to have access to sufficient expertise to assess the Reports.
 - The grounds for planning permission decisions must be made clear. In addition, planning authorities will need to prove their objectivity to avoid conflicts of interest.
 - A proportionate level of monitoring required for developments which appear to have significant negative effects on the environment.

¹ <http://ec.europa.eu/environment/eia/review.htm>

- Effective, proportionate and dissuasive penalties are to be introduced for breaches of the requirements of the Directive.

4.0 Questions asked in Consultation Document

- 4.1** In order that the proposals put forward in their consultation are adequately considered, The Department have asked a number of specific questions and seek views on each of them. The questions along with the proposed responses are laid out below for members' consideration and if agreed, will form the council's formal response to the consultation.

Question 1 – Do you agree with proposals to provide for a coordinated rather than joint procedure?

Coordinated or Joint Procedure

- 4.2** The new EU Directive requires that member states adopt either a Coordinated Procedure or a Joint Procedure for the management of EIA projects which involve other environmental assessments.

Under the coordinated procedure Mid Ulster Council would be responsible for the coordination of the various individual assessments of the environmental impact of a particular project, e.g. Habitats Regulations Directive, Birds Directive, Water Framework Directive, Industrial Emissions Directive, SEA Directive, Waste Framework Directive and SEVESO III Directive. Whereas under the joint procedure Mid Ulster Council would be required to consider a single assessment of the environmental impact of a particular project required by the relevant Union legislation, i.e. all of the aforementioned EU Directives.

Mid Ulster Council feels that a coordinated procedure offers the greatest flexibility for developers around the phasing and timing of EIA and other assessments such as the Habitats Regulations Appraisal (HRA). There is concern that should the EIA regulations include provision for joint procedure it could result in a situation where no construction for an EIA development may take place until all relevant operational permits required under the Directives listed above have also been granted. Mid Ulster council considers that such a scenario would be impractical and in many instances it would be economically unviable to require this prior to determination of a planning application.

Question 2 – Do you have any comments in relation to the possible practical issues arising from the proposed approach to co-ordination?

- 4.3** Mid Ulster District Council would advocate the Co-ordinated procedure rather than the Joint procedure as it is felt that this approach would offer the most flexibility. A flexible approach is preferable to ensure that developments can be progressed in a phased manner.

This procedure could however result in additional responsibilities being placed on the council to coordinate the individual assessments. Clarity as to how the process would work in practice would be beneficial to all councils to avoid uncertainty about jurisdiction and responsibilities. It is essential however that the Department provides guidance to all local authorities as to the practical out workings of this requirement, including a clarification of roles.

Question 3 – Do you consider that our approach to the transposition of Article 1 and 2 as set out in the draft Regulations appropriately implements the requirements of the Directive?

- 4.4** Mid Ulster District Council has no objections to transposition of the mandatory requirements of these Articles.

Question 4 – Do you consider that our approach to the transposition of information to be assessed appropriately implements the requirements of the Directive?

Information to be assessed

- 4.5** Mid Ulster District Council notes the mandatory changes to the information to be assessed i.e. population and human health, land, cultural heritage and biodiversity. These aspects of the environment are currently considered under the 2015 Regulations, albeit perhaps in a less structured manner. These amended topics will require some adaptation of the Council's current assessment methods and will result in the requirement for additional resources. The Council does however recognise that these mandatory topics are set out in the Directive.

With this change specific consideration will need to be given to impacts of a project on, and its resilience to, climate change, and impacts on cultural heritage and landscape. Information on risks from major accidents or disasters, cumulative effects with any existing or planned projects and any mitigation works which would reduce the environmental impacts would also need to be included. These changes will mean a more detailed level of information will have to be submitted to Mid Ulster Council and analysis of the same will be required at an earlier stage. There are obvious implications involved for staff and resources.

The inclusion of the information to be assessed within the main body of the legislation (Regulation 5 (2)) rather than a Schedule to the rear of the regulations is a welcome amendment ensuring clarity and structure for all involved. Furthermore the language utilised to stipulate the information to be assessed within Regulation 5 is more definitive than that of the 2015 EIA Regulations and therefore provides greater clarity to the Council and the developer alike.

Question 5 – Are you content that the current timescale of 4 weeks for a screening determination is maintained subject to a maximum extension of 90 days?

Screening Timeframes

- 4.6** Mid Ulster District Council are content to continue to work to the 4 week screening determination deadline set down in the proposed regulations. The Council note the introduction of a 90 day extension however it is felt that this will have limited impacts on the day to day workings of the Council given the small numbers envisaged to require time extensions. In situations where the Council is required to initiate consultations as part of the screening process, the Council considers that the reason for the extension should be less prescriptive other than to state that it should only be in exceptional circumstances and only with the agreement of the developer. This would ensure that all eventualities are covered,

Question 6 – Do you consider that our approach to transposition of screening appropriately implements the requirements of the Directive?

Screening transposition approach

- 4.7** Mid Ulster District Council welcomes the inclusion within the draft EIA Regulations of the information that developers should provide if seeking a screening option. The inclusion of this detail will place the onus on the developer to submit a sufficient level of information at the outset to enable the council to make an informed decision. It is also noted that this detailed list of information is also linked to the determination carried out upon receipt of an application. In all cases where more detailed information is sought at an early stage in the process there will invariably be a need for additional resource input to assess such information.

The Council note the Directive's option to Member States to include a Mandatory Scoping at the time of Screening, whilst the Regulations have not included such Mandatory Scoping. Mid Ulster District Council would welcome the Department's decision not to transpose this element within the EIA Regs 2017. Whilst it is acknowledged that this would clarify, at an early stage, the information that a developer should submit as part of the EIA Report, it would impact negatively on processing times and inevitably result in additional resources to complete the mandatory scoping. It is also felt that scoping should be at the request of the applicant.

Question 7 – Do you consider that our approach to transposition of requirements concerning the content of the Environmental Statement appropriately implements the Directive?

- 4.8** Yes, it is considered that the regulations appropriately implement this aspect of the Directive. The general intent that the scope of the EIA should focus on the significant effects only is welcomed. Mid Ulster Council would however welcome the clarification and refinement of what should be included within the EIA Report. In addition by introducing the requirement that the EIA Report must be based on the most recent scoping opinion issued will ensure that the developer focuses on the key issues deemed important by the Council at the Scoping stage.

Question 8 – Do you consider that our approach to transposition of scoping appropriately implements the requirements of the Directive?

Scoping

- 4.9** The Directive inserts clearer requirements for the assessment of the impact of projects in a number of areas including biodiversity, climate change, landscape and disaster risks (which would include, for example, flooding). Whilst these will generally have been covered in the past, in a less structured manner, they are likely to require an increased emphasis in these areas and as such could result in increased workloads.

Question 9 – Do you consider that our approach to transposition of assessment quality and expertise appropriately implements the requirements of the Directive?

Competent Experts

- 4.10** The Directive requires that the EIA report is prepared by competent experts. It also states that the competent authority shall ensure that it has or has access to sufficient expertise to examine the EIA Report. This has been transposed into the regulations to require that the EIA Report be prepared by 'competent experts' and to ensure that determining authorities ensure that they have, or have access to, sufficient expertise to examine the EIA Report. The term 'competent experts' is open to interpretation and requires further clarification by the Department as part of the transposition to ensure that it is when it is a point of challenge the Council have clear direction on what it means and that it is not widely open to interpretation.

Mid Ulster Council is content that through expert consultees (e.g. NIEA, HSENI, SES etc.) that it has access to sufficient expertise, with a high level of specialised local knowledge, to address the key environmental issues. The need for additional more detailed information at an early stage in the process will likely have an impact on those resources who will be called on to advise on the content of it. Advice and guidance from the Department on how this aspect would be welcomed.

Question 10 – Do you consider the new timeframes appropriately implement the requirement of the Directive?

Timeframe for consulting the Public

- 4.11** The current timeframe of 4 weeks for public consultation will be updated to a minimum of not shorter than 30 days and the Council consider that this is reflective of the Directive. The new timeframe specified within the Directive and transposed within the 2017 EIA Regs will have minimal impact on the working practices within Mid Ulster Council.

Question 11 – Do you consider that our approach to transposition for decisions appropriately implements the requirements of the Directive?

Decisions

- 4.12** This requirement will likely have minimal impact on the working practices within Mid Ulster Council as the reasoned conclusion is already an integral part of the planning process. However the Directive now stipulates that this conclusion must be 'up to date' when the final decision is taken whether or not to grant planning permission. This requirement will require planning officers to be vigilant in this regard and possibly seek clarification from expert consultees as and when necessary. Furthermore this requirement would appear to introduce an increased risk and likelihood of challenge on the basis of timing and content of decision-making thereby adding to the burden on competent authorities.

Question 12 – Do you consider that our approach to transposition of monitoring appropriately implements the requirements of the Directive?

Monitoring

- 4.13** It is noted that the Directive now includes a mandatory monitoring element following Monitoring of any significant adverse effects identified after mitigation will be required to ensure the implementation of mitigation measures and to measure their effectiveness. To date monitoring has not been stipulated in this structured. The Directive requires, where appropriate, monitoring measures to be included within development consents. There will therefore be a greater level of monitoring required by the Council of such projects which will have very direct resource implications. The Council therefore consider that the Department should provide further clarity and guidance on how they envisage this being implemented, the level of monitoring necessary and what they consider to be the resource implication.

Question 13 – Do you consider that our approach to transposition of conflict of interest appropriately implements the requirements of the Directive?

Objectivity

- 4.14** The Directive requires that where the competent authority is also the developer an appropriate separation distance between conflicting functions shall be implemented. The 2017 EIA Regs necessitate that the Council will implement an appropriate separation between conflicting functions when performing the duties arising from the Directive. This mandatory requirement will have implications staffing / resources within the Council. Mid Ulster Council would wish to ensure no that no conflict arises in any such circumstances.

Question 14 - Do you consider that our approach to transposition of penalties appropriately implements the requirements of the Directive?

Rule on Penalties

- 4.15** The directive states that member states shall lay down rules on penalties applicable to infringements of the national provisions of the Directive. Mid Ulster Council welcomes that the Department consider the existing planning enforcement powers provide an appropriate penalty system for unlawful development and have not included any further penalty within the Regulations. The Regulations do however place an explicit duty on the Council to consider if the requirements of the Directive have been met when considering enforcement action. Mid Ulster Council consider that the approach of DFI to the transposition of this issue appropriately implements the Directive.

5.0 Recommendation

- 5.1** It is recommended that the members note the contents of this paper and agree that a response is issued to the Department of Infrastructure in line with the contents of this paper.

E

Subject: Planning Appeal decisions.

Date of Meeting: 7th Feb 2017

Reporting Officer: Melvin Bowman

Contact Officer: Dr Chris Boomer

1	Purpose of Report
1.1	To inform members of recent Planning Appeal decisions.

2	Background
2.1	The PAC have issued decision on the following application.

3	Key Issues
3.1	<p>LA09/2015/0243/F– Mr Cathal Shivers, 2 No. dwellings and garages, lands between 37 and 43 Drumlamph Road, Castledawson (appeal dismissed)</p> <p>The main issues in this appeal were whether the proposal represents a small gap within a line of 3 or more dwellings, the degree to which it would be integrated into its surroundings and its impact on rural character.</p>
3.2	<p>Critical to the entire case was the Council's view that one of the buildings used to constitute the line of 3 dwellings (No 37) was set back from the public road and did not share a common frontage with it. A small field separated No.37 from the road and the Commissioner accepted that this did not form part of the frontage. As a result it was concluded that there is not a line of 3 buildings along this part of Drumlamph Road. The loss of this gap which was felt to be providing visual separation between existing dwellings was also deemed to result in the creation of ribbon development resulting in a detrimental change to the areas rural character. The Councils refusal reasons in this regard were also sustained.</p>
3.3	<p>On the matter of integration, it was considered by the PAC that this reason for refusal could not be sustained given the sites potential to have little impact on roadside vegetation with the required provision of visibility splays onto Drumlamph Road.</p>

3.4	The appeal was dismissed.
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4	Resources
4.1	<u>Financial</u> N/A
4.2	<u>Human</u> N/A
4.3	<u>Basis for Professional/ Consultancy Support</u> N/A
4.4	<u>Other</u>

5	Other Considerations
5.1	N/A

6	Recommendations
6.1	That members note the attached appeal decision.

7	List of Documents Attached
7.1	Copies of PAC decision / map.

Appeal Decision

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Appeal Reference:	2016/A0093
Appeal by:	Mr Cathal Shivers against the refusal of full planning permission
Development:	2 No. Dwellings and garages
Location:	Lands between 37 and 43 Drumlamph Road, Castledawson
Planning Authority:	Mid Ulster District Council
Application Reference:	LA09/2015/0243/F
Procedure:	Written Representations with Commissioners Site Visit on 2 December 2016
Decision by:	Commissioner Brigid McGlinchey, dated 16 December 2016

Decision

1. The appeal is dismissed.

Reasoning

2. The main issues in this appeal are whether the proposal would be acceptable in principle and the effects of the development on the character and appearance of the countryside.
3. The appeal site is located in the countryside as defined in the Magherafelt Area Plan 2016. The relevant policy context for considering the proposal is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). Policy CTY1 of PPS21 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8. Policy CTY1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.
4. Policy CTY8 entitled 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. Whilst a ribbon is not defined in the policy, paragraph 5.33 of the amplification sets out what can represent ribbon development. It states that a ribbon does not have to be served by individual accesses nor have a continuous building line. It also notes that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development if they have a common

build-up of development. The proposal would also create ribbon development and cause a detrimental change to the rural character of the area contrary to Policy CTY14. The planning authority's third reason for refusal is therefore sustained.

10. Policy CTY13 requires that buildings visually integrate into the surrounding landscape. The planning authority's only concern related to the impact of the access arrangement on the road frontage vegetation lessening the integration potential of the proposed buildings. The proposal entails the implementation of a shared access arrangement which would result in a gap of approximately 12m. I consider that the impact of the proposed access arrangements in opening up views of the proposed dwellings will be lessened by the retention of the rest of the roadside vegetation and reinstatement of the hedge behind the visibility splays. I judge therefore that the proposed buildings do not rely primarily on the use of new landscaping for integration. The third reason for refusal under Policy CTY13 is not sustained. However, this does not cancel out the other unacceptable impacts on the landscape as identified above.
11. The proposal does not constitute one of the types of development set out as acceptable in principle under Policy CTY 1. The appellant did not argue that there are overriding reasons why the dwelling was essential and could not be located in a settlement. I find that the proposal is unacceptable in principle and contrary to Policy CTY1 of PPS21. The planning authority has sustained its first reason for refusal.

This decision relates to the following drawings:

- 01 1:2500 scale Site location plan;
- 02 (L02) 1:500 scale Proposed site layout plan, 1:200 scale Proposed access detail and Site concept NTS;
- 03 (L03) 1:100 scale Proposed dwelling and garage floor plans and elevations (Plot1);
- 04 (L04) 1:100 scale Proposed dwelling and garage floor plans and elevations (Plot2).

COMMISSIONER BRIGID McGLINCHEY

